H. 571. An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

H. 916. An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority.

H. 919. An act relating to workforce development.

Adjournment

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

TUESDAY, MAY 1, 2018

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.

Bills Referred

Pursuant to Temporary Rule 44A the following bills having failed to meet cross-over and being referred to the Committee on Rules are hereby referred to their respective committees of jurisdictions:

H. 926.

An act relating to approval of amendments to the charter of the Town of Colchester.

To the Committee on Government Operations.

H. 927.

An act relating to approval of amendments to the charter of the City of Montpelier.

To the Committee on Government Operations.

Bill Referred to Committee on Appropriations

H. 911.

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:

An act relating to changes in Vermont's personal income tax and education financing system.

Message from the Governor
Appointment Referred

A message was received from the Governor, by Brittney L. Wilson, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to a committee as indicated:

Naud, Mark of South Hero - Member of the VT Citizens' Advisory Council on Lake Champlain's Future - from April 15, 2018 to April 28, 2021.

To the Committee on Natural Resources and Energy.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 58.

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

By Senator Ashe,

J.R.S. 58. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, May 4, 2018, it be to meet again no later than Tuesday, May 8, 2018.

House Proposal of Amendment Concurred In with Amendment

S. 92.

House proposal of amendment to Senate bill entitled:

An act relating to interchangeable biological products.

Was taken up.

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

* * * Interchangeable Biological Products * * *

Sec. 1. 18 V.S.A. § 4601 is amended to read:

§ 4601. DEFINITIONS

~~For the purposes of this chapter, unless the context otherwise clearly requires~~ As used in this chapter:

(1) ~~"Brand name" means the registered trademark name given to a drug product by its manufacturer or distributor;~~ "Biological product" means a virus,

therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition in human beings.

(2) ~~"Generic name" means the official name of a drug product as established by the United States Adopted Names Council (USAN) or its successor, if applicable;~~ "Brand name" means the registered trademark name given to a drug product by its manufacturer or distributor.

(3) ~~"Pharmacist" means a natural person licensed by the state board of pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons;~~

~~(4)~~ "Generic drug" means a drug listed by generic name and considered to be chemically and therapeutically equivalent to a drug listed by brand name, as both names are identified in the most recent edition of or supplement to the ~~federal~~ U.S. Food and Drug Administration's ~~"Orange Book" of approved drug products;~~ Approved Drug Products with Therapeutic Equivalence Evaluations (the Orange Book).

(4) "Generic name" means the official name of a drug product as established by the U. S. Adopted Names Council (USAN) or its successor, if applicable.

(5) "Interchangeable biological product" means a biological product that the U.S. Food and Drug Administration has:

(A) licensed and determined, pursuant to 42 U.S.C. § 262(k)(4), to be interchangeable with the reference product against which it was evaluated; or

(B) determined to be therapeutically equivalent as set forth in the latest edition of or supplement to the U.S. Food and Drug Administration's Approved Drug Products with Therapeutic Equivalence Evaluations (the Orange Book).

(6) "Pharmacist" means a natural person licensed by the State Board of Pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons.

~~(5)~~(7) "Prescriber" means any duly licensed physician, dentist, veterinarian, or other practitioner licensed to write prescriptions for the treatment or prevention of disease in man or animal.

(8) "Proper name" means the non-proprietary name of a biological product.

(9) "Reference product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which the interchangeable biological product was evaluated by the U.S. Food and Drug Administration pursuant to 42 U.S.C. § 262(k).

Sec. 2. 18 V.S.A. § 4605 is amended to read:

§ 4605. ALTERNATIVE DRUG OR BIOLOGICAL PRODUCT SELECTION

(a)(1) When a pharmacist receives a prescription for a drug ~~which~~ that is listed either by generic name or brand name in the most recent edition of or supplement to the U.S. Department of Health and Human Services' publication Approved Drug Products With Therapeutic Equivalence Evaluations (the "Orange Book") of approved drug products, the pharmacist shall select the lowest priced drug from the list which is equivalent as defined by the "Orange Book," unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug.

(2) When a pharmacist receives a prescription for a biological product, the pharmacist shall select the lowest priced interchangeable biological product unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced biological product.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, when a pharmacist receives a prescription from a Medicaid beneficiary, the pharmacist shall select the preferred brand-name or generic drug or biological product from the Department of Vermont Health Access's preferred drug list.

(b) The purchaser shall be informed by the pharmacist or his or her representative that an alternative selection as provided under subsection (a) of this section will be made unless the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug or biological product.

(c) When refilling a prescription, pharmacists shall receive the consent of the prescriber to dispense a drug or biological product different from that originally dispensed, and shall inform the purchaser that a ~~generic~~ substitution shall be made pursuant to this section unless the purchaser agrees to pay any

additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug or biological product.

(d) Any pharmacist substituting a generically equivalent drug or interchangeable biological product shall charge no more than the usual and customary retail price for that selected drug or biological product. This charge shall not exceed the usual and customary retail price for the prescribed brand.

(e)(1) Except as described in subdivision (4) of this subsection, within five business days following the dispensing of a biological product, the dispensing pharmacist or designee shall communicate the specific biological product provided to the patient, including the biological product's name and manufacturer, by submitting the information in a format that is accessible to the prescriber electronically through one of the following:

(A) an interoperable electronic medical records system;

(B) an electronic prescribing technology;

(C) a pharmacy benefit management system; or

(D) a pharmacy record.

(2) Entry into an electronic records system as described in subdivision (1) of this subsection shall be presumed to provide notice to the prescriber.

(3)(A) If a pharmacy does not have access to one or more of the electronic systems described in subdivision (1) of this subsection (e), the pharmacist or designee shall communicate to the prescriber the information regarding the biological product dispensed using telephone, facsimile, electronic transmission, or other prevailing means.

(B) If a prescription is communicated to the pharmacy by means other than electronic prescribing technology, the pharmacist or designee shall communicate to the prescriber the information regarding the biological product dispensed using the electronic process described in subdivision (1) of this subsection (e) unless the prescriber requests a different means of communication on the prescription.

(4) Notwithstanding any provision of this subsection to the contrary, a pharmacist shall not be required to communicate information regarding the biological product dispensed in the following circumstances:

(A) the U.S. Food and Drug Administration has not approved any interchangeable biological products for the product prescribed; or

(B) the pharmacist dispensed a refill prescription in which the product dispensed was unchanged from the product dispensed at the prior filling of the prescription.

(f) The Board of Pharmacy shall maintain a link on its website to the current lists of all biological products that the U.S. Food and Drug Administration has determined to be interchangeable biological products.

Sec. 3. 18 V.S.A. § 4606 is amended to read:

§ 4606. BRAND CERTIFICATION

If the prescriber has determined that the generic equivalent of a drug or the interchangeable biological product for the biological product being prescribed has not been effective or with reasonable certainty is not expected to be effective in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient, the prescriber shall indicate "brand necessary," "no substitution," "dispense as written," or "DAW" in the prescriber's own handwriting on the prescription blank or shall indicate the same using electronic prescribing technology and the pharmacist shall not substitute the generic equivalent or interchangeable biological product. If a prescription is unwritten and the prescriber has determined that the generic equivalent of the drug or the interchangeable biological product for the biological product being prescribed has not been effective or with reasonable certainty is not expected to be effective in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient, the prescriber shall expressly indicate to the pharmacist that the brand-name drug or biological product is necessary and substitution is not allowed and the pharmacist shall not substitute the generic equivalent drug or interchangeable biological product.

Sec. 4. 18 V.S.A. § 4607 is amended to read:

§ 4607. INFORMATION; LABELING

(a) Every pharmacy in the ~~state~~ State shall have posted a sign in a prominent place that is in clear unobstructed view which shall read: "Vermont law requires pharmacists in some cases to select a less expensive generic equivalent drug or interchangeable biological product for the drug or biological product prescribed unless you or your physician direct otherwise. Ask your pharmacist."

(b) The label of the container of all drugs and biological products dispensed by a pharmacist under this chapter shall indicate the generic or proper name using an abbreviation if necessary, the strength of the drug or biological product, if applicable, and the name or number of the manufacturer or distributor.

Sec. 5. 18 V.S.A. § 4608 is amended to read:

§ 4608. LIABILITY

(a) Nothing in this chapter shall affect a licensed hospital with the development and maintenance of a hospital formulary system in accordance with that institution's policies and procedures that pertain to its drug distribution system developed by the medical staff in cooperation with the hospital's pharmacist and administration.

(b) The substitution of a generic drug or interchangeable biological product by a pharmacist under the provisions of this chapter does not constitute the practice of medicine.

Sec. 6. 8 V.S.A. § 4089i is amended to read:

§ 4089i. PRESCRIPTION DRUG COVERAGE

* * *

(g) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs shall apply the same cost-sharing requirements to interchangeable biological products as apply to generic drugs under the plan.

(h) As used in this section:

* * *

(6) "Interchangeable biological products" shall have the same meaning as in 18 V.S.A. § 4601.

~~(h)~~(i) The Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

* * * Health Insurance Plan Reporting * * *

Sec. 7. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

* * *

(b)(1) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient

Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment period established in subsection (c) of this section. In addition, the insurer shall post the summaries on its website.

(2)(A) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall disclose to the Board:

(i) for all covered prescription drugs, including generic drugs, brand-name drugs excluding specialty drugs, and specialty drugs dispensed at a pharmacy, network pharmacy, or mail-order pharmacy for outpatient use:

(I) the percentage of the premium rate attributable to prescription drug costs for the prior year for each category of prescription drugs;

(II) the year-over-year increase or decrease, expressed as a percentage, in per-member, per-month total health plan spending on each category of prescription drugs; and

(III) the year-over-year increase or decrease in per-member, per-month costs for prescription drugs compared to other components of the premium rate; and

(ii) the specialty tier formulary list.

(B) The insurer shall provide, if available, the percentage of the premium rate attributable to prescription drugs administered by a health care provider in an outpatient setting that are part of the medical benefit as separate from the pharmacy benefit.

(C) The insurer shall include information on its use of a pharmacy benefit manager, if any, including which components of the prescription drug coverage described in subdivisions (A) and (B) of this subdivision (2) are managed by the pharmacy benefit manager, as well as the name of the pharmacy benefit manager or managers used.

(c)(1) The Board shall provide information to the public on the Board's website about the public availability of the filings and summaries required under this section.

(2)(A) ~~Beginning no later than January 1, 2014, the~~ The Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection (b) of this section on the Board's website within five calendar days ~~of~~ following filing. The Board shall also establish a mechanism by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

* * *

Sec. 8. 18 V.S.A. § 4636 is added to read:

§ 4636. IMPACT OF PRESCRIPTION DRUG COSTS ON HEALTH INSURANCE PREMIUMS; REPORT

(a)(1) Each health insurer with more than 1,000 covered lives in this State shall report to the Green Mountain Care Board, for all covered prescription drugs, including generic drugs, brand-name drugs, and specialty drugs provided in an outpatient setting or sold in a retail setting:

(A) the 25 most frequently prescribed drugs and the average wholesale price for each drug;

(B) the 25 most costly drugs by total plan spending and the average wholesale price for each drug; and

(C) the 25 drugs with the highest year-over-year price increases and the average wholesale price for each drug.

(2) A health insurer shall not be required to provide to the Green Mountain Care Board the actual price paid, net of rebates, for any prescription drug.

(b) The Green Mountain Care Board shall compile the information reported pursuant to subsection (a) of this section into a consumer-friendly report that demonstrates the overall impact of drug costs on health insurance premiums. The data in the report shall be aggregated and shall not reveal information as specific to a particular health benefit plan.

(c) The Board shall publish the report required pursuant to subsection (b) of this section on its website on or before January 1 of each year.

* * * Prescription Drug Price Transparency and Notice of New High-Cost Drugs * * *

Sec. 9. 18 V.S.A. § 4635 is amended to read:

§ 4635. ~~PHARMACEUTICAL~~ PRESCRIPTION DRUG COST TRANSPARENCY

(a) As used in this section:

(1) "Manufacturer" shall have the same meaning as "pharmaceutical manufacturer" in section 4631a of this title.

(2) "Prescription drug" means a drug as defined in 21 U.S.C. § 321.

(b)(1)(A) The ~~Green Mountain Care Board, in collaboration with the~~ Department of Vermont Health Access~~,~~ shall ~~identify~~ create annually ~~up to 15~~

a list of 10 prescription drugs on which the State spends significant health care dollars and for which the wholesale acquisition cost has increased by 50 percent or more over the past five years or by 15 percent or more ~~over the past 12 months~~ during the previous calendar year, creating a substantial public interest in understanding the development of the drugs' pricing. ~~The drugs identified shall represent different drug classes.~~ The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the Department considers to be specialty drugs. The Department shall include the percentage of the wholesale acquisition cost increase for each drug on the list; rank the drugs on the list from those with the largest increase in wholesale acquisition cost to those with the smallest increase; indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both; and provide the Department's total expenditure for each drug on the list during the most recent calendar year.

(B) The Department of Vermont Health Access shall create annually a list of 10 prescription drugs on which the State spends significant health care dollars and for which the cost to the Department of Vermont Health Access, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the Department considers to be specialty drugs. The Department shall rank the drugs on the list from those with the greatest increase in net cost to those with the smallest increase and indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both.

(C)(i) Each health insurer with more than 5,000 covered lives in this State for major medical health insurance shall create annually a list of 10 prescription drugs on which its health insurance plans spend significant amounts of their premium dollars and for which the cost to the plans, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, or both, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the health insurer considers to be specialty drugs.

(ii) A health insurer shall not be required to identify the exact percentage by which the net cost to its plans for any prescription drug increased over any specific period of time, but shall rank the drugs on its list in

order from the largest to the smallest cost increase and shall provide the insurer's total expenditure, net of rebates and other price concessions, for each drug on the list during the most recent calendar year.

(2) The ~~Board~~ Department of Vermont Health Access and the health insurers shall provide to the Office of the Attorney General and the Green Mountain Care Board the ~~list~~ lists of prescription drugs developed pursuant to this subsection ~~and the percentage of the wholesale acquisition cost increase for each drug and~~ annually on or before June 1. The Office of the Attorney General and the Green Mountain Care Board shall make all of the information available to the public on ~~the Board's website~~ their respective websites.

(c)(1)(A) ~~For each prescription drug identified~~ Of the prescription drugs listed by the Department of Vermont Health Access and the health insurers pursuant to ~~subsection (b)~~ subdivisions (b)(1)(B) and (C) of this section, the Office of the Attorney General shall identify 15 drugs as follows:

(i) of the drugs appearing on more than one payer's list, the Office of the Attorney General shall identify the top 15 drugs on which the greatest amount of money was spent across all payers during the previous calendar year, to the extent information is available; and

(ii) if fewer than 15 drugs appear on more than one payer's list, the Office of the Attorney General shall rank the remaining drugs based on the amount of money spent by any one payer during the previous calendar year, in descending order, and select as many of the drugs at the top of the list as necessary to reach a total of 15 drugs.

(B) For the 15 drugs identified by the Office of the Attorney General pursuant to subdivision (A) of this subdivision (1), the Office of the Attorney General shall require the ~~drug's~~ manufacturer of each such drug to provide ~~a justification~~ all of the following:

(i) Justification for the increase in the ~~wholesale acquisition~~ net cost of the drug to the Department of Vermont Health Access, to one or more health insurers, or both, which shall be provided to the Office of the Attorney General in a format that the Office of the Attorney General determines to be understandable and appropriate and shall be provided in accordance with a timeline specified by the Office of the Attorney General. The manufacturer shall submit to the Office of the Attorney General all relevant information and supporting documentation necessary to justify the manufacturer's ~~wholesale acquisition~~ net cost increase ~~over~~ to the Department of Vermont Health Access, to one or more health insurers, or both during the identified period of time, ~~which may include~~ including:

~~(A)~~(I) ~~all factors that have contributed to the wholesale acquisition~~ each factor that specifically caused the net cost increase ~~over~~ to the Department of Vermont Health Access, to one or more health insurers, or both during the specified period of time;

~~(B)~~(II) the percentage of the total ~~wholesale acquisition~~ cost increase attributable to each factor; and

~~(C)~~(III) an explanation of the role of each factor in contributing to the ~~wholesale acquisition~~ cost increase.

(ii) A separate version of the information submitted pursuant to subdivision (i) of this subdivision (1)(B), which shall be made available to the public by the Office of the Attorney General and the Green Mountain Care Board pursuant to subsection (d) of this section. In the event that the manufacturer believes it necessary to redact certain information in the public version as proprietary or confidential, the manufacturer shall provide an explanation for each such redaction to the Office of the Attorney General. The information, format, and any redactions shall be subject to approval by the Office of the Attorney General.

(iii) Additional information in response to all requests for such information by the Office of the Attorney General.

(2) Nothing in this section shall be construed to restrict the legal ability of a prescription drug manufacturer to change prices to the extent permitted under federal law.

(d)(1) The Attorney General~~, in consultation with the Department of Vermont Health Access,~~ shall provide a report to the General Assembly on or before December 1 of each year based on the information received from manufacturers pursuant to this section. The Attorney General shall ~~also~~ post the report and the public version of each manufacturer's information submitted pursuant to subdivision (c)(1)(B)(ii) of this section on the Office of the Attorney General's website.

(2) The Green Mountain Care Board shall post on its website the report prepared by the Attorney General pursuant to subdivision (1) of this subsection and the public version of each manufacturer's information submitted pursuant to subdivision (c)(1)(B)(ii) of this section, and may inform the public of the availability of the report and the manufacturers' justification information.

(e) 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 not be released in a manner that allows for the identification of an individual drug or manufacturer or that is likely to compromise the financial, competitive, or proprietary nature of the

information, except for the information prepared for release to the public pursuant to subdivision (c)(1)(B)(ii) of this section.

(f) The Attorney General may bring an action in the Civil Division of the Superior Court, Washington County for injunctive relief, costs, and attorney's fees, and to impose on a manufacturer that fails to provide any of the information required by subsection (c) of this section, in the format requested by the Office of the Attorney General and in accordance with the timeline specified by the Office of the Attorney General, a civil penalty of ~~no~~ not more than $10,000.00 per violation. Each unlawful failure to provide information shall constitute a separate violation. In any action brought pursuant to this section, the Attorney General shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Protection Act, 9 V.S.A. chapter 63.

Sec. 10. 18 V.S.A. § 4637 is added to read:

§ 4637. NOTICE OF INTRODUCTION OF NEW HIGH-COST PRESCRIPTION DRUGS

(a) As used in this section:

(1) "Manufacturer" shall have the same meaning as "pharmaceutical manufacturer" in section 4631a of this title.

(2) "Prescription drug" means a drug as defined in 21 U.S.C. § 321.

(b) A prescription drug manufacturer shall notify the Office of the Attorney General in writing if it is introducing a new prescription drug to market at a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare Part D program. The manufacturer shall provide the written notice within three calendar days following the release of the drug in the commercial market. A manufacturer may make the notification pending approval by the U.S. Food and Drug Administration (FDA) if commercial availability is expected within three calendar days following the approval.

(c) Not later than 30 calendar days following notification pursuant to subsection (b) of this section, the manufacturer shall provide all of the following information to the Office of the Attorney General in a format that the Office prescribes:

(1) a description of the marketing and pricing plans used in the launch of the new drug in the United States and internationally;

(2) the estimated volume of patients who may be prescribed the drug;

(3) whether the drug was granted breakthrough therapy designation or priority review by the FDA prior to final approval; and

(4) the date and price of acquisition if the drug was not developed by the manufacturer.

(d) The manufacturer may limit the information reported pursuant to subsection (c) of this section to that which is otherwise in the public domain or publicly available.

(e) The Office of the Attorney General shall publish on its website at least quarterly the information reported to it pursuant to this section. The information shall be published in a manner that identifies the information that is disclosed on a per-drug basis and shall not be aggregated in a manner that would not allow identification of the drug.

(f) The Attorney General may bring an action in the Civil Division of the Superior Court, Washington County for injunctive relief, costs, and attorney's fees and to impose on a manufacturer that fails to provide the information required by subsection (c) of this section a civil penalty of not more than $1,000.00 per day for every day after the notification period described in subsection (b) of this section that the required information is not reported. In any action brought pursuant to this section, the Attorney General shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Protection Act, 9 V.S.A. chapter 63.

* * * Disclosures by Pharmacists * * *

Sec. 11. 18 V.S.A. § 9473(b) is amended to read:

(b) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;

(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug; ~~or~~

(3) require a pharmacy to pass through any portion of the insured's co-payment to the pharmacy benefit manager or other payer;

(4) prohibit or penalize a pharmacy or pharmacist for providing information to an insured regarding the insured's cost-sharing amount for a prescription drug; or

(5) prohibit or penalize a pharmacy or pharmacist for the pharmacist or other pharmacy employee disclosing to an insured the cash price for a prescription drug or selling a lower cost drug to the insured if one is available.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

(a) Secs. 1–6 (interchangeable biological products) shall take effect on July 1, 2018.

(b) Sec. 11 (18 V.S.A. § 9473; disclosures by pharmacists) shall take effect on July 1, 2018 and shall apply to all contracts taking effect on or after that date.

(c) The remaining sections shall take effect on passage.

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

An act relating to prescription drug price transparency and cost containment.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Ayer moved that the Senate concur in the House proposal of amendment with further proposals of amendment as follows:

First: In Sec. 1, 18 V.S.A. § 4601, in subdivision (5)(A), before the semicolon, by inserting the following: as may be reflected in the U.S. Food and Drug Administration's Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations (the Purple Book)

Second: In Sec. 8, 18 V.S.A. § 4636, in subdivision (a)(1), following the words "in this State", by inserting the words for major medical health insurance

Third: In Sec. 9, 18 V.S.A. § 4635, in subdivision (b)(1), by striking out subdivision (C) in its entirety and inserting in lieu thereof a new subdivision (C) to read as follows:

(C)(i) Each health insurer with more than 5,000 covered lives in this State for major medical health insurance shall create annually a list of 10 prescription drugs on which its health insurance plans spend significant amounts of their premium dollars and for which the cost to the plans, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, or both, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-

name drug and shall indicate each of the drugs on the list that the health insurer considers to be specialty drugs. The health insurer shall rank the drugs on the list from those with the greatest increase in net cost to those with the smallest increase and indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both.

(ii) Each health insurer creating a list pursuant to subdivision (i) of this subdivision (b)(1)(C) shall provide to the Office of the Attorney General the percentage by which the net cost to its plans increased over the applicable period or periods for each drug on the list, as well as the insurer's total expenditure, net of rebates and other price concessions, for each drug on the list during the most recent calendar year. Information provided to the Office of the Attorney General pursuant to this subdivision (b)(1)(C)(ii) is exempt from public inspection and copying under the Public Records Act and shall not be released.

Fourth: In Sec. 9, 18 V.S.A. § 4635, in subdivision (b)(2), in the first sentence, prior to the words "this subsection", by inserting the following: subdivisions (1)(A), (B), and (C)(i) of

Fifth: In Sec. 9, 18 V.S.A. § 4635, in subsection (e), prior to the words "this section", by inserting the following: subdivision (c)(1)(B) of

Sixth: By adding a new section to be numbered Sec. 11a to read as follows:

* * * Working Group on Prescription Drug Cost Savings and Price Transparency * * *

Sec. 11a. WORKING GROUP ON PRESCRIPTION DRUG COST SAVINGS AND PRICE TRANSPARENCY; REPORT

(a) The Secretary of Human Services or designee shall convene a working group comprising one representative each from the Department of Vermont Health Access, the Green Mountain Care Board, the Vermont Board of Pharmacy, the Vermont Association of Chain Drug Stores, the Vermont Pharmacists Association, the Vermont Retail Druggists, Bi-State Primary Care Association, and the Vermont Association of Hospitals and Health Systems to investigate and analyze prescription drug pricing throughout the prescription drug supply chain in order to identify opportunities for savings for Vermont consumers and other payers and for increasing prescription drug price transparency at all levels of the supply chain, including manufacturers, wholesalers, pharmacy benefit managers, health insurers, pharmacies, and consumers.

(b) On or before November 15, 2018, the working group shall provide its findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare.

Which was agreed to.

Third Reading Ordered

H. 894.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to pensions, retirement, and setting the contribution rates for municipal employees.

Reported that the bill ought to pass in concurrence.

Senator Brock, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported recommending 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.

Proposal of Amendment; Third Reading Ordered

H. 780.

Senator Pollina, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to portable rides at agricultural fairs, field days, and other similar events.

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:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds $7 million a year. Vermont fairs generate over $85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) "Amusement ride" means a mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for~~ For the purposes of this chapter, amusement ride shall ~~also~~ not include bungee jumping, zip lines, or waterslides or obstacle, challenge, or adventure courses.

(2) "Operator" or "owner" means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) "Certificate" or "certificate of operation" means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year~~.

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the Secretary of State has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Secretary of State not fewer than 30 business days before an amusement ride is operated in this State.

(c) The Secretary of State shall issue a ~~"~~certificate of operation~~" no later~~ not fewer than 15 business days before the amusement ride is ~~first~~ operated in the State, if the owner or operator submits ~~all~~ the following:

(1) Certificate of insurance in the amount of not less than $1,000,000.00 that insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of $100.00.

(3) Proof or a statement of compliance with the requirements of 21 V.S.A. chapter 9.

~~(c)~~(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Secretary of State. A certificate of operation shall identify the ride's:

(1) name and model;

(2) serial number;

(3) passenger capacity; and

(4) recommended maximum speed.

~~(d)~~(e) A copy of the certificate of operation shall be ~~posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride~~ kept at the office of the amusement ride operator.

(f) The Secretary of State shall:

(1) determine the manner and format of the certificate of operation, any forms to be used to apply for the certificate of operation, the adhesive sticker that shall be affixed to the ride pursuant to subdivision 723a(b)(2) of this title, and the certification to be filed pursuant to subdivision 723a(b)(3) of this title;

(2) make any forms and certifications available on the Secretary of State's website and shall provide adhesive stickers to inspectors;

(3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;

(4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector; or

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subdivision (1)(A); and

(B) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the American Society for Testing and Materials (ASTM) current standard F770 concerning the practices for ownership, operation, maintenance, and inspection of amusement rides and devices.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Secretary of State within 15 business days following the date of inspection.

(2) An adhesive sticker, in a format to be determined by the Secretary of State, shall be affixed to the ride that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(3) The owner or operator shall submit a certification, in a format to be determined by the Secretary of State, to the organization hosting a fair, field day, or other event or location, at which the owner or operator intends to operate a ride, stating that the ride has been inspected pursuant to subsection (a) of this section and stickers have been affixed pursuant to this subdivision (b) prior to the ride being used to carry or convey passengers.

(c) A ride shall be inspected by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Secretary of State or the Office of the Attorney General promptly upon request;

(3) keep a paper or electronic copy of all required forms or certifications, and of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator;

(4) operate, maintain, and inspect all rides in compliance with ASTM current standards for ownership, operation, maintenance, and inspection of amusement rides and devices.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. ~~OPERATIONS~~ OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; ~~and~~

(3) be in attendance at all times that the ride is operating; and

(4) operate the ride in accordance with the ride manufacturer's requirements.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgment and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all written and verbal warnings and directions from ride operators or owners.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

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

An act relating to rides at agricultural fairs, field days, and other similar events.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Pollina, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

In Sec. 4, 31 V.S.A. § 723a, in subsection (c), after the word "inspected", by inserting the words for safety

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, and the recommendation of proposal of amendment of the Committee on Agriculture was amended as recommended by the Committee on Finance.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture, as amended?, Senator Sirotkin moved to amend the proposal of amendment of the Committee on Agriculture, as amended in Sec. 5, 31 V.S.A. § 723(c), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:

(3) obey all reasonable written and verbal warnings and directions from ride operators or owners that are posted conspicuously at the entrance to the ride or explained in a clear and understandable manner at the beginning of each ride segment.

Which was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was agreed to and third reading of the bill was ordered.

House Proposal of Amendment Concurred In with Amendment

S. 203.

House proposal of amendment to Senate bill entitled:

An act relating to systemic improvements of the mental health system.

Was taken up.

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

* * * Legislative Intent and Oversight * * *

Sec. 1. LEGISLATIVE INTENT

(a) The General Assembly recognizes the need for additional inpatient psychiatric beds in Vermont. To achieve an increase in the number of inpatient psychiatric beds in a manner that ensures clinical best practice, the General

Assembly supports identifying the appropriate number of beds needed and developing corresponding capacity within existing hospital and health care systems. The General Assembly further supports the intent of the University of Vermont Health Network to initiate a proposal expanding inpatient psychiatric bed capacity at the Central Vermont Medical Center campus.

(b) It is the intent of the General Assembly that the Agency of Human Services shall:

(1) replace the temporary Middlesex Secure Residential Recovery Facility with a permanent facility that has a 16-bed capacity;

(2) assist the University of Vermont Health Network in identifying the appropriate number and type of additional inpatient psychiatric beds needed in the State; and

(3) plan the increased number of inpatient psychiatric beds in a manner that maximizes the State's ability to leverage Medicaid dollars.

Sec. 2. OVERSIGHT OF CHANGES TO PSYCHIATRIC INPATIENT CAPACITY

The Secretary of Human Services shall provide regular updates on the status of the proposed renovations at the Brattleboro Retreat and on the University of Vermont Health Network proposal designed to augment the capacity of Vermont's inpatient psychiatric care capacity to the Health Reform Oversight Committee.

* * * Order of Non-Hospitalization Study Committee * * *

Sec. 3. ORDER OF NON-HOSPITALIZATION STUDY COMMITTEE

(a) Creation. There is created the Order of Non-Hospitalization Study Committee to examine the strengths and weaknesses of Vermont's orders of non-hospitalizations for the purpose of improving patient care.

(b) Membership. The Committee shall be composed of the following 12 members:

(1) the Commissioner of Mental Health or designee;

(2) the Commissioner of Public Safety or designee;

(3) the Chief Superior Judge or designee;

(4) a member appointed by the Vermont Care Partners;

(5) a member appointed by the Vermont Association of Hospitals and Health Systems;

(6) a member appointed by Vermont Legal Aid's Mental Health Project;

(7) a member appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(8) the Vermont Defender General or designee;

(9) the Executive Director of Vermont Psychiatric Survivors or designee;

(10) the Mental Health Care Ombudsman designated pursuant to 18 V.S.A. § 7259;

(11) an individual who was previously under an order of non-hospitalization, appointed by Vermont Psychiatric Survivors; and

(12) the family member of an individual who is currently or was previously under an order of non-hospitalization, appointed by the Vermont chapter of the National Alliance on Mental Illness.

(c) Powers and duties. The Committee shall examine the strengths and weaknesses of Vermont's orders of non-hospitalization for the purpose of improving patient care and may propose a pilot project that seeks to redress any weaknesses and build upon any existing strengths. The Committee shall:

(1) review and understand existing laws pertaining to orders of non-hospitalization, including 1998 Acts and Resolves No. 114;

(2) review existing studies and reports on whether or not outpatient commitment and involuntary treatment orders improve patient outcomes;

(3) review existing data pertaining to orders of non-hospitalization, including data pertaining to individuals entering the mental health system through both civil and forensic procedures;

(4) if appropriate, propose a pilot project for the purpose of improving the efficacy of orders of non-hospitalization;

(5) if appropriate, recommend any changes necessary to approve the efficacy of orders of non-hospitalization; and

(6) identify statutory changes necessary to implement recommended changes to orders of non-hospitalization, if any.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Mental Health.

(e) Report. On or before November 1, 2018, the Committee shall submit a written report to the House Committee on Health Care and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Commissioner of Mental Health or designee shall call the first meeting of the Committee to occur on or before August 1, 2018.

(2) The Commissioner of Mental Health or designee shall be the Chair.

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

(4) The Committee shall cease to exist on December 1, 2018.

(g) Compensation and reimbursement. Members of the Committee 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 not more than four meetings. These payments shall be made from monies appropriated to the Department of Mental Health.

* * * Waiver of Certificate of Need Requirement for Renovations at the Brattleboro Retreat * * *

Sec. 4. WAIVER OF CERTIFICATE OF NEED REQUIREMENT FOR RENOVATIONS AT THE BRATTLEBORO RETREAT

Notwithstanding the provisions of 18 V.S.A. chapter 221, subchapter 5, the implementation of renovations at the Brattleboro Retreat as authorized in the fiscal year 2019 capital budget adjustment bill shall not be considered a "new health care project" for which a certificate of need is required.

* * * Use of Emergency Involuntary Procedures in the Secure Residential Recovery Facility * * *

Sec. 5. EMERGENCY INVOLUNTARY PROCEDURES IN SECURE RESIDENTIAL RECOVERY FACILITIES

In the event that the Department of Disabilities, Aging, and Independent Living amends its rules pertaining to secure residential recovery facilities to allow the use of emergency involuntary procedures in them, the rules adopted shall be identical to those rules adopted by the Department of Mental Health that govern the use of emergency involuntary procedures in psychiatric inpatient units.

* * * Reports * * *

Sec. 6. REPORT; TRANSPORTING PATIENTS

On or before January 15, 2019, the Secretary of Human Services shall submit a written report to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare regarding the implementation of 2017 Acts and Resolves No. 85, Sec. E.314 (transporting patients). Specifically, the report shall:

(1) describe specifications introduced into the Agency of Human Services' fiscal year 2019 contracts as a result of 2017 Acts and Resolves No. 85, Sec. E.314;

(2) summarize the Agency's oversight and enforcement of 2017 Acts and Resolves No. 85, Sec. E.314;

(3) provide data from each sheriff's department in the State on the use of restraints during patient transports; and

(4) if the data indicates noncompliance, identify the plans of correction and how the services of noncompliant sheriffs' departments are being replaced if the plan of correction is not achieved.

Sec. 7. DATA COLLECTION AND REPORT; PATIENTS SEEKING MENTAL HEALTH CARE IN HOSPITAL SETTINGS

(a) Pursuant to the authority granted to the Commissioner of Mental Health under 18 V.S.A. § 7401, the Commissioner shall collect the following information from hospitals in the State that have either an inpatient psychiatric unit or emergency department receiving patients with psychiatric health needs:

(1) the number of individuals seeking psychiatric care voluntarily and the number of individuals in the custody or temporary custody of the Commissioner who are admitted to inpatient psychiatric units and the corresponding lengths of stay on the unit;

(2) the lengths of stay in emergency departments for individuals seeking psychiatric care voluntarily and for individuals in the custody or temporary custody of the Commissioner; and

(3) data regarding emergency involuntary procedures performed in an emergency department on individuals seeking psychiatric care.

(b) On or before January 15 of each year between 2019 and 2021, the Commissioner of Mental Health shall submit a written report to the House Committee on Health Care and to the Senate Committee on Health and Welfare containing the data collected pursuant to subsection (a) of this section during the previous calendar year.

Sec. 8. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The community-based services provided by designated and specialized service agencies are a critical component of Vermont's health care system. These services are essential for the prevention of unnecessary hospitalization and emergency department use. The ability to recruit and retain qualified employees is necessary for delivery of mental health services. The Agency of Human Services shall:

(1) Apply the model used in developing advanced rates at the Brattleboro Retreat for supporting staff recruitment and retention and long-term sustainability to develop revised rates for the designated and specialized service agencies, which shall be provided as part of the fiscal year 2020 budget; and

(2) On or before January 15, 2019, develop and submit a proposal, in conjunction with the Green Mountain Care Board and the designated and specialized service agencies, for providing the designated and specialized service agency budgets to the Board for informational purposes for its work on health care system costs to the House Committees on Appropriations, on Health Care, and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare. The proposal shall be consistent with the long-term goal that work pertaining to Medicaid pathways include a plan to create a review process of the designated and specialized service agencies' budgets by the Board as part of an integrated health care system.

Sec. 9. 2017 Acts and Resolves No. 82, Sec. 3(c) is amended to read:

(c) On or before January 15, 2019, the Secretary shall submit a comprehensive evaluation of the overarching structure for the delivery of mental health services within a sustainable, holistic health care system in Vermont to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services~~, including~~. The Secretary shall ensure that the evaluation process provides for input from persons who identify as psychiatric survivors, consumers, or peers; family members of such persons; providers of mental health services; and providers of services within the broader health care system. The evaluation process shall include direct stakeholder involvement in the development of a written statement that articulates a common, long-term, statewide vision of how integrated, recovery- and resiliency-oriented services shall emerge as part of a comprehensive and holistic health care system. The evaluation shall include:

* * *

(5) how mental health care is being fully integrated into health care payment reform; ~~and~~

(6) any recommendations for structural changes to the mental health system that would assist in achieving the vision of an integrated, holistic health care system;

(7) how Vermont's mental health system currently addresses, or should be revised better to address, the goals articulated in 18 V.S.A. § 7629 of achieving "high-quality, patient-centered health care, which the Institute of Medicine defines as 'providing care that is respectful of and responsive to

individual patient preferences, needs, and values and ensuring that patient values guide all clinical decisions'" and of achieving a mental health system that does not require coercion;

(8) recommendations for encouraging regulators and policymakers to account for mental health care spending growth as part of overall cost growth within the health care system rather than singled out and capped by the State's budget; and

(9) recommendations for ensuring parity between providers with similar job descriptions regardless of whether they are public employees or are employed by a State-financed agency.

Sec. 10. REPORT; INSTITUTIONS FOR MENTAL DISEASE

The Secretary of Human Services, in partnership with entities in Vermont designated by the Centers for Medicare and Medicaid Services as "institutions for mental disease" (IMDs), shall submit the following reports to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services and to the Senate Committees on Appropriations, on Health and Welfare, and on Institutions regarding the Agency's progress in evaluating the impact of federal IMD spending on persons with serious mental illness or substance use disorders:

(1) status updates that shall provide possible solutions considered as part of the State's response to the Centers for Medicare and Medicaid Services' requirement to begin reducing federal Medicaid spending due on or before July 15, September 15, and November 15 of 2019; and

(2) on or before January 15 of each year from 2019 to 2025, a written report evaluating:

(A) the impact to the State caused by the requirement to reduce and eventually terminate federal Medicaid IMD spending;

(B) the number of existing psychiatric and substance use disorder treatment beds at risk and the geographical location of those beds;

(C) the State's plan to address the needs of Vermont residents if psychiatric and substance use disorder treatment beds are at risk;

(D) the potential of attaining a waiver from the Centers for Medicare and Medicaid Services for existing psychiatric and substance use disorder services; and

(E) alternative solutions, including alternative sources of revenue, such as general funds, or opportunities to repurpose buildings designated as IMDs.

* * * Mental Health Parity * * *

Sec. 11. 8 V.S.A. § 4062(h) is amended to read:

(h)(1) The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, student health insurance coverage, Medicare supplemental coverage, or other limited benefit coverage, or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred. Premium rates and rules for the classification of risk for Medicare supplemental insurance policies shall be governed by sections 4062b and 4080e of this title.

(2) The policy forms for major medical insurance coverage, as well as the policy forms, premium rates, and rules for the classification of risk for the other lines of insurance described in subdivision (1) of this subsection shall be reviewed and approved or disapproved by the Commissioner. In making his or her determination, the Commissioner shall consider whether a policy form, premium rate, or rule is affordable and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State; and, for a policy form for major medical insurance coverage, whether it ensures equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care. The Commissioner shall make his or her determination within 30 days after the date the insurer filed the policy form, premium rate, or rule with the Department. At the expiration of the 30-day period, the form, premium rate, or rule shall be deemed approved unless prior to then it has been affirmatively approved or disapproved by the Commissioner or found to be incomplete. The Commissioner shall notify an insurer in writing if the insurer files any form, premium rate, or rule containing a provision that does not meet the standards expressed in this subsection. In such notice, the Commissioner shall state that a hearing will be granted within 20 days upon the insurer's written request.

Sec. 12. 18 V.S.A. § 7201 is amended to read:

§ 7201. MENTAL HEALTH

(a) The Department of Mental Health, as the successor to the Division of Mental Health Services of the Department of Health, shall centralize and more efficiently establish the general policy and execute the programs and services of the State concerning mental health, and integrate and coordinate those

programs and services with the programs and services of other departments of the State, its political subdivisions, and private agencies, so as to provide a flexible comprehensive service to all citizens of the State in mental health and related problems.

(b) The Department shall ensure equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care.

Sec. 13. 18 V.S.A. § 7251 is amended to read:

§ 7251. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

The General Assembly adopts the following principles as a framework for reforming the mental health care system in Vermont:

* * *

(4) The mental health system shall be integrated into the overall health care system and ensure equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care.

* * *

Sec. 14. 18 V.S.A. § 9371 is amended to read:

§ 9371. PRINCIPLES FOR HEALTH CARE REFORM

The General Assembly adopts the following principles as a framework for reforming health care in Vermont:

* * *

(4) Primary care must be preserved and enhanced so that Vermonters have care available to them, preferably within their own communities. The health care system must ensure that Vermonters have access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability and that is equivalent to other components of health care as part of an integrated, holistic system of care. Other aspects of Vermont's health care infrastructure, including the educational and research missions of the State's academic medical center and other postsecondary educational institutions, the nonprofit missions of the community hospitals, and the critical access designation of rural hospitals, must be supported in such a way that all Vermonters, including those in rural areas, have access to necessary health services and that these health services are sustainable.

* * *

Sec. 15. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(2) The ACO has established appropriate mechanisms and care models to provide, manage, and coordinate high-quality health care services for its patients, including incorporating the Blueprint for Health, coordinating services for complex high-need patients, and providing access to health care providers who are not participants in the ACO. The ACO ensures equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability in a manner that is equivalent to other aspects of health care as part of an integrated, holistic system of care.

* * *

Sec. 16. 18 V.S.A. § 9405(a) is amended to read:

(a) ~~No later than January 1, 2005, the~~ The Secretary of Human Services or designee, in consultation with the Chair of the Green Mountain Care Board and health care professionals and after receipt of public comment, shall adopt a State Health Improvement Plan that sets forth the health goals and values for the State. The Secretary may amend the Plan as the Secretary deems necessary and appropriate. The Plan shall include health promotion, health protection, nutrition, and disease prevention priorities for the State~~,~~; identify available human resources as well as human resources needed for achieving the State's health goals and the planning required to meet those needs~~,~~; identify gaps in ensuring equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care; and identify geographic parts of the State needing investments of additional resources in order to improve the health of the population. ~~The Plan shall contain sufficient detail to guide development of the State Health Resource Allocation Plan.~~ Copies of the Plan shall be submitted to members

of the Senate ~~and House Committees~~ Committee on Health and Welfare ~~no later than January 15, 2005~~ and the House Committee on Health Care.

Sec. 17. 18 V.S.A. § 9405a(a) is amended to read:

(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. 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, and the ways in which the hospital ensures access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care. Hospitals may meet the community health needs assessment and implementation plan requirement through compliance with the relevant Internal Revenue Service community health needs assessment requirements for nonprofit hospitals.

Sec. 18. 18 V.S.A. § 9437 is amended to read:

§ 9437. CRITERIA

A certificate of need shall be granted if the applicant demonstrates and the Board finds that:

* * *

(7) the applicant has adequately considered the availability of affordable, accessible patient transportation services to the facility; ~~and~~

(8) if the application is for the purchase or lease of new Health Care Information Technology, it conforms with the health information technology plan established under section 9351 of this title; and

(9) The project will support equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care, as appropriate.

Sec. 19. 18 V.S.A. § 9456(c) is amended to read:

(c) Individual hospital budgets established under this section shall:

(1) be consistent with the Health Resource Allocation Plan;

(2) take into consideration national, regional, or ~~instate~~ in-state peer group norms, according to indicators, ratios, and statistics established by the Board;

(3) promote efficient and economic operation of the hospital;

(4) reflect budget performances for prior years; ~~and~~

(5) include a finding that the analysis provided in subdivision (b)(9) of this section is a reasonable methodology for reflecting a reduction in net revenues for non-Medicaid payers; and

(6) demonstrate that they support equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care.

Sec. 20. 18 V.S.A. § 9491 is amended to read:

§ 9491. HEALTH CARE WORKFORCE; STRATEGIC PLAN

* * *

(b) The Director or designee shall collaborate with the area health education centers, the Workforce Development Council established in 10 V.S.A. § 541, the Prekindergarten-16 Council established in 16 V.S.A. § 2905, the Department of Labor, the Department of Health, the Department of Vermont Health Access, and other interested parties~~,~~ to develop and maintain the plan. The Director of Health Care Reform shall ensure that the strategic plan includes recommendations on how to develop Vermont's health care workforce, including:

* * *

(2) the resources needed to ensure that:

(A) the health care workforce and the delivery system are able to provide sufficient access to services given demographic factors in the population and in the workforce, as well as other factors~~, and~~;

(B) the health care workforce and the delivery system are able to participate fully in health care reform initiatives, including ~~how to ensure that all Vermont residents have~~ establishing a medical home for all Vermont residents through the Blueprint for Health pursuant to chapter 13 of this title~~,~~ ~~and how to transition~~ and transitioning to electronic medical records; and

(C) all Vermont residents have access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care;

* * *

* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Ayer moved that the Senate concur in the House proposal of amendment with an amendment as follows:

First: In Sec. 1, legislative intent, in subdivision (b)(1), after "capacity" and before the semicolon, by inserting the phrase and which may be State operated and in subdivision (b)(2), after the word "State" and before the semicolon, by inserting the following: , including consideration of maintaining the current State-owned Vermont Psychiatric Care Hospital as an acute inpatient facility

Second: By striking out the reader assistance heading before Sec. 4 and inserting in lieu thereof:

* * * Waiver of Certificate of Need Requirements * * *

Third: By striking out Sec. 4 in its entirety and inserting in lieu thereof as follows:

Sec. 4. WAIVER OF CERTIFICATE OF NEED REQUIREMENTS

Notwithstanding any provisions of 18 V.S.A. chapter 221, subchapter 5 to the contrary:

(1) the implementation of renovations at the Brattleboro Retreat as authorized in the fiscal year 2019 capital budget adjustment bill shall not be considered a "new heath care project" for which a certificate of need is required; and

(2) the proposal by the University of Vermont Health Network to expand psychiatric inpatient capacity at the Central Vermont Medical Center campus shall be exempt from the requirement to secure a conceptual development phase certificate of need pursuant to 18 V.S.A. § 9434(c).

Fourth: By striking out Sec. 8 in its entirety and inserting in lieu thereof the following:

Sec. 8. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The community-based services provided by designated and specialized service agencies are a critical component of Vermont's health care system. The ability to recruit and retain qualified employees is necessary for delivery of mental health services. In recognition of the importance of the designated and specialized service agencies, the Agency of Human Services shall:

(1) Conduct ongoing financial, service delivery, and quality review processes, which shall consider changes in operating costs over time, caseload trends, changes in programs and practices, geographic differences in labor markets, and the fiscal health of each designated and specialized service agency. The review shall inform payment rates, the performance grant processes, and payment reform work by drawing upon and combining current review processes and not creating duplicate or redundant reporting processes for either the Agency or the designated and specialized service agencies.

(2) On or before January 15, 2019, present a proposal, in conjunction with the Green Mountain Care Board and the designated and specialized service agencies, for providing the designated and specialized service agency budgets to the Board for informational purposes for its work on health care system costs to the House Committees on Appropriations, on Health Care, and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare. The presentation shall be consistent with the long-term goals of payment reform to address the potential for a review process of the designated and specialized service agency budgets by the Board as part of an integrated health care system.

Fifth: In Sec. 9, amending 2017 Acts and Resolves No. 82, Sec. 3(c), by striking out the third sentence and inserting in lieu thereof the following: The evaluation process shall include an examination as to whether the principles for mental health care reform in 18 V.S.A. § 7251 are reflected in the current mental health system, and if not, where system gaps exist.

Sixth: In Sec. 10, report; institutions for mental disease, by striking out subdivision (1) and inserting in lieu thereof the following:

(1) a status update that shall provide possible solutions considered as part of the State's response to the Centers for Medicare and Medicaid Services' requirement to begin reducing federal Medicaid spending due on or before November 15, 2018; and

Which was agreed to.

House Proposal of Amendment Concurred In with Amendment

S. 272.

House proposal of amendment to Senate bill entitled:

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

Was taken up.

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

* * * Special Plates and Placards for Persons with Disabilities * * *

Sec. 1. 23 V.S.A. § 304a(b) is amended to read:

(b) Special registration plates or removable windshield placards, or both, shall be issued by the Vermont Commissioner of Motor Vehicles. The placard shall be issued without a fee to a person who is blind or has an ambulatory disability. One set of plates shall be issued without additional fees for a vehicle registered or leased to a person who is blind or has an ambulatory disability or to a parent or guardian of a person with a permanent disability. The Commissioner shall issue these placards or plates under rules adopted by him or her after proper application has been made to the Commissioner by any person residing within the State of Vermont. Application forms shall be available on request at the Department of Motor Vehicles.

* * *

* * * Eliminating Requirements to Return License Plates * * *

Sec. 2. 23 V.S.A. § 326 is amended to read:

§ 326. REFUND UPON LOSS OF VEHICLE

The Commissioner may cancel the registration of a motor vehicle when the owner thereof proves to his or her satisfaction that it has been totally destroyed by fire~~,~~ or, through accident or wear, has become wholly unfit for use and has been dismantled. ~~Upon the cancellation of such~~ After the Commissioner cancels the registration and the ~~return~~ owner returns to the Commissioner ~~of~~ either the registration certificate, or the number plates and the validation sticker ~~(if issued for that year)~~, the Commissioner shall certify to the Commissioner of Finance and Management the fact of ~~such~~ the cancellation, giving the name of the owner of ~~such~~ the motor vehicle, his or her address, the amount of the registration fee paid, and the date of ~~such~~ cancellation. The Commissioner of Finance and Management shall issue his or her warrant in favor of the owner for such percent of the registration fee paid as the unexpired term of the registration bears to the entire registration period, but in no case shall the Commissioner retain less than $5.00 of the fee paid.

Sec. 3. 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~~ motorboat when the owner returns to the Commissioner either the number plates, if any, ~~and~~ or 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 cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a ~~fee~~ charge of $5.00.

(2) For registrations 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.

(3) For registrations 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.

* * * Veterans; Fee Exemptions * * *

Sec. 4. 23 V.S.A. § 378 is amended to read:

§ 378. VETERANS' EXEMPTIONS

No fees shall be charged an honorably discharged ~~veterans~~ veteran of the U.S. Armed Forces~~,~~ who ~~are residents~~ is a resident of the State of Vermont for the registration of a motor vehicle ~~granted~~ that the veteran ~~by the Veterans' Administration~~ has acquired with financial assistance from the U.S. Department of Veterans Affairs, or for the registration of a motor vehicle owned by him or her during his or her lifetime obtained as a replacement thereof, when his or her application is accompanied by a ~~certificate~~ copy of an approved VA Form 21-4502 issued by the ~~Veterans' Administration center~~ U.S. Department of Veterans Affairs certifying him or her to be entitled to ~~such exemption~~ the financial assistance.

Sec. 5. 23 V.S.A. § 609 is amended to read:

§ 609. VETERANS' EXEMPTION

No fees shall be charged an honorably discharged ~~veterans~~ veteran of the U.S. Armed Forces~~,~~ who ~~are residents~~ is a resident of the State of Vermont~~,~~ for a license to operate a motor vehicle, when the veteran has ~~received~~ acquired a motor vehicle with financial assistance from the ~~Veterans' Administration~~ U.S. Department of Veterans Affairs and he or she is otherwise eligible to be granted ~~such~~ the license, and when his or her application is accompanied by a ~~certificate~~ copy of an approved VA Form 21-4502 issued by the ~~Veterans' Administration center~~ U.S. Department of Veterans Affairs certifying him or her to be entitled to ~~such exemption~~ the financial assistance.

Sec. 6. 23 V.S.A. § 2002(a) is amended to read:

(a) The Commissioner shall be paid the following fees:

(1) for any certificate of title, including a salvage certificate of title, or an exempt vehicle title, $35.00;

* * *

(11) for a certificate of title for a motor vehicle ~~granted~~ acquired by a veteran ~~by~~ with financial assistance from the ~~Veterans' Administration~~ U.S. Department of Veterans Affairs and exempt from registration fees pursuant to section 378 of this title, no fee;

* * *

Sec. 7. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(14) A motor vehicle ~~granted~~ acquired by a veteran ~~by~~ with financial assistance from the ~~Veterans' Administration~~ U.S. Department of Veterans Affairs, or a vehicle obtained as a replacement to one ~~granted~~ acquired with such assistance, when accompanied by a ~~certificate~~ copy of an approved VA Form 21-4502 issued by the ~~Veterans' Administration Center~~ U.S. Department of Veterans Affairs certifying the veteran to be entitled to the ~~exemption~~ financial assistance.

* * *

* * * Restoration of Driving Privileges Under Total Abstinence Program * * *

Sec. 8. 23 V.S.A. § 1209a(b) is amended to read:

(b) Abstinence.

(1)(A) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the ~~Driver Rehabilitation School Director and to the~~ Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol ~~or~~ and nonprescription regulated drugs~~, or both~~. The use of a regulated drug in accordance with a valid prescription shall not disqualify an applicant for reinstatement of his or her driving privileges unless the applicant used the regulated drug in a manner inconsistent with the prescription label.

(B) The beginning date for the period of abstinence shall be ~~no sooner~~ not earlier than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination, or another examination if it is approved as a

preliminary screening test under this subchapter, to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of $500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(2) If the Commissioner or a medical review board convened by the Commissioner is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application ~~and hearing~~, has successfully completed a therapy program as required under this section, and has operated under a valid ignition interlock RDL or under an ignition interlock certificate for at least three years following the suspension or revocation, and the person ~~appreciates~~ provides a written acknowledgment that he or she cannot drink any amount of alcohol ~~and drive safely~~ at all and cannot consume nonprescription regulated drugs under any circumstances, the person's license or privilege to operate shall be reinstated immediately, subject to the condition that the person's suspension or revocation will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the person is exempt under subdivision (a)(4) of this section.

* * *

(4) If the Commissioner finds that a person reinstated under this subsection ~~was~~ is suspended pursuant to section 1205 of this title~~,~~ or ~~was~~ is convicted of a violation of section 1201 of this title subsequent to reinstatement under this subsection, the person shall be conclusively presumed to be in violation of the conditions of his or her reinstatement.

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

* * *

* * * Means of Transmitting Fuel Tax Payments * * *

Sec. 9. 23 V.S.A. § 3015 is amended to read:

§ 3015. COMPUTATION AND PAYMENT OF TAX

Each report required under section 3014 of this title from licensed distributors, dealers, or users shall be accompanied by evidence of an electronic funds transfer payment or a remittance payable to the Department of Motor Vehicles for the amount of tax due, which shall be computed and transmitted in the following manner:

* * *

(3)(A) Distributors and dealers with a tax liability of more than $25,000.00 filing a report required under subsection 3014(a) of this title shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer.

(B) Distributors and dealers with a tax liability of $25,000.00 or less filing a report required under subsection 3014(a) of this title, and users filing a report required under subsection 3014(b) of this title, shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer payment or by a remittance through the U.S. mail. If a remittance ~~to cover payment of taxes due as shown by a report required by this chapter~~ is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report~~,~~ and the U.S. Post Office has corrected or changed the date stamped thereon by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official Post Office postmark shall be the accepted date if different from the original postmark.

* * *

Sec. 10. 23 V.S.A. § 3015 is amended to read:

§ 3015. COMPUTATION AND PAYMENT OF TAX

Each report required under section 3014 of this title from licensed distributors, dealers, or users shall be accompanied by evidence of an electronic funds transfer payment or a remittance payable to the Department of Motor Vehicles for the amount of tax due, which shall be computed and transmitted in the following manner:

* * *

(3)(A) Distributors and dealers ~~with a tax liability of more than $25,000.00~~ filing a report required under subsection 3014(a) of this title shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer.

(B) ~~Distributors and dealers with a tax liability of $25,000.00 or less filing a report required under subsection 3014(a), of this title and users~~ Users filing a report required under subsection 3014(b) of this title~~,~~ shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer payment or by a remittance through the U.S. mail. If

a remittance is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report and the U.S. Post Office has corrected or changed the date stamped thereon by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official Post Office postmark shall be the accepted date if different from the original postmark.

* * *

Sec. 11. 23 V.S.A. § 3106(b) is amended to read:

(b)(1) ~~If a remittance to cover~~ On or before the due date established by section 3108 of this title, payment of taxes due as shown by a report required by this chapter shall be transmitted to the Department of Motor Vehicles as follows:

(A) If the tax liability is more than $25,000.00, it shall be sent by means of an electronic funds transfer payment.

(B) If the tax liability is $25,000.00 or less, payment shall be sent by means of an electronic funds transfer payment or by a remittance through the U.S. mail.

(2) If payment is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report, and the U.S. Post Office has corrected or changed the date stamped by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official post office postmark shall be the accepted date if different from the original postmark.

Sec. 12. 23 V.S.A. § 3106(b) is amended to read:

(b)~~(1)~~ On or before the due date established by section 3108 of this title, payment of taxes due as shown by a report required by this chapter shall be transmitted to the Department of Motor Vehicles ~~as follows:~~

~~(A) If the tax liability is more than $25,000.00, it shall be sent~~ by means of an electronic funds transfer payment.

~~(B) If the tax liability is $25,000.00 or less, payment shall be sent by means of an electronic funds transfer payment or by a remittance through the U.S. mail.~~

~~(2) If payment is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report, and the U.S. Post Office has corrected or changed the date stamped by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official post office postmark shall be the accepted date if different from the original postmark.~~

* * * Motor Vehicle Purchase and Use Tax * * *

Sec. 13. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(8) Motor vehicles transferred to the spouse, mother, father, child, sibling, grandparent, or grandchild of the donor during the donor's life or following his or her death, or to a trust established for the benefit of any such persons or for the benefit of the donor, or subsequently transferred among such persons, including transfers following a death, provided ~~such~~ the motor vehicle has been registered or titled in this State in the name of the original donor. Transfers exempt under this subdivision (8) include eligible transfers resulting by operation of the law governing intestate estates.

* * *

* * * New Motor Vehicle Arbitration * * *

Sec. 14. 9 V.S.A. § 4171 is amended to read:

§ 4171. DEFINITIONS

As used in this chapter:

* * *

(6) "Motor vehicle" means a passenger motor vehicle ~~which~~ that is purchased, leased, or registered in the State of Vermont, and shall not include tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, motor-driven cycles, or the living portion of recreation vehicles, or trucks with a gross vehicle weight rating over 12,000 pounds.

(7) "Manufacturer" means any person, resident or nonresident, ~~who~~ that manufactures or assembles new motor vehicles or imports for distribution

through distributors of motor vehicles or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, ~~which~~ that is controlled by a manufacturer. In the case of the portion of a recreation vehicle subject to this chapter, and except as otherwise provided in subdivision 4172(e)(2) of this title, "manufacturer" means the final stage assembler of the completed recreation vehicle. Additionally, the term "manufacturer" shall include:

(A) "distributor," meaning any person, resident or nonresident, ~~who~~ that in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers or new motor vehicle lessors or maintains factory representatives or ~~who~~ that controls any person, firm, association, corporation, or trust, resident or nonresident, ~~who~~ that in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers or new motor vehicle lessors; and

(B) "factory branch," meaning any branch office maintained by a manufacturer for the purpose of selling, leasing, or offering for sale or lease, vehicles to a distributor or new motor vehicle dealer or for directing or supervising, in whole or in part, factory distributor representatives.

* * *

(9) A "new motor vehicle" means a ~~passenger~~ motor vehicle ~~which~~ that is still under the manufacturer's express warranty or, in the case of the portion of a recreation vehicle that is subject to this chapter, that is still under an express warranty for the relevant component.

* * *

Sec. 15. 9 V.S.A. § 4172 is amended to read:

§ 4172. ENFORCEMENT OF WARRANTIES

* * *

(e)(1) If, after a reasonable number of attempts, the manufacturer, its agent, or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty ~~which~~ that substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the Board's order, either:

(A) ~~replace~~ Replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences ~~or shall~~.

(B) ~~accept~~ Accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee in the case of leased vehicles, as provided in subsection (i) of this section. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or downpayment, finance charges, credit charges, registration fees, and any similar charges and incidental and consequential damages or, in the case of leased vehicles, as provided in subsection (i) of this section. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear or to the motor vehicle lessor and lessee as provided in subsection (i) of this section. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to his or her first repair attempt and shall be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the vehicle traveled prior to the first attempt at repairing the vehicle. If the manufacturer refunds the purchase price or a portion of the price to the consumer, any Vermont motor vehicle purchase and use tax paid shall be refunded by the State to the consumer in the proportionate amount. To receive a refund, the consumer must file a claim with the Commissioner of Motor Vehicles within 90 days of the effective date of the order.

(2) In the case of a recreation vehicle, the warrantor of the chassis shall be responsible for any refund under subdivision (1)(B) of this subsection or under subsection (i) of this section, even if the consumer's or lessee's right to the refund results from a nonconformity caused by the final stage assembler of the completed recreation vehicle or by another warranted component subject to this chapter.

* * *

Sec. 16. 9 V.S.A. § 4173 is amended to read:

§ 4173. PROCEDURE TO OBTAIN REFUND OR REPLACEMENT; WAIVER OF RIGHTS VOID

(a)(1) After reasonable attempt at repair or correction of the nonconformity, defect, or condition, or after the vehicle is out of service by reason of repair of one or more nonconformities, defects, or conditions for a cumulative total of 30 or more calendar days as provided in this chapter, the consumer shall notify the manufacturer and lessor in writing, on forms to be provided by the manufacturer at the time the new motor vehicle is delivered, of the nonconformity, defect, or condition and the consumer's election to proceed under this chapter. The forms shall be made available by the manufacturer to any public or nonprofit agencies that shall request them.

Notice of consumer rights under this chapter shall be conspicuously displayed by all authorized dealers and agents of the manufacturer.

(2) The consumer shall in the notice elect whether to use the dispute settlement mechanism or the arbitration provisions established by the manufacturer or to proceed under the Vermont Motor Vehicle Arbitration Board as established under this chapter. Except in the case of a settlement agreement between a consumer and manufacturer, and unless federal law otherwise requires, any provision or agreement that purports to waive, limit, or disclaim the rights set forth in this chapter or that purports to require a consumer not to disclose the terms of the provision or agreement is void as contrary to public policy.

(3) The consumer's election of whether to proceed before the Board or the manufacturer's mechanism shall preclude his or her recourse to the method not selected.

* * *

* * * Three-wheeled Motorcycles * * *

Sec. 17. 23 V.S.A. § 601(f) is amended to read:

(f) Operators of autocycles shall be exempt from the requirements to obtain a motorcycle learner's permit or a motorcycle endorsement. The Commissioner shall offer operators of three-wheeled motorcycles that are not autocycles the opportunity to obtain a motorcycle endorsement that authorizes the operation of three-wheeled motorcycles only.

Sec. 18. 23 V.S.A. § 617 is amended to read:

§ 617. LEARNER'S PERMIT

* * *

(b)(1) Notwithstanding the provisions of subsection (a) of this section, any licensed person may apply to the Commissioner of Motor Vehicles for a learner's permit for the operation of a motorcycle in the form prescribed by the Commissioner. The Commissioner shall offer both a motorcycle learner's permit that authorizes the operation of three-wheeled motorcycles only and a motorcycle learner's permit that authorizes the operation of any motorcycle. The Commissioner shall require payment of a fee of $20.00 at the time application is made.

(2) After the applicant has successfully passed all parts of the applicable motorcycle endorsement examination, other than a skill test, the Commissioner may issue to the applicant a learner's permit ~~which~~ that entitles the applicant, subject to subsection 615(a) of this title, to operate a three-wheeled motorcycle

only, or to operate any motorcycle, upon the public highways for a period of 120 days from the date of issuance. The fee for the examination shall be $9.00.

(3) A motorcycle learner's permit may be renewed only twice upon payment of a $20.00 fee. If, during the original permit period and two renewals, the permittee has not successfully passed the applicable skill test or ~~the~~ motorcycle rider training course, he or she may not obtain another motorcycle learner's permit for a period of 12 months from the expiration of the permit unless:

(A) he or she has successfully completed the applicable motorcycle rider training course; or

(B) the learner's permit and renewals thereof authorized the operation of any motorcycle and the permittee is seeking a learner's permit for the operation of three-wheeled motorcycles only.

(4) This section shall not affect section 602 of this title. ~~The fee for the examination shall be $9.00.~~

* * *

(f)(1) The Commissioner may authorize motorcycle rider training instructors to administer ~~either the~~ a motorcycle endorsement examination for three-wheeled motorcycles only or for any motorcycle, or ~~the~~ a motorcycle ~~skills~~ skill test for three-wheeled motorcycles only or for any motorcycle, or ~~both~~ any of these. Upon successful completion of the applicable examination or test, the instructor shall issue to the applicant either a temporary motorcycle ~~learner~~ learner's permit or notice of motorcycle endorsement, as appropriate. The instructor shall immediately forward to the Commissioner the application and fee together with such additional information as the Commissioner may require.

(2) The Commissioner shall maintain a list of approved in-state and out-of-state motorcycle rider training courses, successful completion of which the Commissioner shall deem to satisfy the skill test requirement. This list shall include courses that provide training on three-wheeled motorcycles.

* * * Dealer Records of Sales * * *

Sec. 19. 23 V.S.A. § 466 is amended to read:

§ 466. RECORDS; CUSTODIAN

(a) On a form prescribed or approved by the Commissioner, every licensed dealer shall maintain and retain for six years a record containing the following information, which shall be open to inspection by any law enforcement officer

or motor vehicle inspector or other agent of the Commissioner during reasonable business hours:

(1) Every vehicle or motorboat ~~which~~ that is bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange.

(2) Every vehicle or motorboat ~~which~~ that is bought or otherwise acquired and dismantled by the licensee.

(3) The name and address of the person from whom such vehicle or motorboat was purchased or acquired, the date thereof, the name and address of the person to whom any such vehicle or motorboat was sold or otherwise disposed of and the date thereof, and a sufficient description of every such vehicle or motorboat by name and identifying numbers thereon to identify the same.

(4) ~~If the vehicle or motorboat is sold or otherwise transferred to a consumer, the cash price. As used in this section, "consumer" shall be as defined in 9 V.S.A. § 2451a(a) and "cash price" shall be as defined in 9 V.S.A. § 2351(6).~~ [Repealed.]

* * *

* * * Seatbelt Law for Adults; Primary Enforcement * * *

Sec. 20. 23 V.S.A. § 1259 is amended to read:

§ 1259. SAFETY BELTS; PERSONS ~~AGE~~ 18 YEARS OF AGE AND OVER

* * *

(e) ~~This section may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for another suspected traffic violation. An operator shall not be subject to the penalty established in this section unless the operator is required to pay a penalty for the primary violation.~~ [Repealed.]

* * *

Sec. 21. PRIMARY ENFORCEMENT OF SEATBELT LAW; PUBLIC EDUCATION CAMPAIGN

(a) To inform highway users of the requirements of Sec. 20 of this act (primary enforcement of the seatbelt law for adults) and the October 1, 2018 effective date of Sec. 20, the Secretary of Transportation shall conduct a public education campaign to commence on or before July 1, 2018.

(b) At a minimum, the Secretary shall:

(1) notify media outlets throughout the State of the change in the law to primary enforcement of the adult seatbelt law and the October 1, 2018 effective date of the change in the law;

(2) update the website of the Agency of Transportation and the website of the Department of Motor Vehicles to provide notice of the change in the law and its effective date; and

(3) consistent with the Manual on Uniform Traffic Control Devices and any other applicable federal law, post messages on changeable message signs of the Agency that inform highway users of the change in the law and its effective date.

* * * Motor Vehicle Inspections * * *

Sec. 22. 23 V.S.A. § 1222 is amended to read:

§ 1222. INSPECTION OF REGISTERED VEHICLES

(a) Except for school buses, which shall be inspected as prescribed in section 1282 of this title, and motor buses as defined in subdivision 4(17) of this title, which shall be inspected twice during the calendar year at six-month intervals, all motor vehicles registered in this State shall be inspected once each year. Any motor vehicle, trailer, or semi-trailer not currently inspected in this State shall be inspected within 15 days ~~from~~ following the date of its registration in the State of Vermont.

(b)(1) The inspections shall be made at garages or qualified service stations, designated by the Commissioner as inspection stations, for the purpose of determining whether those motor vehicles are properly equipped and maintained in good mechanical condition; provided, however, the scope of the safety inspection of a motor vehicle other than a school bus or a commercial motor vehicle shall be limited to parts or systems that are relevant to the vehicle's safe operation, and such vehicles shall not fail the safety portion of the inspection unless the condition of the part or system poses or may pose a danger to the operator or to other highway users.

(2) The charges for such inspections made by garages or qualified service stations designated to conduct periodic inspections shall be subject to the approval of the Commissioner. If a fee is charged for inspection, it shall be based upon the hourly rate charged by each official inspection station or it may be a flat rate fee and, in either instance, the fee shall be prominently posted and displayed beside the official inspection station certificate. In addition, the official inspection station may disclose the State inspection certificate charge on the repair order as a separate item and collect the charge from the consumer.

* * *

Sec. 23. RULEMAKING; TRANSITION

(a)(1) As soon as practicable after the effective date of this section, and not later than May 1, 2018, the Commissioner of Motor Vehicles (Commissioner)

shall file with the Secretary of State a proposed amended rule governing motor vehicle inspections (C.V.R. 14-050-022) that:

(A) is consistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 22 of this act; and

(B) clarifies ambiguous language in the rule.

(2) The amended rule described in subdivision (1) of this subsection shall be adopted so as to take effect no later than July 1, 2019.

(3) As soon as practicable after the effective date of this section, the Commissioner shall update the content of inspections conducted through the Automated Vehicle Inspection Program to exclude any requirement of C.V.R. 14-050-022 that is inconsistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 22 of this act, with the result that no vehicle will fail inspection as a result of any such inconsistent requirement.

(b) In the proposed rule amendments, the Commissioner may direct inspection stations to identify advisory, recommended repairs that are not required for the vehicle to pass inspection.

(c) Except as provided in subdivision (a)(2) and subsection (d) of this section, nothing in this section or Sec. 22 of this act is intended to affect the emissions-related requirements of the rule governing motor vehicle inspections.

(d) Notwithstanding 10 V.S.A. § 567 and C.V.R. 14-050-022, the Commissioner may establish criteria to allow vehicles that would otherwise fail inspection as a result of the emissions component of the inspection to pass inspection and receive an inspection sticker, provided that the vehicle satisfies all inspection requirements that are relevant to the vehicle's safe operation. The authority conferred in this subsection shall expire on January 15, 2019.

(e) As soon as practicable after the effective date of this section, the Commissioner of Motor Vehicles, in consultation with the Commissioner of Environmental Conservation, shall develop a program of waivers related to the emissions component of the State's inspection program that is consistent with the requirements of the Clean Air Act and its implementing regulations.

(f) On November 30, 2018, the Commissioners of Motor Vehicles and of Environmental Conservation shall send a written update to the Joint Transportation Oversight Committee that includes:

(1) a copy of any criteria developed under the authority granted in subsection (d) of this section;

(2) if the authority granted in subsection (d) of this section is exercised:

(A) whether the authority is still being exercised; and

(B) the number of conditional passes issued since the effective date of this section;

(3) a summary of the status of efforts to amend the Department's rule as required under subsection (a) of this section, and an estimate of the likely effective date of the amended rule if not yet adopted; and

(4) a summary of the status of the requirement to develop a program of waivers related to the emissions component of the State's inspection program and any efforts to educate consumers and inspection stations about issues related to emissions inspections, including: the availability of any such waivers; manufacturer warrantees available for emissions components for certain vehicle models and model years; and vehicle readiness for emissions testing.

* * * License Required; Nonresidents * * *

Sec. 24. 23 V.S.A. § 601(a)(2) is amended to read:

(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;

(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; and

(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~~ [Repealed.]

(iii) he or she possesses an international driving permit, an International Certificate Translation of Driver's License, or an English translation of the home country license prepared by an accredited translator.

Sec. 25. WAIVER OF RECIPROCITY REQUIREMENT FOR ONE YEAR

From July 1, 2018 through July 1, 2019, the provision of 23 V.S.A. § 208 that requires reciprocal recognition of Vermont licenses under the laws of a foreign country in order for a nonresident from that foreign country to be considered licensed or permitted to operate a motor vehicle in Vermont hereby is waived and shall not be enforceable.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

(a) This section and Secs. 16 (new motor vehicle arbitration), 19 (dealer records), 21 (education campaign; primary enforcement), and 22–23 (motor vehicle inspections) shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, in Sec. 23, subsection (d) shall take effect retroactively on January 1, 2017.

(b) Sec. 20 (primary enforcement of adult seatbelt law) shall take effect on October 1, 2018.

(c) Secs. 9 and 11 (means of transmitting fuel tax payments) shall take effect on July 1, 2019.

(d) Secs. 10 and 12 (means of transmitting fuel tax payments) shall take effect on July 1, 2020.

(e) All other sections shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Westman, Brock, Flory, Kitchel and Mazza moved that the Senate concur in the House proposal of amendment with further proposals of amendment as follows:

First: By striking out Secs. 20 and 21 (primary enforcement of the adult seatbelt law) and the reader assistance thereto in their entirety and inserting in lieu thereof the following:

Sec. 20. [Deleted.]

Sec. 21. [Deleted.]

Second: By striking out Secs. 24 and 25 in their entirety (license required; nonresidents) and the reader assistance thereto in their entirety and by renumbering the remaining section to be numerically correct.

Third: In the newly renumbered Sec. 24 (effective dates), in subsection (a), by striking out the following: "21 (education campaign, primary enforcement),"

Fourth: In the newly renumbered Sec. 24 (effective dates), by striking out subsection (b) in its entirety and by relettering the remaining subsections to be alphabetically correct.

Which was agreed to on a roll call, Yeas 30, Nays 0.

Senator Mazza 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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Proposal of Amendment; Third Reading Ordered

H. 132.

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

An act relating to limiting landowner liability for posting the dangers of swimming holes.

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:

Sec. 1. 12 V.S.A. § 5793 is amended to read:

§ 5793. LIABILITY LIMITED

(a) Land. An owner shall not be liable for property damage or personal injury sustained by a person who, without consideration, enters or goes upon the owner's land for a recreational use unless the damage or injury is the result of the willful or wanton misconduct of the owner.

(b) Equipment, fixtures, machinery, or personal property.

(1) Unless the damage or injury is the result of the willful or wanton misconduct of the owner, an owner shall not be liable for property damage or personal injury sustained by a person who, without consideration and without actual permission of the owner, enters or goes upon the owner's land for a recreational use and proceeds to enter upon or use:

(A) equipment, machinery, or personal property; or

(B) structures or fixtures not described in subdivision 5792(2)(A)(iii) or (iv) of this title.

(2) Permission to enter or go upon an owner's land shall not, by itself, include permission to enter or go upon structures or to go upon or use equipment, fixtures, machinery, or personal property.

(c) Posting. An owner may post a sign warning against dangers on the owner's land or water. An owner who posts a sign pursuant to this subsection shall not be liable for any damage or injury allegedly arising out of the posting unless the damage or injury is the result of the willful or wanton misconduct of the owner.

Sec. 2. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT ACT; STANDARD-FORM CONTRACTS

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims take place in an inconvenient venue. An inconvenient venue is defined for State law claims as a place other than the state in which the individual resides or the contract was consummated and for federal law claims as a place other than the federal judicial district where the individual resides or the contract was consummated.

(2) A waiver of the individual's right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual's right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State's courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code. In determining whether the terms described in subsection (a) of this section are

unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(c) Severability. If a court finds that a standard-form contract contains an illegal or unconscionable term, the court shall:

(1) refuse to enforce the entire contract or the specific part, clause, or provision containing the illegal or unconscionable term; or

(2) so limit the application of the illegal or unconscionable term or the clause containing such term as to avoid any illegal or unconscionable result.

(d) Unfair and deceptive act and practice. It is an unfair and deceptive practice in violation of section 2453 of this title to include one of the presumptively unconscionable terms identified in subsection (a) of this section in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract. Notwithstanding any other provisions to the contrary, a party who prevails in a claim under this section shall be entitled to $1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(e) Separate violations. Each term found to be unconscionable pursuant to subsection (a) of this section shall constitute a separate violation of this section.

(f) Applicability. This section shall not apply to contracts to which one party is:

(1) regulated by the Vermont Department of Financial Regulation; or

(2) a financial institution as defined by 8 V.S.A. § 11101(32).

Sec. 3. 12 V.S.A. § 5652 is amended to read:

§ 5652. VALIDITY OF ARBITRATION AGREEMENTS

(a) General rule. Unless otherwise provided in the agreement, a written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties creates a duty to arbitrate~~,~~ and is valid, enforceable, and irrevocable, except:

(1) upon such grounds as exist for the revocation of a contract; and

(2) as provided in 9 V.S.A. chapter 152.

* * *

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 and this section shall take effect on passage.

(b) Secs. 2 and Sec. 3 shall take effect on October 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ashe Assumes the Chair

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.

Proposal of Amendment; Third Reading Ordered

H. 526.

Senator Pearson, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to regulating notaries public.

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:

Sec. 1. 26 V.S.A. chapter 103 is added to read:

CHAPTER 103. NOTARIES PUBLIC

Subchapter 1. General Provisions

§ 5301. SHORT TITLE

This chapter may be cited as the Uniform Law on Notarial Acts.

§ 5302. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 5303. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. § 7003(b).

§ 5304. DEFINITIONS

As used in this chapter:

(1) "Acknowledgment" means a declaration by an individual before a notary public that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(2) "Certificate" or "notarial certificate" means the part of, or attachment to, a notarized document that is completed by a notary public, bears the required information set forth in section 5367 of this chapter, and states the facts attested to or certified by the notary public in a particular notarization.

(3) "Commission term" means the two-year period commencing on February 1 and continuing through January 31 of the second year following the commencement of the term.

(4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(5) "Electronic signature" means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(6) "In a representative capacity" means acting as:

(A) an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(B) a public officer, personal representative, guardian, administrator, executor, trustee, or other representative, in the capacity stated in a record;

(C) an agent or attorney-in-fact for a principal; or

(D) an authorized representative of another in any other capacity.

(7)(A) "Notarial act" means an act, whether performed with respect to a tangible or an electronic record, that a notary public may perform under the law of this State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, attesting a signature, and noting a protest of a negotiable instrument.

(B) "Notarial act" does not include a corporate officer attesting to another corporate officer's signature in the ordinary course of the corporation's business.

(C) Nothing in this chapter shall be construed to require the use of a notary public to witness a signature that is allowed by law to be witnessed by an individual who is not a notary public.

(8) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

(9) "Notary public" means an individual commissioned to perform a notarial act by the Office.

(10) "Office" means the Office of Professional Regulation within the Office of the Secretary of State.

(11) "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic process, seal, or image or electronic information attached to or logically associated with an electronic record.

(12) "Person" means an individual, corporation, business trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(15) "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

(16) "Stamping device" means:

(A) a physical device capable of affixing to or embossing on a tangible record an official stamp; or

(B) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) "Verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notary public, that a statement in a record is true.

§ 5305. EXEMPTIONS

(a) Generally.

(1) The persons set forth in subdivision (2) of this subsection, when acting within the scope of their official duties, are exempt from all of the requirements of this chapter, except for the requirements:

(A) to apply for a commission as set forth in section 5341(a), (b)(1)–(3), (c), (d), and (e) of this chapter; and

(B) unless exempted under subsection (c) of this section, to pay the fee set forth in section 5324 of this chapter:

(2)(A) Persons employed by the Judiciary, including judges, Superior Court clerks, court operations managers, Probate registers, case managers, docket clerks, assistant judges, county clerks, and after-hours relief from abuse contract employees.

(B) Persons employed as law enforcement officers certified under 20 V.S.A. chapter 151; who are noncertified constables; or who are employed by a Vermont law enforcement agency, the Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of Liquor Control, or for Children and Families, the Office of the Defender General, the Office of the Attorney General, or a State's Attorney or Sheriff.

(3) As used in subdivision (1) of this subsection, "acting within the scope of official duties" means that a person is notarizing a document that:

(A) he or she believes is related to the execution of his or her duties and responsibilities of employment or is the type of document that other employees notarize in the course of employment;

(B) is useful or of assistance to any person or entity identified in subdivision (2) of this subsection (a);

(C) is required, requested, created, used, submitted, or relied upon by any person or entity identified in subdivision (2) of this subsection (a);

(D) is necessary in order to assist in the representation, care, or protection of a person or the State;

(E) is necessary in order to protect the public or property;

(F) is necessary to represent or assist crime victims in receiving restitution or other services;

(G) relates to a Vermont or federal court rule or statute governing any criminal, postconviction, mental health, family, juvenile, civil, probate, Judicial Bureau, Environmental Division, or Supreme Court matter; or

(H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33 of the Vermont Statutes Annotated.

(b) Attorneys.

(1) Attorneys licensed and in good standing in this State are exempt from:

(A) the examination requirement set forth in subsection 5341(b) of this chapter; and

(B) the continuing education requirement set forth in section 5343 of this chapter.

(2) If a complaint of a violation of this chapter is filed in regard to a Vermont licensed attorney, the Office shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

(c) Fees. The following persons are exempt from the fee set forth in section 5324 of this chapter:

(1) a judge, clerk, or other court staff, as designated by the Court Administrator;

(2) State's Attorneys and their deputies and Assistant Attorneys General, public defenders, and their staff;

(3) justices of the peace and town clerks and their assistants; and

(4) State Police officers, municipal police officers, fish and game wardens, sheriffs and deputy sheriffs, motor vehicle inspectors, employees of the Department of Corrections, and employees of the Department for Children and Families.

Subchapter 2. Administration

§ 5321. SECRETARY OF STATE'S OFFICE DUTIES

The Office shall:

(1) provide general information to applicants for commissioning as a notary public;

(2) administer fees as provided under section 5324 of this chapter;

(3) explain appeal procedures to notaries public and applicants and explain complaint procedures to the public; and

(4) receive applications for commissioning, review applications, and grant and renew commissions when appropriate under this chapter.

§ 5322. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint two notaries public to serve as advisors in matters relating to notarial acts. One of the advisors shall be an attorney selected from a list of at least three licensed attorneys provided by the Vermont Bar Association. The advisors shall be appointed for staggered five-year terms and serve at the pleasure of the Secretary. One of the initial appointments shall be for less than a five-year term.

(b) Each appointee shall have at least three years of experience as a notary public during the period immediately preceding appointment and shall be actively commissioned in Vermont and remain in good standing during incumbency.

(c) The Office shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The appointees shall be entitled to compensation and reimbursement of expenses as set forth in 32 V.S.A. § 1010 for attendance at any meeting called by the Office for this purpose.

§ 5323. RULES

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking or otherwise disciplining a notary public and assuring the trustworthiness of an individual holding a commission as notary public; and

(5) include provisions to prevent fraud or mistake in the performance of notarial acts.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that substantially enact this chapter; and

(3) the views of governmental officials and entities and other interested persons.

§ 5324. FEES

For the issuance of a commission as a notary public, the Office shall collect a fee of $15.00.

Subchapter 3. Commissions

§ 5341. COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO IMMUNITY OR BENEFIT

(a) An individual qualified under subsection (b) of this section may apply to the Office for a commission as a notary public. The applicant shall comply with and provide the information required by rules adopted by the Office and pay the application fee set forth in section 5324 of this chapter.

(b) An applicant for a commission as a notary public shall:

(1) be at least 18 years of age;

(2) be a citizen or permanent legal resident of the United States;

(3) be a resident of or have a place of employment or practice in this State;

(4) not be disqualified to receive a commission under section 5342 of this chapter; and

(5) pass a basic examination approved by the Office based on the statutes, rules, and ethics relevant to notarial acts.

(c) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the Office.

(d) Upon compliance with this section, the Office shall issue a commission as a notary public to an applicant, which shall be valid through the then current commission term end date.

(e) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this State on public officials or employees.

§ 5342. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC

(a) The Office may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(1) failure to comply with this chapter;

(2) a fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Office;

(3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;

(4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(5) failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the Office, or any federal or State law;

(6) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;

(7) violation by the notary public of a rule of the Office regarding a notary public;

(8) denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; or

(9) committing any of the conduct set forth in 3 V.S.A. § 129a(a).

(b) If the Office denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with 3 V.S.A. chapter 25.

§ 5343. RENEWALS; CONTINUING EDUCATION

(a) Biennially, the Office shall provide a renewal notice to each commissioned notary public. Upon receipt of a notary public's completed renewal, payment of the fee as set forth in section 5324 of this chapter, and evidence of eligibility, the Office shall issue to him or her a new commission.

(b) A notary public applying for renewal shall complete continuing education approved by the Office, which shall not be required to exceed two hours, during the preceding two-year period.

(c) The Office, with the advice of the advisor appointees, shall establish by rule guidelines and criteria for continuing education credit.

§ 5344. DATABASE OF NOTARIES PUBLIC

The Office shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts; and

(2) that indicates whether a notary public has notified the Office that the notary public will be performing notarial acts on electronic records.

§ 5345. PROHIBITIONS; OFFENSES

(a) A person shall not perform or attempt to perform a notarial act or hold himself or herself out as being able to do so in this State without first having been commissioned.

(b) A person shall not use in connection with the person's name any letters, words, or insignia indicating or implying that the person is a notary public unless commissioned in accordance with this chapter.

(c) A person shall not perform or attempt to perform a notarial act while his or her commission has been revoked or suspended.

(d) A person who violates a provision of this section shall be subject to a fine of not more than $5,000.00 or imprisonment for not more than one year, or both. Prosecution may occur upon the complaint of the Attorney General or a State's Attorney and shall not act as a bar to civil or administrative proceedings involving the same conduct.

(e) A commission as a notary public shall not authorize an individual to assist a person in drafting legal records, give legal advice, or otherwise practice law.

(f) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person who seeks performance of a notarial act by the notary public.

Subchapter 4. Notarial Acts

§ 5361. NOTARIAL ACTS IN THIS STATE; AUTHORITY TO PERFORM

(a) A notarial act may only be performed in this State by a notary public commissioned under this chapter.

(b) The signature and title of an individual performing a notarial act in this State are prima facie evidence that the signature is genuine and that the individual holds the designated title.

§ 5362. AUTHORIZED NOTARIAL ACTS

(a) A notary public may perform a notarial act authorized by this chapter or otherwise by law of this State.

(b) A notary public shall not perform a notarial act with respect to a record to which the notary public or the notary public's spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

§ 5363. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS

(a) Acknowledgments. A notary public who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(b) Verifications. A notary public who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(c) Signatures. A notary public who attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(d) Protests. A notary public who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 9A V.S.A. § 3-505(b), protest; certificate of dishonor.

§ 5364. PERSONAL APPEARANCE REQUIRED

(a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

(b) A personal appearance does not include an acknowledgment using video conferencing software that uses the transmission of video images, or any other form of communication in which the notary public and the person requesting the notarial act are not in the same physical location at the same time.

§ 5365. IDENTIFICATION OF INDIVIDUAL

(a) Personal knowledge. A notary public has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(b) Satisfactory evidence. A notary public has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) by means of:

(A) a passport, driver's license, or government issued non-driver identification card, which is current or expired not more than three years before performance of the notarial act; or

(B) another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government issued non-driver identification card, which is current or expired not more than three years before performance of the notarial act.

(c) Additional information. A notary public may require an individual to provide additional information or identification credentials necessary to assure the notary public of the identity of the individual.

§ 5366. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN

If an individual is physically unable to sign a record, the individual may direct an individual other than the notary public to sign the individual's name on the record. The notary public shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

§ 5367. CERTIFICATE OF NOTARIAL ACT

(a) A notarial act shall be evidenced by a certificate. The certificate shall:

(1) be executed contemporaneously with the performance of the notarial act;

(2) be signed and dated by the notary public and be signed in the same manner as on file with the Office;

(3) identify the jurisdiction in which the notarial act is performed;

(4) contain the title of office of the notary public; and

(5) indicate the date of expiration of the officer's commission.

(b)(1) If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate or, in the alternative, the notary shall clearly print or type the notary public's name and commission number on the certificate.

(2) If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in subdivisions (a)(2)–(4) of this section, an official stamp may be attached to or logically associated with the certificate.

(c) A certificate of a notarial act is sufficient if it meets the requirements of subsections (a) and (b) of this section and:

(1) is in a short form as set forth in section 5368 of this chapter;

(2) is in a form otherwise permitted by the law of this State;

(3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(4) sets forth the actions of the notary public and the actions are sufficient to meet the requirements of the notarial act as provided in sections 5362–5364 of this chapter or a law of this State other than this chapter.

(d) By executing a certificate of a notarial act, a notary public certifies that the notary public has complied with the requirements and made the determinations specified in sections 5363–5365 of this chapter.

(e) A notary public shall not affix the notary public's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(f)(1) If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record.

(2) If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record.

(3) If the Office has established standards by rule pursuant to section 5323 of this chapter for attaching, affixing, or logically associating the certificate, the process shall conform to those standards.

§ 5368. SHORT-FORM CERTIFICATES

The following short-form certificates of notarial acts shall be sufficient for the purposes indicated, if completed with the information required by subsections 5367(a) and (b) of this chapter:

(1) For an acknowledgment in an individual capacity:

State of Vermont [County] of_____

This record was acknowledged before me on_____by_____

Date Name(s) of individual(s)_____

Signature of notary public

Stamp [_____]

Title of office_____[My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of Vermont [County] of_____

This record was acknowledged before me on_____by_____

Date Name(s) of individual(s) _____

as _____(type of authority, such as officer or trustee) of _____(name of party on behalf of whom record was executed).

Signature of notary public

Stamp [_____]

Title of office_____[My commission expires: _____]

(3) For a verification on oath or affirmation:

State of Vermont [County] of_____

Signed and sworn to (or affirmed) before me on _____ by_____

Date _____

Name(s) of individual(s) making statement_____

Signature of notary public _____

Stamp [_____]

Title of office_____[My commission expires: _____]

(4) For attesting a signature:

State of Vermont [County] of_____

Signed [or attested] before me on _____by_____

Date Name(s) of individual(s) _____

Signature of notary public

Stamp [_____]

Title of office_____[My commission expires: _____]

§ 5369. OFFICIAL STAMP

The official stamp of a notary public shall:

(1) include the notary public's name, jurisdiction, and other information required by the Office; and

(2) be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

§ 5370. STAMPING DEVICE

(a) A notary public is responsible for the security of the notary public's stamping device and shall not allow another individual to use the device to perform a notarial act.

(b) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the Office on discovering that the device is lost or stolen.

§ 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD; SELECTION OF TECHNOLOGY

(a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records from the tamper-evident technologies approved by the Office by rule. A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, the notary public shall notify the Office that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use from the list of technologies approved by the Office by rule. If the Office has established standards by rule for approval of technology pursuant to section 5323 of this chapter, the technology shall conform to the standards. If the technology conforms to the standards, the Office shall approve the use of the technology.

§ 5372. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

(a) A notary public may refuse to perform a notarial act if the notary public is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record; or

(2) the individual's signature is knowingly and voluntarily made.

(b) A notary public may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

§ 5373. VALIDITY OF NOTARIAL ACTS

(a) Except as otherwise provided in subsection 5372(b) of this chapter, the failure of a notary public to perform a duty or meet a requirement specified in this chapter shall not impair the marketability of title or invalidate a notarial act or a certification evidencing the notarial act.

(b) An acknowledgment that contains a notary commission expiration date that is either inaccurate or expired shall not invalidate the acknowledgment if it can be established that on the date the acknowledgment was taken, the notary public's commission was active.

(c) The validity of a notarial act under this chapter shall not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this State other than this chapter or law of the United States.

(d) Defects in the written evidence of acknowledgment in a document in the public records may be cured by the notary public who performed the original notarial act. The notary public shall, under oath and before a different notary public, execute a writing correcting any defect. Upon recording, the corrective document corrects any deficiency and ratifies the original written evidence of acknowledgment as of the date the acknowledgment was originally taken.

(e) Notwithstanding any provision of law to the contrary, a document that conveys an interest in real property shall be recordable in the land records and, if recorded, shall be sufficient for record notice to third parties, notwithstanding the failure of a notary public to perform any duty or meet any requirement specified in this chapter. Such failure includes the failure to comply in full or in part with the requirements of sections 5367-5369 of this title.

(f) This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

§ 5374. NOTARIAL ACT IN ANOTHER STATE

(a) A notarial act performed in another state has the same effect under the law of this State as if performed by a notary public of this State, if the act performed in that state is performed by:

(1) a notary public of that state;

(2) a judge, clerk, or deputy clerk of a court of that state; or

(3) any other individual authorized by the law of that state to perform the notarial act.

(b) If a deed or other conveyance or a power of attorney for the conveyance of land, the acknowledgment or proof of which is taken out of State, is certified agreeably to the laws of the state in which the acknowledgment or proof is taken, it shall be valid as though it were taken before a proper officer in this State.

(c) An acknowledgment for a deed or other conveyance or a power of attorney for the conveyance of land that is taken out of State before a proper officer of this State shall be valid as if taken within this State.

(d) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(e) The signature and title of a notarial officer described in subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 5375. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY RECOGNIZED INDIAN TRIBE

(a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notary public of this State, if the act performed in the jurisdiction of the tribe is performed by:

(1) a notary public of the tribe;

(2) a judge, clerk, or deputy clerk of a court of the tribe; or

(3) any other individual authorized by the law of the tribe to perform the notarial act.

(b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 5376. NOTARIAL ACT UNDER FEDERAL AUTHORITY

(a) A notarial act performed under federal law has the same effect under the law of this State as if performed by a notary public of this State, if the act performed under federal law is performed by:

(1) a judge, clerk, or deputy clerk of a court;

(2) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(3) an individual designated a notarizing officer by the U.S. Department of State for performing notarial acts overseas; or

(4) any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an officer described in subdivision (a)(1), (2), or (3) of this section shall conclusively establish the authority of the officer to perform the notarial act.

§ 5377. EVIDENCE OF AUTHENTICITY OF NOTARIAL ACT PERFORMED IN THIS STATE

(a) The authenticity of the official notarial stamp and signature of a notary public may be evidenced by either:

(1) A certificate of authority from the Secretary of State authenticated as necessary.

(2) An apostille from the Secretary of State in the form prescribed by the Hague convention of October 5, 1961 abolishing the requirement of legalization of foreign public documents.

(b) An apostille as specified by the Hague convention shall be attached to any document that requires authentication and that is sent to a nation that has signed and ratified this convention.

§ 5378. FOREIGN NOTARIAL ACT

(a) In this section, "foreign state" means a government other than the United States, a state, or a federally recognized Indian tribe.

(b) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this State as if performed by a notary public of this State.

(c) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(d) The signature and official stamp of an individual holding an office described in subsection (c) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(e) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(f) A consular authentication issued by an individual designated by the U.S. Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

Sec. 2. 27 V.S.A. § 341 is amended to read:

§ 341. REQUIREMENTS GENERALLY; RECORDING

(a) Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a ~~town clerk,~~ notary public~~, master, or county clerk~~ and recorded at length in the clerk's office of the town in which such lands lie. Such acknowledgment before a notary public shall be valid without an official ~~seal~~ stamp being affixed to his or her signature.

(b) A deed or other conveyance of land ~~which~~ that includes a reference to a survey prepared or revised after July 1, 1988 may be recorded only if it is accompanied by the survey to which it refers, or cites the volume and page in the land records showing where the survey has previously been recorded.

(c) A lease of real property that has a term of more than one year from the making of the lease need not be recorded at length if a notice or memorandum of lease, which is executed and acknowledged as provided in subsection (a) of this section, is recorded in the land records of the town in which the leased property is situated. The notice of lease shall contain at least the following information:

(1) the names of the parties to the lease as set forth in the lease;

(2) a statement of the rights of a party to extend or renew the lease;

(3) any addresses set forth in the lease as those of the parties;

(4) the date of the execution of the lease;

(5) the term of the lease, the date of commencement, and the date of termination;

(6) a description of the real property as set forth in the lease;

(7) a statement of the rights of a party to purchase the real property or exercise a right of first refusal with respect thereto;

(8) a statement of any restrictions on assignment of the lease; and

(9) the location of an original lease.

Sec. 3. 27 V.S.A. § 342 is amended to read:

§ 342. ACKNOWLEDGMENT AND RECORDING REQUIRED

A deed of bargain and sale, a mortgage or other conveyance of land in fee simple or for term of life, or a lease for more than one year from the making thereof shall not be effectual to hold such lands against any person but the grantor and his or her heirs, unless the deed or other conveyance is acknowledged and recorded ~~as provided in this chapter~~.

Sec. 4. 27 V.S.A. § 463 is amended to read:

§ 463. BY SEPARATE INSTRUMENT

(a) Mortgages may be discharged by an acknowledgment of satisfaction, executed by the mortgagee or his or her attorney, executor, administrator, or assigns, which shall be substantially in the following form:

I hereby certify that the following described mortgage is paid in full and satisfied, viz: _____ mortgagor to _____ mortgagee, dated _____ 20____, and recorded in book _____, page _____, of the land records of the town of _____.

(b) When such satisfaction is acknowledged before a ~~town clerk,~~ notary public~~, master, or county clerk,~~ and recorded, it shall discharge such mortgage and bar actions brought thereon.

Sec. 5. REPEALS

The following are repealed:

(1) 24 V.S.A. chapter 5, subchapter 9 (notaries public);

(2) 27 V.S.A. § 379 (conveyance of real estate; execution and acknowledgment; acknowledgment out of state);

(3) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge or fee);

(4) 32 V.S.A. § 1436 (fee for certification of appointment as notary public); and

(5) 32 V.S.A. § 1759 (notaries public fees).

Sec. 6. APPLICABILITY; NOTARY PUBLIC COMMISSION IN EFFECT

(a)(1) This act shall apply to a notarial act performed on or after the effective date of this act.

(2) A notary public, in performing notarial acts on and after the effective date of this act, shall comply with the provisions of this act.

(b)(1) A commission as a notary public in effect on the effective date of this act shall continue until its date of expiration.

(2) A notary public who applies to renew a commission as a notary public on or after the effective date of this act shall comply with the provisions of this act.

Sec. 7. SAVINGS CLAUSE

This act shall not affect the validity or effect of a notarial act performed prior to the effective date of this act.

Sec. 8. POTENTIAL ENACTMENT OF UNIFORM UNSWORN DECLARATIONS ACT; REPORT BY AFFECTED ENTITIES

(a) The General Assembly is considering enacting a law similar to the April 2015 draft of the Uniform Unsworn Declarations Act (UUDA) prepared by the National Conference of Commissioners on Uniform State Laws.

(b) In order to understand the UUDA's potential effect on State operations, on or before June 30, 2019, the Secretary of Administration on behalf of the Administration and the State's boards, councils, and commissions; the Attorney General; the Secretary of State; the Executive Director of the Department of State's Attorneys and Sheriffs; the Defender General; the Auditor of Accounts; the State Treasurer; and the Court Administrator shall each submit to the General Assembly a summary regarding the effect of the enactment of the UUDA on each entity and the users of its operations. The summary shall include the following in regard to the entity's operations:

(1) an identification of forms requiring a notarial act and any proceeding or action requiring the use of such forms that are created, used, or required by the entity;

(2) an explanation of whether continued use of a notarial act on a particular form is recommended and if so, why;

(3) any recommendations for amendments to the UUDA;

(4) a draft of any suggested legislation, rules, or forms, including amendments to existing rules and forms, as may be necessary to address issues arising from the enactment of the UUDA;

(5) an identification of the resources, timeline, and expenses related to any necessary rulemaking or form change based on the enactment of the UUDA.

Sec. 9. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

This act shall take effect on July 1, 2019, except that:

(1) this section shall take effect on passage;

(2) the Office of Professional Regulation may adopt rules in accordance with the provisions of Sec. 1 prior to the effective date of that section;

(3) beginning on December 1, 2018, the Office of Professional Regulation shall perform the duties of the assistant judges and county clerks in regard to receiving applications and commissioning notaries public as set forth in 24 V.S.A. chapter 5, subchapter 9 (county officers; notaries public) for the two-year notaries public commission terms that begin on February 1, 2019 in accordance with Sec. 1; and

(4) in Sec. 1, the examination requirement for new notaries public applicants set forth in 26 V.S.A. § 5341(b)(5) and the continuing education requirement for notaries public renewal applicants set forth in 26 V.S.A. § 5343(b) shall take effect on February 1, 2021 and shall apply to those applicants for the notaries public commission terms that begin on that date.

And that the bill ought to pass in concurrence with such proposal of amendment.

President Assumes the Chair

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

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.

Proposal of Amendment; Third Reading Ordered

H. 859.

Senator Pearson, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to requiring municipal corporations to affirmatively vote to retain ownership of lease lands.

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:

Sec. 1. 24 V.S.A. § 2409 is added to read:

§ 2409. RETENTION OF MUNICIPAL OWNERSHIP OF LEASE LANDS

(a) As used in this section:

(1) "Legislative body" means the officer or officers of a municipal corporation who are charged with the care of the municipal corporation's lease lands.

(2) "Lessee" means the person entitled to possess, enjoy, and use land subject to a perpetual lease and shall include the person's heirs, executors, administrators, and assigns.

(3) "Municipal corporation" shall have the same meaning as "municipality" in 1 V.S.A. § 126 and shall also include every municipal corporation identified in subdivision 1751(1) of this title, county grammar schools, any unorganized towns and gores in the State, and any of the unified towns and gores of Essex County. "Municipal corporation" shall not include the University of Vermont and State Agricultural College.

(4) "Perpetual lease" means any leasehold interest in Vermont land, and every estate in Vermont land other than fee simple absolute, the title to which is held by a municipal corporation according to section 2401 of this title, arising out of or created by an instrument of lease that conveys to a person designated as lessee the right to possess, enjoy, and use the land in perpetuity or substantially in perpetuity. "Perpetual lease" shall include leasehold interests that are subject to restrictions on the lessee's use of the land and shall include lands that the municipal corporation may repossess for nonpayment of rent or other default under the terms of the lease.

(5) "Perpetual lease land" means all land described in a perpetual lease that is owned by or vested in a municipal corporation. "Perpetual lease land" does not include land described in a perpetual lease that is held in title by any person other than a municipal corporation, or any land described in a perpetual lease over which the municipal corporation acts exclusively as trustee.

(b)(1) On January 1, 2020, fee simple title to perpetual lease lands shall vest in the current lessee of record, free and clear of the interest of a municipal corporation in the perpetual lease lands held in accordance with section 2401 of this title, unless prior to that date the legislative body of the municipal corporation votes in the affirmative to retain ownership of some or all of the perpetual lease lands within that municipal corporation.

(2) At any time, the legislative body of a municipal corporation may vote to relinquish its interest in some or all of the perpetual lease lands within that municipal corporation held in accordance with section 2401 of this title. Upon such a vote, fee simple title to perpetual lease lands shall vest in the current lessee of record.

(3) When fee simple title to perpetual lease land vests in the current lessee of record pursuant to this subsection, the land shall remain subject to any other encumbrances of record, including municipal encumbrances and easements.

(c) Nothing in this section shall prevent a municipal corporation that has retained its interest in perpetual lease land held in accordance with section 2401 of this title from later conveying the land in accordance with section 2406 of this title.

Sec. 2. 24 V.S.A. § 1061 is amended to read:

§ 1061. CONVEYANCE OF REAL ESTATE

* * *

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the legislative body of a town or village may authorize the conveyance of municipal real estate if the conveyance:

* * *

(3) Involves real estate used for housing or urban renewal projects under chapter 113 of this title.

(4) Involves lease land pursuant to chapter 65, subchapter 1 of this title.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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.

Proposals of Amendment; Third Reading Ordered

H. 895.

Senator Ayer, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to legislative review of certain report requirements.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: Immediately following the end of Sec. 4, by adding a reader assistance heading to read:

* * * Reports Requirements Modified * * *

Second: By adding a Sec. 4a to read:

Sec. 4a. 18 V.S.A. § 4803 is amended to read:

§ 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS; PER DIEM

* * *

(g)(1) ~~Annually on or before November 15, the~~ The Council ~~shall~~ may submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

* * *

Third: By adding a Sec. 4b to read as follows:

Sec. 4b. 18 V.S.A. § 5208 is amended to read:

§ 5208. DEPARTMENT OF HEALTH; REPORT ON STATISTICS

* * *

(b) ~~In addition to the report required by subsection (a) of this section and notwithstanding the provisions of 2 V.S.A. § 20(d), beginning March 1, 2014 and annually thereafter, the Department shall report to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding the number of persons who died during the preceding calendar year from an overdose of a Schedule II, III, or IV controlled substance. The report shall list separately the number of deaths specifically related to opioids, including for each death whether an opioid antagonist was administered and whether it was administered by persons other than emergency medical personnel, firefighters, or law enforcement officers. Beginning in 2015, the report shall include similar data from prior years to allow for comparison.~~ [Repealed.]

Fourth: By adding a Sec. 4c to read as follows:

Sec. 4c. 19 V.S.A. § 42 is amended to read:

§ 42. REPORTS PRESERVED; CONSOLIDATED TRANSPORTATION REPORT

* * *

(b) Annually, on or before January 15, the Agency shall submit a consolidated transportation system and activities report to the House and Senate Committees on Transportation. The report shall consist of:

(1) Financial and performance data of all public transit systems, as defined in 24 V.S.A. § 5088(6), that receive operating subsidies in any form from the State or federal government, including subsidies related to the Elders and Persons with Disabilities Transportation Program for service and capital equipment. This component of the report shall:

* * *

(C) show as a separate category financial and performance data on the Elders and Persons with Disabilities Transportation Program~~;~~

~~(D) describe any action the Agency has taken pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards~~.

(2) Data on pavement conditions of the State highway system ~~that, at a minimum, shall include a pavement condition index that rates the State highway system and the current and historic percentage of State highway pavement mileage that is rated in poor or very poor condition~~.

(3) A description of the conditions of bridges, culverts, and other structures on the State highway system and on town highways ~~and of the status of the accelerated bridge program~~.

* * *

(6) A summary of the statuses of aviation, rail, and public transit ~~projects programmed for construction during the previous calendar year~~ programs.

* * *

(8) An overview of operations and maintenance activities, including winter maintenance statistics~~, snow and ice control plans, and equipment performance measures~~.

(9) ~~Data on the miles of State highway paving completed during the previous construction season.~~

~~(10)~~ A list of projects for which the construction phase was completed during the most recent construction season.

~~(11)~~(10) Such other information that the Secretary determines the Committees on Transportation need to perform their oversight role.

Fifth: By adding a Sec. 4d to read as follows:

Sec. 4d. 2014 Acts and Resolves No. 179, Sec. E.306.2 is amended to read:

Sec. E.306.2 SUBSTANCE ABUSE TREATMENT SERVICES

(a) Program Objectives And Performance Measures:

* * *

(2) ~~Thereafter, annually, on or before January 15, the Chief, Secretary, and Commissioners shall report to those Committees on the service delivery system's success in reaching the program objectives using the performance measure data collected for those services.~~ [Repealed.]

* * *

Sixth: In Sec. 23, 18 V.S.A. § 9374, in subsection (h), in subdivision (4)(B), immediately following the following: "The Board and the Department shall also present the information required by" by striking out the following: "subsection (a) of this section" and inserting in lieu thereof the following: this subsection (h)

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, the proposals of amendment were collectively agreed to, and third reading of the bill was ordered.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 92, S. 203, S. 272.

Adjournment

On motion of Senator Ashe, the Senate adjourned until three o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President *pro tempore*.

Proposal of Amendment; Third Reading Ordered

H. 923.

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

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

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:

Sec. 1. 2017 Acts and Resolves No. 84, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2018:

* * *

(13) Burlington, 108 Cherry Street, ~~parking garage, repairs~~ design, engineering, and architectural costs for the repair of the parking garage and related eligible project costs: ~~$5,000,000.00~~ $2,281,094.00

(c) The following sums are appropriated in FY 2019:

(1) Statewide, planning, use, and contingency:

~~$500,000.00~~ $600,000.00

(2) Statewide, major maintenance: ~~$5,707,408.00~~ $6,900,000.00

* * *

(6) Montpelier, 120 State Street, life safety and infrastructure improvements: ~~$700,000.00~~ $1,968,000.00

* * *

(8) Waterbury, Waterbury State Office Complex, Weeks building, renovation and fit-up: ~~$900,000.00~~ $1,152,085.00

(9) Newport, Northern State Correctional Facility, door control replacement and perimeter control: ~~$1,000,000.00~~ $1,715,000.00

(10) Montpelier, 109 and 111 State Street, final design and construction: ~~$4,000,000.00~~ $1,000,000.00

(11) ~~Burlington, 108 Cherry Street, parking garage, repairs:~~ ~~$5,000,000.00~~ [Repealed.]

* * *

(13) Montpelier, 115 State Street, State House, switchgear and emergency generator: $450,000.00

(14) Rutland, Asa Bloomer building, rehabilitation of building components and systems, and planning and use study: $1,050,000.00

(15) Springfield, State Office Building, repair of the retaining wall, and environmental remediation associated with the retaining wall project: $1,400,000.00

(16) St. Albans, Franklin County Courthouse, ADA renovations, new handicap access ramp and related exterior renovations: $300,000.00

(17) Waterbury, Waterbury State Office Complex, Stanley and Wasson, demolition of Stanley Hall, and programming, schematic design, and design development for Wasson Hall: $950,000.00

(18) Rutland, Marble Valley Regional Correctional Facility, repair of the historic brick and stone masonry wall used as the perimeter security for the facility: $600,000.00

* * *

(e)(1) On or before December 15, 2018, the Commissioner of Buildings and General Services shall submit to the House Committee on Corrections and Institutions and the Senate Committee on Institutions a report on the John J. Zampieri State Office Building at 108 Cherry Street in Burlington that shall include 20-year economic projections for each of the following options:

(A) selling 108 Cherry Street and leasing, purchasing, or building a new State office space; and

(B) renovating 108 Cherry Street and continuing to use it as State office space in its entirety for State employees; and

(C) renovating 108 Cherry Street and using it as State office space for all direct-service employees currently housed there and leasing the remainder of the space to a non-State entity.

(2) When the General Assembly is not in session, if, based on the projections calculated in subdivision (1) of this subsection (e), the Commissioner of Buildings and General Services determines it is in the best interests of the State to sell the John J. Zampieri State Office Building at 108 Cherry Street in Burlington, he or she may notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and request the approval to sell. The Chairs shall recommend to approve or deny the request to the Joint Fiscal Committee. The Joint Fiscal Committee may approve or deny the recommendation of the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions; provided, however, that an approval to sell shall also require that the proceeds from the sale be appropriated to future capital construction projects and expended within two years after the date of sale.

(f) For the amount appropriated in subdivision (c)(13) of this section, the Commissioner of Buildings and General Services shall evaluate all proposals for a generator, including the use of a generator or battery backup. After evaluation of the proposals, the Commissioner of Buildings and General Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions of the decision prior to the purchase of a generator or battery backup. If required by 29 V.S.A. chapter 6, the Commissioner of Buildings and General Services shall ensure that the Capitol Complex Commission is provided with the proposal.

(g) The Commissioner of Buildings and General Services is authorized to use up to $250,000.00 from the amount appropriated in subdivision (c)(2) of this section to prepare a State-owned building for sale if any renovations are needed.

Appropriation – FY 2018	~~$27,857,525.00~~	$25,138,619.00
Appropriation – FY 2019	~~$27,853,933.00~~	$28,131,610.00
Total Appropriation – Section 2	~~$55,711,458.00~~	$53,270,229.00

Sec. 2. 2017 Acts and Resolves No. 84, Sec. 3 is amended to read:

Sec. 3. HUMAN SERVICES

* * *

(b) ~~The sum of $300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in subsection (a) of this section.~~ The following sums are appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services:

(1) Statewide correctional facilities, cameras, locks, perimeter intrusion at correctional facilities: $300,000.00

(2) Chittenden County Regional Correctional Facility and Northwest State Correctional Facility, renovations, beds for therapeutic placement: $600,000.00

(3) Essex, Woodside Juvenile Rehabilitation Center, design and construction documents: $500,000.00

(4) Brattleboro, Brattleboro Retreat, renovation and fit-up: $4,500,000.00

(c) For the amount appropriated in subdivision (b)(2) of this section, it is the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and

in the Northwest State Correctional Facility for persons in the custody of the Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten beds in the Northwest State Correctional Facility.

(d) For the amount appropriated in subdivision (b)(4) of this section:

(1) The use of funds shall be restricted to capital renovations and fit-up costs and shall not be used for any periodic lease payments, usage fees, or other operating expenses.

(2)(A) The Department of Buildings and General Services shall not expend funds until the Commissioner of Buildings and General Services and the Secretary of Human Services have notified the Commissioner of Finance and Management and the Chairs of House Committee on Corrections and Institutions and the Senate Committee on Institutions that an agreement has been executed between the Brattleboro Retreat and the State of Vermont.

(B) The agreement described in subdivision (2)(A) of this subsection (d) shall include the following provisions:

(i) the Brattleboro Retreat shall provide a minimum of 12 beds, including level-1 beds, to the State for a period determined by the Secretary to be in the best interests to the State; and

(ii) terms and conditions that ensure the protection of State investment of capital appropriations.

(C) Prior to execution, the State Treasurer shall approve the agreement described in subdivision (2)(A) of this subsection (d) to ensure that it is in compliance with applicable tax-exempt bond requirements.

(D) The Commissioner of Buildings and General Services and Secretary of Human Services may also propose draft legislation to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that may be necessary to fulfill the agreement.

(3)(A) On or before October 15, 2018, the Secretary of Human Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions if an agreement between the Brattleboro Retreat and the State of Vermont cannot be reached and shall submit to them an alternative proposal for the 12 beds. The Secretary of Human Services shall also send the alternative proposal to the Joint Fiscal Committee.

(B) With approval of the Speaker of the House and the President Pro Tempore of the Senate, as appropriate, the House Committee on Corrections

and Institutions and the Senate Committee on Institutions may meet up to two times when the General Assembly is not in session to evaluate, approve, or recommend alterations to the proposal. The House Committee on Corrections and Institutions' and the Senate Committee on Institutions' members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

Appropriation – FY 2018	$300,000.00
Appropriation – FY 2019	~~$300,000.00~~ $5,900,000.00
Total Appropriation – Section 3	~~$600,000.00~~ $6,200,000.00

Sec. 3. 2017 Acts and Resolves No. 84, Sec. 4 is amended to read:

Sec. 4. JUDICIARY

* * *

(c) The sum of $1,496,398.00 is appropriated in FY 2019 to the Judiciary for the case management IT system.

Appropriation – FY 2018	$3,050,000.00
Appropriation – FY 2019	$1,496,398.00
Total Appropriation – Section 4	~~$3,050,000.00~~ $4,546,398.00

Sec. 4. 2017 Acts and Resolves No. 84, Sec. 5 is amended to read:

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

* * *

(c) The sum of ~~$200,000.00~~ $300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at historic sites statewide.

(d) The following sums are appropriated in FY 2019 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: $30,000.00

(2) Placement and replacement of roadside historic markers: ~~$15,000.00~~ $29,000.00

(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping: $125,000.00

(4) Schooner Lois McClure, repairs and upgrades: $25,000.00

(5) Civil War Heritage Trail, signs: $30,000.00

* * *

Appropriation – FY 2018	$450,000.00
Appropriation – FY 2019	~~$370,000.00~~ $539,000.00
Total Appropriation – Section 5	~~$820,000.00~~ $989,000.00

Sec. 5. 2017 Acts and Resolves No. 84, Sec. 6 is amended to read:

Sec. 6. GRANT PROGRAMS

* * *

(b) The following sums are appropriated in FY 2019 for Building Communities Grants established in 24 V.S.A. chapter 137:

* * *

(9) To the Enhanced 911 Board for the Enhanced 911 Compliance Grants Program for school safety:	$400,000.00
Appropriation – FY 2018	$1,475,000.00
Appropriation – FY 2019	~~$1,400,000.00~~ $1,800,000.00
Total Appropriation – Section 6	~~$2,875,000.00~~ $3,275,000.00

Sec. 6. 2017 Acts and Resolves No. 84, Sec. 8 is amended to read:

Sec. 8. UNIVERSITY OF VERMONT

* * *

(b) The sum of ~~$1,400,000.00~~ $1,650,000.00 is appropriated in FY 2019 to the University of Vermont for the projects described in subsection (a) of this section.

Appropriation – FY 2018	$1,400,000.00
Appropriation – FY 2019	~~$1,400,000.00~~ $1,650,000.00
Total Appropriation – Section 8	~~$2,800,000.00~~ $3,050,000.00

Sec. 6a. 2017 Acts and Resolves No. 84, Sec. 9 is amended to read:

Sec. 9. VERMONT STATE COLLEGES

* * *

(b) The sum of ~~$2,000,000.00~~ $3,000,000.00 is appropriated in FY 2019 to the Vermont State Colleges for the projects described in subsection (a) of this section.

Appropriation – FY 2018	$2,000,000.00
Appropriation – FY 2019	~~$2,000,000.00~~ $3,000,000.00
Total Appropriation – Section 9	~~$4,000,000.00~~ $5,000,000.00

Sec. 7. 2017 Acts and Resolves No. 84, Sec. 10 is amended to read:

Sec. 10. NATURAL RESOURCES

* * *

(e) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

* * *

(3) State's share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine ~~and Ely Mine~~): ~~$2,755,000.00~~ $177,259.00

* * *

Appropriation – FY 2018	$10,914,000.00
Appropriation – FY 2019	~~$8,205,000.00~~ $5,627,259.00
Total Appropriation – Section 10	~~$19,119,000.00~~ $16,541,259.00

Sec. 8. 2017 Acts and Resolves No. 84, Sec. 11 is amended to read:

Sec. 11. CLEAN WATER INITIATIVES

* * *

(b) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

* * *

(4) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, new projects (Ryegate, Springfield, ~~St. Johnsbury,~~ and St. Albans): $2,704,232.00

* * *

(d)(1) The following sums are appropriated in FY 2018 to the Vermont Housing and Conservation Board for the following projects:

~~(1)~~(A) Statewide water quality improvement projects or other conservation projects: $2,800,000.00

~~(2)~~(B) Water quality farm improvement grants or fee purchase projects that enhance water quality impacts by leveraging additional funds: $1,000,000.00

(2) A grant issued under subdivision (1)(B) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost share requirements.

(e)(1) The following ~~sum of $2,000,000.00 is~~ sums are appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for projects described in this subsection:

(A) Best Management Practices ~~and~~, the Conservation Reserve Enhancement Program~~.~~, and the Capital Equipment Assistance Program: $3,615,000.00

(B) Phosphorus removal equipment: $1,500,000.00

(2) Notwithstanding 6 V.S.A. § 4828(d), an applicant for a grant issued under subdivision (1)(B) of this subsection to purchase or implement phosphorus removal technology or equipment shall pay at least 20 percent of the total eligible project cost. Each grant awarded pursuant to this subsection (e) shall not exceed $300,000.00.

(f) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

* * *

(2) EcoSystem ~~restoration and protection~~ Restoration and Protection grant programs: ~~$5,000,000.00~~

(A) Standard EcoSystem Restoration and Protection programs: $3,760,000.00

(B) Municipal Roads Grant-in-Aid: $3,090,000.00

(C) Multi-Sector Clean Water Block Grants: $2,000,000.00

(D) Lake Carmi, aeration system or artificial circulation, or both: $200,000.00

(3) Municipal Pollution Control Grants, new projects (Colchester, Rutland City, St. Albans, Middlebury, and St. Johnsbury): ~~$1,407,268.00~~ $4,040,000.00

(4) ~~Clean Water Act, implementation projects:~~ ~~$11,112,944.00~~

The Commissioner of Environmental Conservation may use up to $1,400,000.00 of the amounts appropriated in subdivision (2) of this subsection to support capital-eligible clean water projects for Lake Carmi; provided, however, that the Commissioner shall provide prior notification of any project and its cost to the Chairs of the House Committees on Corrections and Institutions and on Natural Resources, Fish, and Wildlife and of the Senate Committees on Institutions and on Natural Resources and Energy.

(5) The Commissioner of Forests, Parks and Recreation may use up to $50,000.00 of the amounts appropriated in subdivision (2)(A) of this subsection for skidder bridges.

(6) For the amount appropriated in subdivision (2)(B) of this subsection, on or before January 15, 2019, the Commissioner of Environmental Conservation shall report back to the House Committees on Corrections and Institutions and on Transportation and of the Senate Committees on Institutions and on Transportation with a description and cost of each project that received funding.

(g)(1) The ~~sum of 2,750,000.00 is~~ following sums are appropriated in FY 2019 to the Vermont Housing and Conservation Board ~~for~~:

(A) statewide water quality improvement projects or other conservation projects~~.~~: $2,750,000.00

(B) water quality farm improvement grants or fee purchase projects: $1,000,000.00

(2) A grant issued under subdivision (1)(B) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost-share requirements.

(h) It is the intent of the General Assembly that the Secretary of Natural Resources shall use the amount appropriated in ~~subdivision~~ subdivisions (b)(4) and (f)(6) of this section to fund new projects in Ryegate, Springfield, ~~St. Johnsbury,~~ and St. Albans City, and in FY 2019 in Colchester, Rutland City, Middlebury, St. Johnsbury, and St. Albans; provided, however, that if the Secretary determines that one of these projects is not ready in FY 2018 or FY 2019, or the amount appropriated exceeds the amount needed to fund these projects, the funds may be used for an eligible new project as authorized by 10 V.S.A. chapter 55 and 24 V.S.A. chapter 120.

* * *

(l) The following sums are appropriated in FY 2019 to the Municipal Mitigation Assistance Program in the Agency of Transportation:

(1) Municipal Highway and Stormwater Mitigation Program: $1,000,000.00

(2) Better Roads Program: $1,400,000.00

(m) The sum of $200,000.00 is appropriated in FY 2019 to the Agency of Commerce and Community Development for the Downtown Transportation Fund pilot project.

Appropriation – FY 2018	$21,936,616.00
Appropriation – FY 2019	~~$23,470,212.00~~ $25,755,000.00
Total Appropriation – Section 11	~~$45,406,828.00~~ $47,691,616.00

Sec. 9. 2017 Acts and Resolves No. 84, Sec. 12 is amended to read:

Sec. 12. MILITARY

* * *

(b) The following sums are appropriated in FY 2019 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: ~~$700,000.00~~ $780,000.00

(2) Bennington Armory, site acquisition: $60,000.00

Appropriation – FY 2018	$750,000.00
Appropriation – FY 2019	~~$760,000.00~~ $840,000.00
Total Appropriation – Section 12	~~$1,510,000.00~~ $1,590,000.00

Sec. 10. 2017 Acts and Resolves No. 84, Sec. 13 is amended to read:

Sec. 13. PUBLIC SAFETY

* * *

(b) The ~~sum of $5,573,000.00 is~~ following sums are appropriated in FY 2019 to the Department of Buildings and General Services ~~for~~:

(1) construction of the Williston Public Safety Field Station~~.~~: $5,573,000.00

(2) East Cottage, Robert H. Wood Criminal Justice and Fire Training Center, renovation and fit-up, and historic windows: $1,850,000.00

(3) Berlin, scoping and preliminary design for the Berlin Public Safety Field Station: $35,000.00

(c) The sum of $4,000,000.00 is appropriated in FY 2019 to the Department of Public Safety for the School Safety and Security Grant Program.

Appropriation – FY 2018	$1,927,000.00
Appropriation – FY 2019	~~$5,573,000.00~~ $11,458,000.00
Total Appropriation – Section 13	~~$7,500,000.00~~ $13,385,000.00

Sec. 11. 2017 Acts and Resolves No. 84, Sec. 16 is amended to read:

Sec. 16. VERMONT VETERANS' HOME

* * *

(c) The ~~sum of $50,000.00 is~~ following sums are appropriated in FY 2019 to the Vermont Veterans' Home for:

(1) resident care furnishings~~.~~: $50,000.00

(2) security, access system, and safety upgrades: $100,000.00

(d) It is the intent of the General Assembly that the amounts appropriated in ~~subsections~~ subsection (a) and subdivision (c)(1) of this section shall be used to match federal funds to purchase resident care furnishings for the Veterans' Home.

(e) The Veterans' Home shall only use the funds appropriated in 2015 Acts and Resolves No. 26, Sec. 16 for an electronic medical records system. These funds shall be used to match federal funds and shall only become available after the Veterans' Home notifies the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that the electronic medical records system is in compliance with the criteria for creating and maintaining connectivity established by the Vermont Information Technology Leaders pursuant to 18 V.S.A. § 9352(i).

Appropriation – FY 2018	$390,000.00
Appropriation – FY 2019	~~$50,000.00~~ $150,000.00
Total Appropriation – Section 16	~~$440,000.00~~ $540,000.00

Sec. 12. 2017 Acts and Resolves No. 84, Sec. 16a is added to read:

Sec. 16a. DEPARTMENT OF LABOR

The sum of $500,000.00 is appropriated in FY 2019 to the Department of Labor to fund the Adult Career and Technical Education Equipment Grant Pilot Program to provide equipment to support adult tech programs.

Sec. 13. 2017 Acts and Resolves No. 84, Sec. 16b is added to read:

Sec. 16b. SERGEANT AT ARMS

(a) The sum of $15,000.00 is appropriated in FY 2019 to the Sergeant at Arms to contract with a third party to conduct an assessment of the sound system in the State House and 1 Baldwin Street pursuant to 2 V.S.A. § 62(a)(8). The Sergeant at Arms shall submit a copy of the assessment to the Committee on Joint Rules.

(b) On or before November 15, 2018, the Sergeant at Arms shall develop a proposal for a sound system for the State House and 1 Baldwin Street based on the assessment described in subsection (a) of this section. As part of the proposal development process, the Sergeant at Arms may consult with the Commissioner of Buildings and General Services.

(c) The Sergeant at Arms shall submit the proposal described in subsection (b) of this section to the Committee on Joint Rules, and to the Secretary of Administration to request inclusion in the Governor's biennial capital budget report pursuant to 32 V.S.A. § 309.

Sec. 14. 2017 Acts and Resolves No. 84, Sec. 16c is added to read:

Sec. 16c. PUBLIC SERVICE

(a) The following sums are appropriated in FY 2019 to the Department of Public Service:

(1) VTA wireless network: $900,000.00

(2) Northeast Kingdom Fiber Network, fiber access point construction: $393,000.00

(b) On or before September 1, 2018, the Department of Public Service shall submit a report to the House Committees on Corrections and Institutions and on Energy and Technology and the Senate Committees on Finance and on Institutions with an update on the status of the two projects described in subsection (a) of this section. The report shall include an update on the progress of each project and whether any requests for proposals have been issued.

Total Appropriation – Section 16c $1,293,000.00

Sec. 15. 2017 Acts and Resolves No. 84, Sec. 18 is amended to read:

Sec. 18. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

* * *

(22) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5(a) (County courthouses, ADA compliance, repairs and upgrades): $2,079.09

(23) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5(b) (County courthouses, ADA compliance, repairs and upgrades): $18,688.70

(24) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4(b)(1) (UVM Health Lab, colocation): $383.90

(25) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 5(b) (Lamoille County Courthouse, planning): $540.00

(26) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b) (Woodside Juvenile Rehabilitation Center, project design and planning): $52,003.54

(27) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 5 (Judiciary, ADA compliance, county courthouses): $157,394.00

(28) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 13(b) (Robert H. Wood Vermont Fire Academy, burn building): $10,646.82

(29) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 8 (Lyndon State College): $48,634.00

(30) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 11 (Public safety, Waterbury State Office Complex, blood analysis laboratory, renovations): $252,085.35

(31) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2 (Department of Libraries, centralized facility renovation): $447,739.00

* * *

(d) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

* * *

(4) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 11(a)(1) (water pollution control): $8,221.85

(5) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 11(a)(8) (municipal pollution control grants, Waterbury): $136,824.00

(e) The following unexpended funds appropriated to the Agency of Commerce and Community Development for capital construction projects are reallocated to defray expenditures authorized in Sec. 5(d) of this act, placement and replacement of historic site markers:

(1) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 6(a)(2) (Bennington monument, structural repairs and ADA compliance): $1,224.51

(2) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(b) (Bennington monument, elevator, roof repairs): $1,997.73

(3) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(c) (Bennington monument, elevator, roof repairs): $6,469.60

(f) Of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 3 (cellular and broadband infrastructure) to the Vermont Telecommunications Authority for capital construction projects, the amount of $1,972,322.98 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

Total Reallocations and Transfers – Section 18 ~~$14,822,286.78~~ $17,939,541.85

Sec. 16. 2017 Acts and Resolves No. 84, Sec. 19 is amended to read:

Sec. 19. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of $132,460,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The State Treasurer is authorized to issue additional general obligation bonds in the amount of $10,936,961.00 that were previously authorized but unissued under this act for the purpose of funding the appropriations of this act.

Total Revenues – Section 19 ~~$132,460,000.00~~ $143,396,961.00

Sec. 17. 2017 Acts and Resolves No. 84, Sec. 20 is amended to read:

Sec. 20. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

(b) ~~The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects.~~ [Repealed.]

(c) The Commissioner of Buildings and General Services is authorized to sell or transfer the buildings and adjacent land located at 1987 Rockingham Road in Rockingham (Troop Headquarters and Garage) pursuant to the requirements of 29 V.S.A. § 166; provided, however, that if a transfer occurs, the buildings and adjacent land may only be transferred to another State agency for a State use. If the buildings and adjacent land are sold, the proceeds from the sale shall be appropriated to future capital construction projects and expended within two years after the date of sale.

(d) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects and expended within two years after the date of sale.

(e)(1) Notwithstanding 29 V.S.A. § 166(b), the Department of Buildings and General Services is authorized to sell or transfer to the City of Newport a portion of the remaining lands of the State of Vermont and boardwalk located north of the Emory A. Hebard State Office Building. The land and boardwalk to be sold or transferred is described as being the land north of the bike path up to the approximate shoreline of Lake Memphremagog, bounded on the west by lands owned by the City of Newport and the Northern VT Railroad Co., Inc, bounded on the east by lands owned by the City of Newport, and bounded on the south by the right-of-way retained by Newport & Richford R.R.

(2) On or before October 1, 2018, the Commissioner of Buildings and General Services shall have a survey prepared to more particularly describe and delineate the land and boardwalk to be sold or transferred that is described in subdivision (1) of this subsection.

Sec. 18. 2012 Acts and Resolves, No. 104, Sec. 14, amending 2011 Acts and Resolves, No. 40, Sec. 26, is further amended to read:

Sec. 16. Sec. 26 of No. 40 of the Acts of 2011 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) ~~The commissioner of buildings and general services may sell the Asa Bloomer State Office Building and the Rutland Multi-Modal Transit Center in accordance with the requirements of 29 V.S.A. § 166(d) and following negotiations with the City of Rutland. If negotiations with the city result in the city's management of the Transit Center, the commissioner may use $81,000 in unexpended capital funds previously appropriated to the department for other purposes to purchase a flexible parking machine for the Transit Center. It is the intent of the general assembly that state offices remain downtown.~~ [Repealed.]

* * *

Sec. 19. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, 2015 Acts and Resolves No. 58, Sec. E.113.1, and 2017 Acts and Resolves No. 84, Sec. 29, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2018~~ July 1, 2019.

* * * Human Services * * *

Sec. 20. AGENCY OF HUMAN SERVICES; FACILITIES PLAN; UPDATE

On or before February 1, 2019, the Secretary of Human Services, in consultation with the Commissioner of Buildings and General Services, shall update the facilities plan and recommendations required by 2017 Acts and Resolves No. 84, Sec. 31, taking into consideration changes proposed in the 2017 legislative session. The Agency's update shall include a review of the populations and bed capacity needs described in 2017 Acts and Resolves No. 84, Sec. 31.

* * * Labor * * *

Sec. 21. 2017 Acts and Resolves No. 84, Secs. 33a and 33b are added to read:

Sec. 33a. ADULT CAREER AND TECHNICAL EDUCATION EQUIPMENT GRANT PILOT PROGRAM

(a) The General Assembly hereby establishes a pilot grant program to authorize the Department of Labor, in consultation with the State Workforce Development Board, to administer the Adult Career and Technical Education Equipment Grant Pilot Program to support the purchase of equipment necessary for the delivery of occupational training for students enrolled in a postsecondary course offered by Vermont's Career and Technical Education Centers.

(b) An applicant's training program shall qualify for a grant described in subsection (a) of this section if it includes all of the following requirements:

(1) meets current occupational demand, as evidenced by current labor market information;

(2) aligns with a career pathway or set of stackable credentials involving a college or university accredited in Vermont;

(3) guarantees delivery of equipment to more than one region of the State;

(4) is supported with a business or industry partnership;

(5) sets forth how equipment will be maintained, insured, shared, and transported, if applicable; and

(6) is endorsed by the Adult Career and Technical Education Association.

(c) Grants awarded under this program shall be used to purchase capital-eligible equipment. Grants shall not be used to support curriculum development, instruction, or program administration.

(d) On or before July 15, 2018, the Department shall develop and publish a simplified grant application that meets the criteria described in subsection (b) of this section. The Department shall consult with the Agency of Education and the State Workforce Development Board in reviewing applications and selecting grantees.

(e) Grantees shall have ownership over any share of equipment purchased with the use of these funds. Any equipment purchased from this program may also be used by secondary career technical education programs.

(f) On or before February 15, 2019, the Department of Labor shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that includes the following:

(1) how the funds were used, expected outcomes, recommended performance metrics to ensure success of the program, and any other relevant information that would inform future decisions about the use of this program;

(2) assessment of the functionality and accessibility of shared-equipment agreements; and

(3) how, and the extent to which, the program shall be funded in the future.

* * * Sunset of Adult Career and Technical Education Equipment Grant Program * * *

Sec. 33b. REPEAL OF ADULT CAREER AND TECHNICAL EDUCATION EQUIPMENT GRANT PROGRAM

The Adult Career and Technical Education Equipment Grant Program established in Sec. 33a of this act shall be repealed on July 1, 2019.

* * * NATURAL RESOURCES * * *

Sec. 22. 3 V.S.A. § 2873(b) is amended to read:

(b) The Department ~~shall~~ may perform design and construction supervision services for major maintenance and capital construction projects for the Agency and all of its components.

Sec. 23. 2017 Acts and Resolves No. 84, Sec. 35b is added to read:

Sec. 35b. ALBURGH CEMETERY; LAND TRANSFER

(a) The Commissioner of Forests, Parks and Recreation may enter into an agreement with the Vermont Housing and Conservation Board and The Nature Conservancy to amend their easements not to exceed a total of one acre on land in the town of Alburgh that abuts the west side of the South Alburgh Cemetery to allow the State to convey that land to the Alburgh Cemetery Association.

(b) On or before January 15, 2019, the Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on whether the Vermont Housing and Conservation Board and The Nature Conservancy have amended their easements. If the easements have been amended, the Commissioner shall submit a proposal to the General Assembly, either by legislation or resolution, to approve the land transfer to the Alburgh Cemetery Association.

* * * School Safety and Security * * *

Sec. 24. 30 V.S.A. § 7051 is amended to read:

§ 7051. DEFINITIONS

As used in this chapter:

* * *

(14) "Dispatchable Location" means the location information delivered to the public safety answering point with a 911 call.

(15) "Enterprise Communications Systems (ECS)" means any networked communication system serving two or more stations, or living

units, within an enterprise. ECS includes circuit-switched networks, such as multi-line telephone systems or legacy ECS, IP-enabled service, and cloud-based technology.

(16) "Station" means a telephone handset, customer premise equipment (CPE) or calling device that is capable of initiating a call to 911.

Sec. 25. 30 V.S.A. § 7057 is amended to read:

§ 7057. ~~PRIVATELY OWNED TELEPHONE SYSTEMS~~ ENTERPRISE COMMUNICATIONS SYSTEMS

Any ~~privately owned telephone system~~ enterprise communications system shall provide to those end users the same level of 911 service that other end users receive and shall provide ANI signaling, station identification data, including dispatchable location, and updates to Enhanced 911 databases under rules adopted by the Board. The Board may waive the provisions of this section for any ~~privately owned telephone system~~ enterprise communications system, provided that in the judgment of the Board, the owner of the system is actively engaged in becoming compliant with this section, is likely to comply with this section in a reasonable amount of time, and will do so in accordance with standards and procedures adopted by the Board by rule.

Sec. 26. 2017 Acts and Resolves No. 84, Secs. 36a and 37a are added to read:

Sec. 36a. SCHOOL SAFETY AND SECURITY GRANT PROGRAM

(a) Creation. There is created the School Safety and Security Grant Program to be administered by the Department of Public Safety to enhance safety and security in Vermont schools, as defined in 16 V.S.A. § 3447.

(b) Use of funds. Grants authorized in subsection (a) of this section shall be used for the planning, delivery, and installation of equipment for upgrades to existing school security equipment and new school security equipment identified through threat assessment planning and surveys designed to enhance building security.

(c) Guidelines. The following guidelines shall apply to capital grants for school safety measures:

(1) Grants shall be awarded competitively to schools for capital-eligible expenses to implement safety and security measures identified in a security assessment. Capital-eligible expenses may include video monitoring and surveillance equipment, intercom systems, window coverings, exterior and interior doors, locks, and perimeter security measures.

(2) Grants shall only be awarded after a security assessment has been completed by the Agency of Education and Department of Public Safety.

(3) The Program is authorized to award grants of up to $25,000.00 per school.

(d) Administration. The Department of Public Safety, in coordination with the Agency of Education, shall administer and coordinate grants made pursuant to this section. Grant funds shall not be used to administer the Program.

(e) Reporting. The Department of Public Safety shall provide notice of any grants awarded under this section to the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions.

* * * Sunset of School Security Grant Program * * *

Sec. 36b. REPEAL OF SCHOOL SECURITY GRANT PROGRAM

The School Safety and Security Grant Program established in Sec. 17 of this act shall be repealed on July 1, 2019.

* * * School Planning Grants * * *

Sec. 27. APPLICATIONS FOR PLANNING GRANTS FOR CAPITAL CONSTRUCTION; UNIFIED UNION SCHOOL DISTRICTS; SCHOOL CONSOLIDATION

(a) Applications for planning grants. The Secretary of Education shall accept applications for planning grants for capital construction that would result in the consolidation of student populations and the closure of at least one building pursuant to the provisions of this section.

(b) Districts eligible to apply. A district is eligible to apply for a planning grant under this section (eligible district) if it:

(1) is a unified union school district created by the affirmative votes of the electorate between June 30, 2015 and December 31, 2018;

(2) is either its own supervisory district or is a member district within a supervisory union;

(3) is fully operational or will be fully operational before July 2, 2019; and

(4) provides or has intended to provide education for students in the same grade, after becoming fully operational, by operating more than one school building offering that grade.

(c) Eligible projects.

(1) An eligible district can apply for a grant to reimburse the cost of architects, engineers, or other professional planning costs under this section if the proposed project will:

(A) consolidate the provision of education for all resident students in at least four grade levels into one existing building that will house those grades either by renovating or adding additional square-footage to that building or both; and

(B) result in the closure of at least one existing building that houses those grades in the year prior to the proposed consolidation of students.

(2) Notwithstanding the provisions of subdivision (1)(A) of this subsection, if an eligible district operates more than two schools providing education in the pertinent grades, then a project is eligible under this section if the project will result in the closure of at least one school building and the consolidation of students into one or more remaining buildings.

(d) Process.

(1) An eligible district shall submit a written application to the Secretary of Education on or before October 1, 2018. The application shall specify the purpose of and need for the proposed eligible project, shall include educational specifications based upon a facility analysis and enrollment projections, and shall concisely provide details addressing the ways in which the proposed project:

(A) will cause the eligible district to provide education in a manner that is more educationally appropriate;

(B) will cause the eligible district to provide education in a manner that provides greater educational opportunities in a more equitable manner;

(C) will result in or lead to sustained financial savings for the eligible district;

(D) will result in or lead to more efficient use of statewide education funds;

(E) will result in improvements that comply with standards for school construction adopted by the Division of Fire Safety, the Agency of Natural Resources, the Division for Historic Preservation, the Department of Health, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and any standards of other State or federal agencies and local or regional planning authorities; and

(F) will incorporate recommendations received after consultation with the School Energy Management Program and Efficiency Vermont, as appropriate.

(2) The Secretary, in consultation with other public and private entities at the Secretary's discretion, shall evaluate and rank all eligible projects based upon the proposed project's ability:

(A) to promote the goals outlined in subdivision (1) of this subsection (d);

(B) to support increased connectivity, energy efficiency, and use of renewable resources; and

(C) to cease using buildings that are inappropriate for direct instruction due to, for example, conditions that threaten the health or safety of students or employees, difficulty in complying with the requirements of the Americans with Disabilities Act or other State or federal laws or regulations, or excessive energy use.

(3) On or before January 15, 2019, the Secretary shall present a prioritized list of eligible projects to the General Assembly together with a request for capital funding not to exceed a total of $300,000.00 to provide planning grants for some or all projects on the list. Nothing shall prohibit the Secretary from declining to include one or more projects on the prioritized list if the Secretary, in his or her sole judgment, determines that the project does not sufficiently promote the goals outlined in subdivision (1) of this subsection.

(e) Disclaimers. Nothing in this section shall be construed:

(1) to guarantee that the General Assembly shall appropriate funds during the 2019 Legislative Session or after for planning grants contemplated by this section; or

(2) to suggest that the General Assembly intends to lift the suspension of state aid for school construction imposed by 2013 Acts and Resolves No. 51, Sec. 45.

* * * Effective Date * * *

Sec. 28. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator McCormack, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Institutions.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Institutions?, Senator Flory moved to amend the proposal of amendment of the Committee on Institutions, as follows:

In Sec. 20, Agency of Human Services Facilities Plan; Update, in the first sentence, by striking out "2017 legislative session" and inserting in lieu thereof 2018 legislative session

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Institutions, as amended was agreed to and third reading of the bill was ordered on a roll call, Yeas, 29, Nays 0.

Senator Flory 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, Baruth, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent or not voting was: Ashe (presiding).

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment; Rules Suspended; Bill Messaged

H. 924.

House bill entitled:

An act relating to making appropriations for the support of government.

Was taken up.

Thereupon, pending third reading of the bill, Senator Kitchel moved to amend the Senate proposal of amendment as follows:

First: By striking out Sec. B.314 in its entirety and inserting in lieu thereof a new Sec. B.314 to read as follows:

Sec. B.314 Mental health - mental health

Personal services	30,983,975
Operating expenses	3,754,146
Grants	208,315,176

Total	243,053,297
Source of funds	
General fund	5,931,693
Special funds	434,904
Federal funds	8,782,053
Global Commitment fund	227,884,647
Interdepartmental transfers	20,000
Total	243,053,297

Second: By striking out Sec. B.504.1 in its entirety and inserting in lieu thereof a new Sec. B.504.1 to read as follows:

Sec. B.504.1 Education - Flexible Pathways

Grants	7,346,000
Total	7,346,000
Source of funds	
Education fund	7,346,000
Total	7,346,000

Third: In Sec. C.105.1(a) by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) $1,000,000 to the Department of Buildings and General Services to be used in combination with capital funds appropriated in fiscal year 2019 for renovation and fit-up at the Brattleboro Retreat to provide a minimum of 12 beds, including level-1 beds, to the State for a period determined by the Secretary of Human Services to be in the best interest to the State. The Department of Buildings and General Services shall not expend any funds from this appropriation until the Commissioner of Buildings and General Services and the Secretary of Human Services have notified the Commissioner of Finance and Management and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions that an agreement has been executed between the Brattleboro Retreat and the State.

Fourth: In Sec. C.1000(a) by adding a new subdivision to be numbered (15) to read as follows:

(15) To the Agency of Agriculture, Food and Markets to be carried forward for a grant to the Vermont Housing and Conservation Board for federal rural development grant writing assistance in fiscal year 2019. $75,000

Fifth: By adding a new section to be numbered Sec. E.200.4 to read as follows:

Sec. E.200.4 ATTORNEY GENERAL POSITION

(a) The establishment of one (1) permanent exempt position-IT Specialist II- is authorized in fiscal year 2019.

Sixth: By adding a new section to be numbered Sec. E.204 to read as follows:

Sec. E.204 JUDICIAL BRANCH POSITIONS

(a) The establishment of seven (7) new permanent exempt positions is authorized in fiscal year 2019 as follows: five (5) Docket Clerk B and two (2) Law Clerk.

Seventh: By striking out Sec. E.307(a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Of the funds appropriated in Sec. B.307 of this act, $780,000 shall be used to increase funding in addition to the Medicare economic index for Federal Qualified Health Centers and look-alikes in fiscal year 2019.

Eighth: In Sec. E.502(a) by striking out the figure "$3,665,210" and inserting in lieu thereof the figure $3,665,521

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Kitchel moved to amend the Senate proposal of amendment in Sec. C.110(b)(2) by striking out subparagraph (A) in its entirety and inserting in lieu thereof a new subparagraph (A) to read as follows:

(A) In H.907 of 2018, the State Treasurer is authorized in fiscal years 2019 and 2020 to invest up to $5,000,000 of funds from the credit facility established in 10 V.S.A. §10 for an accelerated weatherization and housing improvement program. The funds shall be used to support efforts for households and multi-family rental homes as specified H.907 of 2018.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Ayer and Ingram moved to amend the Senate proposal of amendment by adding a new section to be Sec. E.306.1 to read as follows:

Sec. 306.1 FY19 BUDGET ADJUSTMENT; REALLOCATION; RESEARCH STUDY ON EFFECTS OF INCREASED ACCESS TO ACUPUNCTURE CARE

(a) As part of its fiscal year 2019 budget adjustment proposal, the Agency of Human Services shall recommend the specific reallocation of funds remaining in the Evidence-Based Education and Advertising Fund fiscal year

2019 in order to provide $100,000.00 to the Department of Vermont Health Access to conduct the first year of a two-year research study into the effects of increased access to acupuncture care on utilization of and expenditures on other medical services for individuals enrolled in Medicaid and commercial health insurance in Vermont. The Agency shall manage the Fund during fiscal year 2019 in a manner consistent with this purpose.

(b) As part of its fiscal year 2019 budget adjustment proposal, the Agency of Human Services shall also report on the financial status of the Fund, including anticipated fiscal year 2020 revenue and the allocation of additional $100,000.00 for the second year of the study described n subsection (a) of this section.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Brock and MacDonald moved to amend the Senate proposal of amendment by adding a new section to be Sec. E.233.2 to read as follows:

Sec. E.233.2 SHORT-TERM EMERGENCY FUNDING TO MAINTAIN CRITICAL WIRELESS E-911 SERVICE; STUDY

(a) To meet critical public health and safety needs of Vermonters, beginning in fiscal year 2018 and continuing until December 1, 2018, the Commissioner of Public Service is authorized to spend up to $50,000.00 from the Connectivity Fund established under 30 V.S.A. § 7516 to support E-911 geolocation service charges incurred by CoverageCo for the purpose of maintaining E-911 compliant wireless service in the CoverageCo service area. If the Commissioner determines that CoverageCo is in default of its contractual obligations with the State of Vermont, the Commissioner may award the funds specified in this subsection to another provider for the same purpose. Funds awarded pursuant to this subsection shall be on a reimbursement basis, only.

(b) Beginning on January 1, 2019 and continuing until July 1, 2019, the Commissioner of Public Service is authorized to spend up to an additional $50,000.00 from the Connectivity Fund as specified in subsection (a) of this section, provided the Commissioner obtains the prior approval of the Joint Fiscal Committee.

(c) On or before September 1, 2018, in a form and manner specified by the Commissioner of Public Service, CoverageCo, or any successor in interest to CoverageCo, shall submit to the Department of Public Service a business plan that provides for full reimbursement of creditor expenses.

(d) On or before December 1, 2018, the Commissioner of Public Service shall submit a report to the Senate Committees on Finance and on Institutions

and the House Committees on Energy and Technology and on Institutions regarding E-911 compliant microcell service in Vermont. The report shall include findings and recommendations related to:

(1) the financial viability of operating and maintaining a microcell network in Vermont using existing 2G technology as well as 4G technology;

(2) whether changes to State regulatory policy are needed to facilitate the availability of wireless E-911 service in Vermont;

(3) whether the State should subsidize E-911 geolocation service charges incurred by microcell service providers on a permanent basis;

(4) the costs of completing a statewide propagation coverage analysis and whether such an analysis is needed to inform State policy, planning, and investment with respect to wireless service in Vermont;

(5) the estimated costs of providing microcell service in Vermont, including rates and charges related to electric, backhaul, and geolocation services, pole rental fees, backup-power requirements, colocation requirements, and any other costs deemed relevant by the Commissioner; and

(6) any other matters deemed relevant by the Commissioner.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 29, Nays 0.

Senator Kitchel 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, Baruth, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent or not voting was: Ashe (presiding).

Thereupon, on motion of Senator Balint, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Message from the House No. 56

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 166. An act relating to the provision of medication-assisted treatment for inmates.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 608. An act relating to creating an Older Vermonters Act working group.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 289. An act relating to protecting consumers and promoting an open Internet in Vermont..

The Speaker has appointed as members of such committee on the part of the House:

Reps. Carr of Brandon
Rep. Chesnut-Tangerman
Rep. Sibilia of Dover

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill entitled:

S. 272. An act relating to miscellaneous changes to laws related to motor vehicles.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses.

The Speaker appointed as members of such Committee on the part of the House:

Rep. Brennan of Colchester
Rep. Potter of Clarendon
Rep. Burke of Brattleboro

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock in the afternoon on Wednesday, May 2, 2018.

WEDNESDAY, MAY 2, 2018

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the first day of May, 2018 he approved and signed bills originating in the Senate of the following titles:

S. 164. An act relating to establishing the Unused Prescription Drug Repository Program.

S. 253. An act relating to Vermont's adoption of the Interstate Medical Licensure Compact.

S. 282. An act relating to health care providers participating in Vermont's Medicaid program.

Proposal of Amendment; Third Reading Ordered

H. 908.

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to the Administrative Procedure Act.

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:

Sec. 1. PURPOSE

The General Assembly adopts the changes in this act to:

(1) improve public participation in rulemaking and public access to the rulemaking process and to adopted rules;

(2) increase the efficiency of the rulemaking process; and

(3) ensure that rules are authorized, necessary, and reasonable and are subject to a thorough regulatory analysis.

Sec. 2. 3 V.S.A. chapter 25 is amended to read:

CHAPTER 25. ADMINISTRATIVE PROCEDURE

Subchapter 1. General Provisions

§ 800. PURPOSE

The General Assembly intends that:

(1) ~~agencies~~ Agencies maximize the involvement of the public in the development of rules~~;~~.

(2) ~~agency~~ Agency inclusion of public participation in the ~~rule-making processes~~ rulemaking process should be consistent~~;~~.

(3) Agencies write rules so that they are clear and accessible to the public.

(4) When an agency adopts rules, it subjects the rules to thorough regulatory analysis.

(5) ~~the~~ The General Assembly should articulate, as clearly as possible, the intent of any legislation ~~which~~ that delegates ~~rule-making~~ rulemaking authority~~;~~.

~~(4)~~(6) ~~when~~ When an agency adopts policy ~~or~~, procedures, or guidance, it ~~should~~ shall not do so to supplant or avoid the adoption of rules.

§ 801. SHORT TITLE AND DEFINITIONS

(a) This chapter may be cited as the "Vermont Administrative Procedure Act."

(b) As used in this chapter:

* * *

(7) "Practice" means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, ~~which~~ that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) "Procedure" means a practice ~~which~~ that has been adopted in ~~the manner provided in section 835 of this title~~ writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The

term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

* * *

(13)(A) "Arbitrary," when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court's application of "arbitrary" in *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 154 Vt. 596 (1990).

(14) "Guidance document" means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency's current approach to or or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) "Index" means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers.

* * *

§ 806. PROCEDURE TO REQUEST ADOPTION OF RULES OR PROCEDURES; GUIDANCE DOCUMENTS

(a) A person may submit a written request to an agency asking the agency to adopt, amend, or repeal a procedure or rule. Within 30 days ~~of~~ after receiving the request, the agency shall initiate ~~rule-making~~ rulemaking proceedings~~,~~; shall adopt ~~a~~, amend, or repeal the procedure~~,~~; or shall deny the request, giving its reasons in writing.

(b) A person may submit a written request to an agency asking the agency to adopt a guidance document as a rule or to amend or repeal the guidance document. Within 30 days after receiving the request, the agency shall initiate rulemaking proceedings; shall amend or repeal the guidance document; or shall deny the request, giving its reasons in writing.

* * *

Subchapter 2. Contested Cases

§ 809. CONTESTED CASES; NOTICE; HEARING; RECORDS

* * *

(i) When a board or commission member who hears all or a substantial part of a case retires from office or completes his or her term before the case is completed, he or she may remain a member of the board or commission for the purpose of deciding and concluding the case. If the member who retires or completes his or her term is a chair, the member may also remain a member for the purpose of certifying questions of law if an appeal is taken, when such is required by law. For this service, the member may be compensated in the manner provided for active members.

* * *

Subchapter 3. Rulemaking; Procedures; Guidance Documents

§ 817. LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

* * *

§ 818. SECRETARY OF STATE; CENTRALIZED RULE SYSTEM

(a) The Secretary of State shall establish and maintain a centralized rule system that is open and available to the public. The system shall include all rules in effect or proposed as of July 1, 2019 and all rules proposed and adopted by agencies of the State after that date.

(b) The Secretary shall design the centralized rule system to:

(1) facilitate public notice of and access to the rulemaking process;

(2) provide the public with greater access to current and previous versions of adopted rules; and

(3) promote more efficient and transparent filing by State agencies of rulemaking documents and review by the committees established in this chapter.

(c) At a minimum, the records included in the system shall include all documents submitted to the Secretary of State under this subchapter.

(d) The centralized rule system may be digital, may be available online, and may be designed to support such other functions as the Secretary of State determines are consistent with the goals of this section and section 800 of this title.

* * *

§ 831. REQUIRED POLICY STATEMENTS AND RULES

(a) Where due process or a statute directs an agency to adopt rules, the agency shall initiate rulemaking and adopt rules in the manner provided by sections 836-844 of this title.

(b) An agency shall adopt a procedure describing an existing practice when so requested by an interested person.

(c) An agency shall initiate rulemaking to adopt as a rule an existing practice or procedure when so requested by 25 or more persons or by the Legislative Committee on Administrative Rules. An agency shall not be required to initiate rulemaking with respect to any practice or procedure, except as provided by this subsection.

(d) An agency required to hold hearings on contested cases as required by section 809 of this title shall adopt rules of procedure in the manner provided in this chapter.

(e) Within 30 days after an agency discovers that the text of a final proposed rule as submitted to the Legislative Committee on Administrative Rules deviates from the text that the agency intended to submit to the Committee, the agency shall initiate rulemaking to correct the rule if the period for final adoption of the rule under subsection 843(c) of this title has elapsed.

(f) Except as provided in subsections (a)-~~(d)~~(e) of this section, an agency shall not be required to initiate rulemaking or to adopt a procedure or a rule.

* * *

§ 832a. ~~RULES AFFECTING SMALL BUSINESSES~~

~~(a) Where a rule provides for the regulation of a small business, an agency shall consider ways by which a small business can reduce the cost and burden of compliance by specifying less numerous, detailed or frequent reporting requirements, or alternative methods of compliance.~~

~~(b) An agency shall also consider creative, innovative, or flexible methods of compliance with the rule when the agency finds, in writing, such action would not:~~

~~(1) significantly reduce the effectiveness of the rule in achieving the objectives or purposes of the statutes being implemented or interpreted; or~~

~~(2) be inconsistent with the language or purpose of statutes that are implemented or interpreted by the rule; or~~

~~(3) increase the risk to the health, safety, or welfare of the public or to the beneficiaries of the regulation, or compromise the environmental standards of the State.~~

~~(c) This section shall not apply where the regulation is incidental to:~~

~~(1) a purchase of goods or services by the State or an agency thereof; or~~

~~(2) the payment for goods or services by the State or an agency thereof for the benefit of a third party.~~ [Repealed.]

§ 832b. ~~ADMINISTRATIVE RULES AFFECTING SCHOOL DISTRICTS~~

~~If a rule affects or provides for the regulation of public education and public schools, the agency proposing the rule shall evaluate the cost implications to local school districts and school taxpayers, clearly state the associated costs, and report them in a local school cost impact statement to be filed with the economic impact statement on the rule required by subsection 838(c) of this title. An agency proposing a rule affecting school districts shall also consider and include in the local school cost impact statement an evaluation of~~

~~alternatives to the rule, including no rule on the subject which would reduce or ameliorate costs to local school districts while achieving the objectives or purposes of the proposed rule. The Legislative Committee on Administrative Rules may object to any proposed rule if a local school cost impact statement is not filed with the proposed rule, or the Committee finds the statement to be inadequate, in the same manner in which the Committee may object to an economic impact statement under section 842 of this title.~~ [Repealed.]

§ 833. STYLE OF RULES

(a) Rules and procedures shall be written in a clear and coherent manner using words with common and everyday meanings, consistent with the text of the rule or procedure.

(b)(1) When an agency proposes to amend an existing rule, it shall replace terms identified as potentially disrespectful by the study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1 with respectful language recommended therein or used in the Vermont Statutes Annotated, where appropriate.

(2) All new rules adopted by agencies shall use, to the fullest extent possible, respectful language consistent with the Vermont Statutes Annotated and the respectful language study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1, where appropriate.

(c) The Secretary of State may issue a guidance document suggesting how agencies may draft rules and procedures in accordance with this section. The guidance document may include suggestions on style, numbering, and drafting the content of the filings required under this subchapter.

* * *

§ 835. ~~COMPILATION OF~~ PROCEDURES AND GUIDANCE DOCUMENTS

(a) Procedures and guidance documents shall be maintained by the agency in an official current compilation that ~~is indexed by subject~~ includes an index. Each addition, change, or deletion to the official compilation shall also be dated, indexed, and recorded. ~~The compilation shall be a public record.~~ The agency shall publish the compilation and index on its Internet website and make all procedures and guidance documents available to the public. On or after January 1, 2024, an agency shall not rely on a procedure or guidance document or cite it against any party to a proceeding, unless the procedure or guidance document is included in a compilation maintained and published in accordance with this subsection.

(b) A procedure or guidance document shall not have the force of law. However, this subsection shall not apply to a procedure if a statute that specifically enables the procedure states that it has the force of law. This subsection is not intended to affect whether a court or quasi-judicial body gives deference to a procedure or guidance document issued by an agency whose action is before the court or body.

§ 836. PROCEDURE FOR ADOPTION OF RULES

(a) Except for emergency rules, rules shall be adopted by taking the following steps:

(1) prefiling, when required;

(2) filing the proposed rule;

(3) publishing the proposed rule;

(4) holding a public hearing and receiving comments;

(5) filing the final proposal;

(6) responding to the Legislative Committee on Administrative Rules when required; and

(7) filing the adopted rule.

(b) During the rulemaking process, the agency proposing the rule shall post on its website information concerning the proposal.

(1) The agency shall post the information on a separate page that is readily accessible from a prominent link on its main web page and that lists proposed rules by title and topic.

(2) For each rulemaking, the posted information shall include:

(A) The proposed rule as filed under section 838 of this title.

(B) The date by which comments may be submitted on the proposed rule and the address for such submission.

(C) The date and location of any public hearing.

(D) Each comment submitted to the agency on the proposed rule. The agency shall redact sensitive personal information from the posted comments. As used in this subdivision (D), "sensitive personal information" means each of the items listed in 9 V.S.A. § 2430(5)(A)(i)–(iv) and does not include the name, affiliation, and contact information of the commenter.

(E) The final proposed rule as filed under section 841 of this title.

(F) Each document submitted by the agency to the Legislative Committee on Administrative Rules.

(3) The agency shall maintain the information required by this subsection on its website until the earliest of the following dates: filing of a final adopted rule under section 843 of this title; withdrawal of the proposed rule; or expiration of the period for final adoption under subsection 843(c) of this title.

(4) If an agency is a board or commission exercising quasi-judicial functions and members of the public can access all of the information required by subdivision (2) of this subsection through the agency's online case-management system, this information need not also be posted on the agency's website. Instead, the list of proposed rules on the agency's website shall include the case number for each proposed rule and instructions for accessing all of the information about the proposed rule in the agency's online case-management system.

* * *

§ 838. FILING OF PROPOSED RULES

(a) Filing; information. Proposed rules shall be filed with the Secretary of State~~. The filing shall include~~ in a format determined by the Secretary that includes the following information:

(1) ~~a cover sheet;~~ The name of the agency and the subject or title of the rule.

(2) ~~an~~ An analysis of economic impact ~~statement;~~.

(3) ~~an incorporation~~ An analysis of environmental impact.

(4) An explanation of all material incorporated by reference ~~statement~~, if ~~the proposed rule includes an incorporation by reference;~~ any.

~~(4) an adopting page;~~

(5) ~~the~~ The text of the proposed rule~~;~~.

(6) ~~an~~ An annotated text showing changes from existing rules~~;~~. The annotated text of the rule shall include markings to indicate clearly changed wording from any existing rule.

(7) ~~an~~ An explanation of the strategy for maximizing public input on the proposed rule as prescribed by the Interagency Committee on Administrative Rules~~; and~~.

(8) ~~a~~ A brief summary of the scientific information upon which the proposed rule is based, to the extent the proposed rule depends on scientific

information for its validity. The summary shall refer to the scientific studies on which the proposed rule is based and shall explain the procedure for obtaining such studies from the agency.

~~(b) The cover sheet shall be on a form prepared by the Secretary of State containing at least the following information:~~

~~(1) the name of the agency;~~

~~(2) the title or subject of the rule;~~

~~(3)~~(9) ~~a~~ A concise summary in plain language explaining ~~the effect of~~ the rule~~;~~ and its effect.

~~(4)~~(10) ~~the~~ The specific statutory authority for the rule, and, if none exists, the general statutory authority for the rule~~;~~.

~~(5)~~(11) ~~an~~ An explanation of why the rule is necessary~~;~~.

~~(6)~~(12) ~~an~~ An explanation of the people, enterprises, and government entities affected by the rule~~;~~.

~~(7) a brief summary of the economic impact of the rule;~~

~~(8)~~(13) ~~the~~ The name, address, and telephone number of an individual in the agency able to answer questions and receive comments on the proposal~~;~~.

~~(9)~~(14) ~~a~~ A proposed schedule for completing the requirements of this chapter, including, if there is a hearing scheduled, the date, time, and place of that hearing and a deadline for receiving comments~~;~~.

~~(10)~~(15) ~~whether~~ Whether the rule contains an exemption from inspection and copying of public records~~,~~ or otherwise contains a Public Records Act exemption by designating information as confidential or limiting its public release and, if so, the asserted statutory authority for the exemption and a brief summary of the reason for the exemption~~; and~~.

~~(11)~~(16) ~~a~~ A signed and dated statement by the adopting authority approving the contents of the filing.

~~(c)~~(b) Economic impact analysis; rules affecting small businesses and school districts.

(1) General requirements. The economic impact ~~statement~~ analysis shall analyze the anticipated costs and benefits to be expected from adoption of the rule. Specifically, each economic impact ~~statement~~ analysis shall, for each requirement in the rule:

(A) ~~List categories~~ list each category of people, enterprises, and government entities potentially affected and estimate for each the costs and benefits anticipated~~.~~; and

(B) ~~Compare~~ compare the economic impact of the rule with the economic impact of other alternatives to the rule, including having no rule on the subject or a rule having separate requirements for small ~~business~~ businesses.

~~(C) Include a flexibility statement. The flexibility statement shall compare the burden imposed on small businesses by compliance with the rule to the burden which would be imposed by alternatives considered under section 832a of this title.~~

~~(D) Include a greenhouse gas impact statement. The greenhouse gas impact statement shall explain how the rule has been crafted to reduce the extent to which greenhouse gases are emitted. The Secretary of Administration, in conjunction with the Secretaries of Agriculture, Food and Markets, of Natural Resources, and of Transportation, and the Commissioner of Public Service shall provide a checklist which shall be used in the adoption of rules to assure the full consideration of greenhouse gas impacts, direct and indirect.~~

(2) Small businesses. When a rule provides for the regulation of a small business, in the economic impact analysis, the agency shall include, when appropriate, a specific and clearly demarcated evaluation of ways by which a small business can reduce the cost and burden of compliance by specifying less numerous, detailed, or frequent reporting requirements or alternative methods of compliance.

(A) An agency shall also include in this evaluation its consideration of creative, innovative, or flexible methods of compliance with the rule when the agency finds, in writing, that these methods of compliance would not:

(i) significantly reduce the effectiveness of the rule in achieving the objectives or purposes of the statutes being implemented or interpreted; or

(ii) be inconsistent with the language or purpose of statutes that are implemented or interpreted by the rule; or

(iii) increase the risk to the health, safety, or welfare of the public or to the beneficiaries of the regulation or compromise the environmental standards of the State.

(B) This subdivision (2) shall not apply when the regulation is incidental to:

(i) a purchase of goods or services by the State or an agency thereof; or

(ii) the payment for goods or services by the State or an agency thereof for the benefit of a third party.

(3) School districts. If a rule affects or provides for the regulation of public education and public schools, the economic impact analysis shall include a specific and clearly demarcated evaluation of the cost implications to local school districts and school taxpayers and shall clearly state the associated costs. This evaluation also shall include consideration of alternatives to the rule, including having no rule on the subject, that would reduce or ameliorate costs to local school districts while achieving the objectives or purposes of the proposed rule.

(4) Most appropriate method. In addition, each economic impact ~~statement~~ analysis shall conclude that the rule is the most appropriate method of achieving the regulatory purpose ~~and, with respect to small businesses, contain any findings required by section 832a of this title~~. Only employees of the agency and information either already available to the agency or available at reasonable cost ~~shall~~ need be used in preparing economic impact ~~statements~~ analyses.

(c) Environmental impact analysis. The environmental impact analysis shall:

(1) Analyze the anticipated environmental impacts, whether positive or negative, from adoption of the rule. Examples of environmental impacts include the emission of greenhouse gases; the discharge of pollutants to water; and effects on the ability of the environment to provide benefits such as food and fresh water, regulation of climate and water flow, and recreation.

(2) Compare the environmental impact of the rule with the environmental impact of other alternatives to the rule, including having no rule on the subject.

(d) Incorporation by reference.

(1) A rule may incorporate by reference all or any part of a code, standard, or rule that has been adopted by an agency of the United States, this State, or another state or by a nationally recognized organization or association, if:

(A) repeating verbatim the text of the code, standard, or rule in the rule would be unduly cumbersome, expensive, or otherwise inexpedient; and

(B) the reference in the rule fully identifies the incorporated code, standard, or rule by citation, date, and place where copies are available.

(2) Materials incorporated by reference shall be readily available to the public. As used in this subsection, "readily available" means that all of the following apply:

(A) Each filing states where copies of the incorporated code, standard, or rule are available in written or electronic form from the agency adopting the rule or the agency of the United States, this State, another state, or the organization or association originally issuing the code, standard, or rule.

(B) A copy of the code, standard, or rule is made available for public inspection at the principal office of the agency, and is available at that office for copying in the manner set forth in 1 V.S.A. § 316 and subject to the exceptions set forth in 1 V.S.A. § 317(c).

(C) The incorporated code, standard, or rule is made available for free public access online unless the agency is prevented from providing such access by law or legally enforceable contract.

~~(d) Any required incorporation by reference statement shall include a separately signed statement by the adopting authority:~~

~~(1) certifying that the text of the matter incorporated has been reviewed by the agency, with the name of the reviewing official;~~

~~(2) explaining how the text of the matter incorporated can be obtained by the public, and at what cost;~~

~~(3) explaining any modifications to the matter incorporated;~~

~~(4) discussing the comparative desirability of reproducing the incorporated matter in full in the text of the rule; and~~

~~(5) certifying that the agency has the capability and the intent to enforce the rule.~~

~~(e) The adopting page shall be on a form prepared by the Secretary of State and shall contain the name of the agency, the subject of the proposed rule, an explanation of the effect of the proposal on existing rules, and any internal reference number assigned by the agency.~~

~~(f) The annotated text of the rule shall include markings to clearly indicate changed wording from any existing rule.~~

~~(g) The brief summary of scientific information shall refer to scientific studies upon which the proposed rule is based and shall explain the procedure for obtaining such studies from the agency.~~

§ 839. PUBLICATION OF PROPOSED RULES

(a) Online. The Secretary of State shall publish online notice of a proposed rule within two weeks ~~of~~ after receipt of the proposed rule. Notice shall include the following information:

(1) the name of the agency;

(2) the title or subject of the rule;

(3) a concise summary in plain language of the effect of the rule;

(4) an explanation of the people, enterprises, and governmental entities affected by the rule;

(5) a brief summary of the economic impact;

(6) the name, telephone number, and address of an agency official able to answer questions and receive comments on the proposal;

(7) the date, time, and place of the hearing or hearings; and

(8) the deadline for receiving comments.

(b) Editing of notices. The Secretary of State may edit all notices for clarity, brevity, and format and shall include a brief statement explaining how members of the public can participate in the rulemaking process.

(c) Newspaper publication. The Secretary of State shall arrange for one formal publication, in a consolidated advertisement in newspapers having general circulation in different parts of the State as newspapers of record approved by the Secretary of State, of information relating to all proposed rules that includes the following information:

(1) the name of the agency and its Internet address;

(2) the title or subject and a concise summary of the rule and the Internet address at which the rule may be viewed; and

(3) the office name, office telephone number, and office mailing address of an agency official able to answer questions and receive comments on the proposal.

(d) Reimbursement. The Secretary of State shall be reimbursed by agencies making publication in accordance with subsection (c) of this section so that all costs are prorated among agencies publishing at the same time.

* * *

§ 841. FINAL PROPOSAL

(a) After considering public comment as required in section 840 of this title, an agency shall file a final proposal with the Secretary of State and with the Legislative Committee on Administrative Rules. The Committee may require that the agency include an electronic copy of the final proposal with its filing.

(b) The filing of the final proposal shall include all information required to be filed with the original proposal, suitably amended to reflect any changes

made in the rule and the fact that public hearing and comment ~~has~~ have been completed.

(1) With the final proposal, the agency shall include a statement that succinctly and separately addresses each of the following:

(A) how the proposed rule is within the authority of the agency;

(B) why the proposed rule is not arbitrary;

(C) the strategy for maximizing public input that was prescribed by the Interagency Committee on Administrative Rules and the actions taken by the agency that demonstrate compliance with that strategy;

(D) the sufficiency of the economic impact analysis; and

(E) the sufficiency of the environmental impact analysis.

(2) ~~Where~~ When an agency decides in a final proposal to overrule substantial arguments and considerations raised for or against the original proposal or to reject suggestions with respect to separate requirements for small businesses, the final proposal shall include a description of the reasons for the agency's decision.

* * *

§ 842. REVIEW BY LEGISLATIVE COMMITTEE

(a) Objection; time frame; process. Within ~~30 days of the date a rule is first placed on the Committee's agenda but no later than~~ 45 days after the filing of a final proposal unless the agency consents to an extension of this review period, the Legislative Committee on Administrative Rules, by majority vote of the entire Committee, may object under subsection (b)~~, (c), or (d)~~ of this section~~,~~ and recommend that the agency amend or withdraw the proposal. The agency shall be notified promptly of the objections. Failure to give timely notice shall be deemed approval. The agency shall within 14 days ~~of~~ after receiving notice respond in writing to the Committee and send a copy to the Secretary of State. In its response, the agency may include revisions to the proposed rule or filing documents that seek to cure defects noted by the Committee. After receipt of this response, the Committee may withdraw or modify its objections.

(b) Grounds for objection. The Committee may object under this subsection if:

(1) a proposed rule is beyond the authority of the agency;

(2) a proposed rule is contrary to the intent of the Legislature;

(3) a proposed rule is arbitrary; ~~or~~

(4) the agency did not adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules;

(5) a proposed rule is not written in a satisfactory style in accordance with section 833 of this title;

(6) the economic impact analysis fails to recognize a substantial economic impact of the proposed rule, fails to include an evaluation and statement of costs to local school districts required under section 838 of this title, or fails to recognize a substantial economic impact of the rule to such districts; or

(7) the environmental impact analysis fails to recognize a substantial environmental impact of the proposed rule.

(c) Objections; legal effect.

(1) When objection is made under this ~~subsection~~ section, and the objection is not withdrawn after the agency responds, on majority vote of the entire Committee, it may file the objection in certified form with the Secretary of State. The objection shall contain a concise statement of the Committee's reasons for its action. The Secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency.

(2) After a Committee objection is filed with the Secretary under this subsection, or on the same grounds under subsection 817(d) of this title, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the Legislature, is not arbitrary, and is written in a satisfactory style in accordance with section 833 of this title, and that the agency did adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules and its economic and environmental impact analyses did not fail to recognize a substantial economic or environmental impact. The objection of the Committee shall not be admissible evidence in any proceeding other than to establish the fact of the objection. If the agency fails to meet its burden of proof, the ~~Court~~ court shall declare the whole or portion of the rule objected to invalid.

(3) The failure of the Committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

~~(c) The Committee may object under this subsection if a proposed rule is not written in a satisfactory style according to section 833 of this title.~~

(d) ~~The Committee may object under this subsection if the economic impact statement fails to recognize a substantial economic impact of the proposed rule that the Committee describes in its notice of objection. The Committee may object one time under this subsection and return the proposed rule to the agency as unacceptable for filing. The agency may then cure the defect and adopt the rule, or it may adopt the rule without change.~~

~~(e)~~ Notice of objection; inclusion on rule copies. When an objection is made under subsection (b) of this section and has been certified by the Secretary of State, notice of the objection shall be included on all copies of the rule distributed to the public.

§ 843. FILING OF ADOPTED RULES

(a) An adopting authority may adopt a properly filed final proposed rule after:

(1) The passage of 30 days from the date a rule is first placed on the committee's agenda or 45 days after filing of a final proposal under section 841 of this title, whichever occurs first, provided the agency has not received notice of objection from the Legislative Committee on Administrative Rules; or

(2) Receiving notice of approval from the Legislative Committee on Administrative Rules; or

(3) Responding to an objection of the Legislative Committee on Administrative Rules under section 842 of this title. After responding to such an objection, an agency may adopt the rule without change or may make a germane change in accordance with subsection (b) of this section.

(b) The text of the adopted rule shall be the same as the text of the final proposed rule submitted under section 841, except that any germane change may be made by the agency in response to an objection or expressed concern of the Legislative Committee on Administrative Rules.

(c) Adoption shall be complete upon proper filing with the Secretary of State and with the Legislative Committee on Administrative Rules. An agency shall have eight months from the date of initial filing with the Secretary of State to adopt a rule unless extended by action or request of the Legislative Committee on Administrative Rules. The Secretary of State shall refuse to accept a final filing after that date, except that:

(1) Within 30 days after discovering that the text of a final adopted rule deviates from the text of a final proposed rule as approved by the Legislative Committee on Administrative Rules, an agency shall correct the adopted rule to conform to the final proposed rule as so approved and shall refile the

adopted rule in the manner set forth in this section, along with documentation demonstrating that the refiled adopted rule conforms to the final proposed rule as approved.

(2) An agency may refile a final adopted rule in the manner set forth in this section solely for the purpose of correcting one or more typographic errors that do not change the substance or effect of the rule.

* * *

§ 844. EMERGENCY RULES

(a) Where an agency believes that there exists an imminent peril to public health, safety, or welfare, it may adopt an emergency rule. The rule may be adopted without having been prefiled or filed in proposed or final proposed form, and may be adopted after whatever notice and hearing ~~that~~ the agency finds to be practicable under the circumstances. The agency shall make reasonable efforts to ensure that emergency rules are known to persons who may be affected by them.

(b) Emergency rules adopted under this section shall not remain in effect for more than ~~120~~ 180 days. An agency may propose a permanent rule on the same subject at the same time that it adopts an emergency rule.

(c) Emergency rules adopted under this section shall be filed with the Secretary of State and with the Legislative Committee on Administrative Rules. The Legislative Committee on Administrative Rules shall distribute copies of emergency rules to the appropriate standing committees.

(d) Emergency rules adopted under this section shall include:

(1) as much of the information required for the filing of a proposed rule as is practicable under the circumstances; and

(2) a signed and dated statement by the adopting authority explaining the nature of the imminent peril to the public health, safety, or welfare and approving of the contents of the rules.

(e)(1) On a majority vote of the entire Committee, the Committee may object under this subsection if an emergency rule is:

(A) beyond the authority of the agency;

(B) contrary to the intent of the Legislature;

(C) arbitrary; or

(D) not necessitated by an imminent peril to public health, safety, or welfare sufficient to justify adoption of an emergency rule.

(2) When objection is made under this subsection, on majority vote of the entire Committee, the Committee may file the objection in certified form with the Secretary of State. The objection shall contain a concise statement of the Committee's reasons for its action. The Secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency. After a Committee objection is filed with the Secretary under this subsection, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the Legislature, is not arbitrary, and is justified by an imminent peril to the public health, safety, or welfare. If the agency fails to meet its burden of proof, the ~~Court~~ court shall declare the whole or portion of the rule objected to invalid. The failure of the Committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

(3) When the Committee makes an objection to an emergency rule under this subsection, the agency may withdraw the rule to which an objection was made. Prior to withdrawal, the agency shall give notice to the Committee of its intent to withdraw the rule. A rule shall be withdrawn upon the filing of a notice of withdrawal with the Secretary of State and the Committee. If the emergency rule amended an existing rule, upon withdrawal of the emergency rule, the existing rule shall revert to its original form, as though the emergency rule had never been adopted.

(f) In response to an expressed concern of the Legislative Committee on Administrative Rules, an agency may make a germane change to an emergency rule that is approved by the Committee. A change under this subsection shall not be considered a newly adopted emergency rule and shall not extend the period during which the emergency rule remains in effect.

(g) In the alternative to the grounds specified in subsection (a) of this section, an agency may adopt emergency amendments to existing rules using the process set forth in this section if each of the subdivisions (1)–(5) of this subsection applies. On a majority vote of the entire Committee, the Legislative Committee on Administrative Rules may object to the emergency amendments on the basis that one or more of these subdivisions do not apply or under subdivision (e)(1)(A), (B), or (C) of this section, or both.

(1) The existing rules implement a program controlled by federal statute or rule or by a multistate entity.

(2) The controlling federal statute or rule has been amended to require a change in the program or the multistate entity has made a change in the program that is to be implemented in all of the participating states.

(3) The controlling federal statute or rule or the multistate entity requires implementation of the change within 120 days or less.

(4) The adopting authority finds each of the following in writing:

(A) The agency cannot by the date required for implementation complete the final adoption of amended rules using the process set forth in sections 837 through 843 of this title.

(B) Failure to amend the rules by the date required for implementation would cause significant harm to the public health, safety, or welfare or significant financial loss to the State.

(5) On the date the emergency rule amendments are adopted pursuant to this subsection, the adopting authority prefiles a corresponding permanent rule pursuant to section 837 of this title.

§ 845. EFFECT OF RULES

(a) Rules shall be valid and binding on persons they affect~~,~~ and shall have the force of law unless amended or revised or unless a court of competent jurisdiction determines otherwise. Except as provided by subsections 842~~(b)~~(c) and 844(e) of this title, rules shall be prima facie evidence of the proper interpretation of the matter ~~that~~ to which they refer ~~to~~.

(b) No agency shall grant routine waivers of or variances from any provisions of its rules without either amending the rules~~,~~ or providing by rule for a process and specific criteria under which the agency may grant a waiver or variance ~~procedure~~ in writing. The duration of the waiver or variance may be temporary if the rule so provides.

* * *

§ 847. AVAILABILITY OF ADOPTED RULES; RULES BY SECRETARY OF STATE

(a) Availability from agency. An agency shall make each rule it has finally adopted available to the public online and for physical inspection and copying. Online, the agency shall post its adopted rules on a separate web page that is readily accessible from a prominent link on its main web page, that lists adopted rules by title and topic, and that is searchable.

(b) Register; code.

(1) The Secretary of State (Secretary) shall keep open to public inspection a permanent register of rules. The Secretary may satisfy this requirement by incorporating the register into the centralized rule system created pursuant to section 818 of this title.

(2) The Secretary ~~also~~ shall publish a code of administrative rules that contains the rules adopted under this chapter. The requirement to publish a code shall be considered satisfied if a commercial publisher offers such a code in print at a competitive price and at no charge online. However, if the Secretary establishes the centralized rule system under section 818 of this title as a digital system, then the system shall include the online publication of this code.

~~(b) The Secretary of State shall publish not less than quarterly a bulletin setting forth the text of all rules filed since the immediately preceding publication and any objections filed under subsection 842(b) or 844(e) of this title.~~

~~(c) The bulletin may omit any rule if either:~~

~~(1) a commercial publisher offers a comparable publication at a competitive price; or~~

~~(2) all three of the following apply:~~

~~(A) its publication would be unduly cumbersome or expensive; and~~

~~(B) the rule is made available on application to the adopting agency; and~~

~~(C) the bulletin contains a notice stating the general subject matter of the omitted rule and stating how a copy of the rule and any objection filed under subsection 842(b) or 844(e) of this title may be obtained.~~

~~(d) Bulletins shall be made available upon request to agencies and officials of this State free of charge and to other persons at prices fixed by the Secretary of State to cover mailing and publication costs.~~

~~(e)~~(c) Rules for administration. The Secretary of State shall adopt rules for the effective administration of this chapter. These rules shall be applicable to every agency and shall include uniform procedural requirements, style, appropriate forms, and a system for compiling and indexing rules.

§ 848. RULES REPEAL; ~~OPERATION OF LAW~~ AMENDMENT OF AUTHORITY; NOTICE BY AGENCY

(a) Repeal by operation of law. A rule shall be repealed without formal proceedings under this chapter if:

(1) the agency that adopted the rule is abolished and its authority, specifically including its authority to implement its existing rules, has not been transferred to another agency; ~~or~~

(2) a court of competent jurisdiction has declared the rule to be invalid; or

(3) the statutory authority for the rule, as stated by the agency under subdivision 838(b)(4) of this title, is repealed by the General Assembly or declared invalid by a court of competent jurisdiction.

(b) Notice to Secretary of State; deletion. When a rule is repealed by operation of law under this section, the agency that adopted the rule shall notify the Secretary of State in such manner as the Secretary may prescribe by rule or procedure, and the Secretary ~~of State~~ shall delete the rule from the published code of administrative rules.

(c) Repeal for nonpublication.

(1) On July 1, 2018, a rule shall be repealed without formal proceedings under this chapter if:

(A) as of July 1, 2016, the rule was in effect but not published in the code of administrative rules; and

(B) the rule is not published in such code before July 1, 2018.

(2) An agency seeking to publish a rule described in subdivision (1) of this subsection may submit a digital copy of the rule to the Secretary of State with proof acceptable to the Secretary that as of July 1, 2016 the rule was adopted and in effect under this chapter and the digital copy consists of the text of such rule without change.

(d) Amendment of authority for rule.

(1) If the statutory authority for a rule, as stated by the agency under subdivision 838(b)(4) of this title, is amended by the General Assembly, and the amendment does not transfer authority from the adopting agency to another agency, the agency within 30 days following the effective date of the statutory amendment shall review the rule and make a written determination as to whether ~~such~~ the statutory amendment repeals the authority upon which the rule is based~~,~~ or requires revision of the rule and shall~~, within 60 days of the effective date of the statutory amendment, inform in writing~~ submit a copy of this written determination to the Secretary of State and the Legislative Committee on Administrative Rules ~~whether repeal or revision of the rule is required by the statutory amendment~~, in such manner as the Secretary may prescribe by rule or procedure.

(2) If the statutory authority for a rule, as stated by the agency under subdivision 838(b)(4) of this title, is transferred by act of the General Assembly to another agency, the agency to which the authority is transferred shall provide notice of the transfer, in such manner as the Secretary of State

may prescribe by rule or procedure, within 30 days following the effective date of the statutory amendment, to the Secretary and the Legislative Committee on Administrative Rules.

§ 849. ~~BOARDS AND COMMISSIONS; RETIRING MEMBERS~~

~~When a board or commission member, who hears all or a substantial part of a case, retires from office or completes his or her term before the case is completed, he or she may remain a member of the board or commission for the purpose of deciding and concluding the case. If the member who retires or completes his or her term is a chair, he or she may also remain a member for the purpose of certifying questions of law if appeal is taken, where such is required by law. For this service, the member may be compensated in the manner provided for active members.~~ [Repealed.]

Sec. 3. REDESIGNATION

Within 3 V.S.A. chapter 25 (administrative procedure):

(1) §§ 800–808 shall be within subchapter 1.

(2) §§ 809–816 shall be within subchapter 2.

(3) §§ 817–849 shall be within subchapter 3.

Sec. 4. MISFILING OF EDUCATION RULES

(a) Filing of incorrect rule text.

(1) On or about April 16, 2013, the State Board of Education (SBE) approved revisions to its rules on special education, Series 2360 (the Rules) for submission to the Legislative Committee on Administrative Rules (LCAR). The rulemaking number for the proposed revisions was 12-P55.

(2) On May 30, 2013, LCAR approved revisions to the Rules proposed by the SBE. LCAR approved the Rules as it received them, without change.

(3) On or about June 4, 2013, the SBE submitted the approved rule in final adopted form to LCAR and the Secretary of State (SOS). The number for the final adopted rule was 13-03.

(4) In 2013, the versions of the Rules submitted by the SBE for approval by LCAR and for final adoption were not the correct version and were submitted in error.

(5) The correct version of the Rules was the text approved by the SBE on or about April 16, 2013. This version was distributed by the Agency of Education to the public as if it were the adopted rule.

(b) Notwithstanding any contrary provision of 3 V.S.A. § 836, 843, or 845, on or before 30 days after the effective date of this section, the SBE shall file

the version of the Rules approved by the SBE on or about April 16, 2013 as a final proposal pursuant to 3 V.S.A. § 841. The SBE shall include with this filing a certification signed by the Chair of the SBE that the text of the final proposal is the same as the version of the rules approved by the SBE on or about April 16, 2013.

Sec. 5. EFFECTIVE DATES

(a) This section and Sec. 4 (misfiling of education rules) shall take effect on passage.

(b) The remainder of this act shall take effect on July 1, 2018, except that in Sec. 2, 3 V.S.A. §§ 818 and 847(b) and (c) shall take effect on July 1, 2019.

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.

Proposal of Amendment; Third Reading Ordered

H. 910.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to the Open Meeting Law and the Public Records Act.

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:

* * * Open Meeting Law * * *

Sec. 1. 1 V.S.A. § 310 is amended to read:

§ 310. DEFINITIONS

As used in this subchapter:

(1) "Business of the public body" means the public body's governmental functions, including any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(2) "Deliberations" means weighing, examining, and discussing the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.

~~(2)~~(3)(A) "Meeting" means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.

(B) "Meeting" shall not mean ~~written correspondence or an electronic~~ any communication, including in person or through e-mail, telephone, or teleconferencing, between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting, provided that:

(i) no other business of the public body is discussed or conducted; and

(ii) such a ~~written correspondence or such an electronic~~ communication that results in written or recorded information shall be available for inspection and copying under the Public Records Act as set forth in chapter 5, subchapter 3 of this title.

(C) "Meeting" shall not mean occasions when a quorum of a public body attends social gatherings, conventions, conferences, training programs, press conferences, media events, or otherwise gathers, provided that the public body does not discuss specific business of the public body that, at the time of the exchange, the participating members expect to be business of the public body at a later time.

(D) "Meeting" shall not mean a gathering of a quorum of a public body at a duly warned meeting of another public body, provided that the attending public body does not take action on its business.

~~(3)~~(4) "Public body" means any board, council, or commission of the State or one or more of its political subdivisions, any board, council, or commission of any agency, authority, or instrumentality of the State or one or more of its political subdivisions, or any committee of any of the foregoing boards, councils, or commissions, except that "public body" does not include councils or similar groups established by the Governor for the sole purpose of advising the Governor with respect to policy.

~~(4)~~(5) "Publicly announced" means that notice is given to an editor, publisher, or news director of a newspaper or radio station serving the area of the State in which the public body has jurisdiction, and to any person who has requested under subdivision 312(c)(5) of this title to be notified of special meetings.

~~(5)~~(6) "Quasi-judicial proceeding" means a proceeding which is:

(A) a contested case under the Vermont Administrative Procedure Act; or

(B) a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses

presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority.

* * * Public Records Act * * *

Sec. 2. 1 V.S.A. § 315 is amended to read:

§ 315. STATEMENT OF POLICY; SHORT TITLE

(a) It is the policy of this subchapter to provide for free and open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the General Assembly hereby declares that certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed to implement this policy, and the burden of proof shall be on the public agency to sustain its action.

(b) The General Assembly finds that public records are essential to the administration of State and local government. Public records contain information that allows government programs to function, provides officials with a basis for making decisions, and ensures continuity with past operations. Public records document the legal responsibilities of government, help protect the rights of citizens, and provide citizens a means of monitoring government programs and measuring the performance of public officials. Public records provide documentation for the functioning of government and for the retrospective analysis of the development of Vermont government and the impact of programs on citizens.

(c) This subchapter may be known and cited as the Public Records Act or the PRA.

Sec. 3. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(e)(1) For any exemption to the Public Records Act enacted or substantively amended in legislation introduced in the General Assembly in 2019 or later, in the fifth year after the effective date of the enactment, reenactment, or substantive amendment of the exemption, the exemption shall

be repealed on July 1 of that fifth year except if the General Assembly reenacts the exemption prior to July 1 of the fifth year or if the law otherwise requires.

(2) Legislation that enacts, reenacts, or substantively amends an exemption to the Public Records Act shall explicitly provide for its repeal on July 1 of the fifth year after the effective date of the exemption unless the legislation specifically provides otherwise.

(f) Unless otherwise provided by law, a record produced or acquired during the period of applicability of an exemption that is subsequently repealed shall, if exempt during that period, remain exempt following the repeal of the exemption.

Sec. 4. LEGISLATIVE INTENT

(a) In Sec. 3 of this act, the repeal and reenactment provision added in 1 V.S.A. § 317(e) shall apply only to Public Records Act exemptions that are enacted, reenacted, or substantively amended in legislation introduced in the General Assembly in 2019 or later.

(b) In rearranging the text of existing law in 1 V.S.A. § 318(b)-(c) within Sec. 5 of this act, the General Assembly intends to make the text more organized and clear, and does not intend to effect any substantive changes through the rearrangement of existing text.

Sec. 5. 1 V.S.A. § 318 is amended to read:

§ 318. PROCEDURE

(a)(1) As used in this section, "promptly" means immediately, with little or no delay, and, unless otherwise provided in this section, not more than three business days:

(A) from receipt of a request under this subchapter; or

(B) in the case of a reversal on appeal by a head of the agency pursuant to subsection (c) of this section, from the date of the determination on appeal.

(2) A custodian or head of the agency who fails to comply with the applicable time limit provisions of this section shall be deemed to have denied the request or the appeal upon the expiration of the time limit.

(b) Upon request, the custodian of a public record shall promptly produce the record for inspection or a copy of the record, except that:

(1) If the record is in active use or in storage and therefore not available for use at the time the person asks to examine it, the custodian shall ~~so~~ promptly certify this fact in writing to the applicant and, in the certification,

set a date and hour within one calendar week of the request when the record will be available ~~for examination~~.

(2) If the custodian considers the record to be exempt from inspection and copying under the provisions of this subchapter, the custodian shall promptly so certify in writing. ~~Such certification shall identify the records withheld and the basis for the denial. A record shall be produced for inspection or a certification shall be made that a record is exempt within three business days of receipt of the request, unless otherwise provided in subdivision (5) of this subsection.~~ The certification shall:

(A) identify the records withheld;

(B) include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial~~. The custodian shall also~~;

(C) provide the names and titles or positions of each person responsible for denial of the request; and

(D) notify the person of his or her right to appeal to the head of the agency any adverse determination.

(3) ~~If appealed to the head of the agency, the head of the agency shall make a determination with respect to any appeal within five business days after the receipt of such appeal. If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of this title.~~ [Repealed.]

(4) If a record does not exist, the custodian shall promptly certify in writing that the record does not exist under the name given to the custodian by the applicant or by any other name known to the custodian.

(5) In unusual circumstances as herein specified, the time limits prescribed in this ~~subsection~~ section may be extended by written notice to the person making ~~such~~ the request setting forth the reasons for ~~such~~ the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten business days from receipt of the request or, in the case of a reversal on appeal by a head of the agency pursuant to subsection (c) of this section, from the date of the determination on appeal. As used in this subdivision, "unusual circumstances" means to the extent reasonably necessary to the proper processing of the particular request:

(A) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records ~~which~~ that are demanded in a single request; or

(C) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the Attorney General.

~~(b) Any person making a request to any agency for records under subsection (a) of this section shall be deemed to have exhausted the person's administrative remedies with respect to each request if the agency fails to comply within the applicable time limit provisions of this section. Upon any determination by an agency to comply with a request for records, the records shall be made available promptly to the person making such request. Any notification of denial of any request for records under this section shall set forth the names and titles or positions of each person responsible for the denial of such request.~~

(c)(1) Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination on an appeal within five business days after the receipt of the appeal.

(2) ~~A~~ If the head of the agency upholds the denial of a request for records, in whole or in part, the written determination shall include:

(A) the asserted statutory basis for upholding the denial ~~and~~;

(B) a brief statement of the reasons and supporting facts for upholding the denial; and

(C) notification of the provisions for judicial review of the determination under section 319 of this title.

~~(2)~~(3) If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. ~~A failure by the agency to comply with any of the time limit provisions of this section shall be deemed a final denial of the request for records by the agency.~~

* * *

(h) The head of a State agency or department shall:

(1) designate the agency's or department's records officer described in 3 V.S.A. § 218, or shall designate some other person, to be accountable for overseeing the processing of requests for public records received by the agency or department in accordance with this section; and

(2) post on the agency's or department's website the name and contact information of the person designated under subdivision (1) of this subsection.

Sec. 6. 1 V.S.A. § 318a is added to read:

§ 318a. EXECUTIVE BRANCH AGENCY PUBLIC RECORDS REQUEST SYSTEM

(a) The Secretary of Administration shall maintain and update the Public Records Request System established pursuant to 2006 Acts and Resolves No. 132, Sec. 3 and 2011 Acts and Resolves No. 59, Sec. 13 with the information furnished under subsection (b) of this section and post System information on the website of the Agency of Administration.

(b) All public agencies of the Executive Branch of the State:

(1) that receive a written request to inspect or copy a record under this subchapter shall catalogue the request in the Public Records Request System established and maintained by the Secretary of Administration by furnishing the following information:

(A) the date the request was received;

(B) the agency that received the request;

(C) the person that made the request, including a contact name;

(D) the status of the request, including whether the request was fulfilled in whole, fulfilled in part, or denied;

(E) if the request was fulfilled in part or denied, the exemption or other grounds asserted as the basis for partial fulfillment or denial;

(F) the estimated hours necessary to respond to the request;

(G) the date the agency closed the request; and

(H) the elapsed time between receipt of the request and the date the agency closed the request; and

(2) shall post in a conspicuous location on their respective websites a link to the location on the Agency of Administration's website where Public Records Request System information is maintained.

Sec. 7. REPEAL

2011 Acts and Resolves No. 59, Sec. 13 (State agency public request system) is repealed.

* * * Effective Date * * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2018, except that Sec. 3 shall take effect on January 1, 2019.

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.

Bill Passed in Concurrence with Proposal of Amendment

H. 526.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to regulating notaries public.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 780.

House bill entitled:

An act relating to portable rides at agricultural fairs, field days, and other similar events.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the Senate proposal of amendment by adding a new Sec. 6 to read as follows:

Sec. 6. REPORT

The Department of Forests, Parks and Recreation shall, on or before December 1, 2018, prepare a report concerning:

(1) how bungee jumps; zip lines; waterslides and water rides; and obstacle, challenge, and adventure courses in Vermont are inspected for safety; and

(2) how these types of rides are inspected for safety and regulated in other states.

And by renumbering the remaining section to be numerically correct.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 859. An act relating to requiring municipal corporations to affirmatively vote to retain ownership of lease lands.

H. 895. An act relating to legislative review of certain report requirements.

H. 923. An act relating to capital construction and State bonding budget adjustment.

Bill Passed in Concurrence

H. 894.

House bill of the following title was read the third time and passed in concurrence:

An act relating to pensions, retirement, and setting the contribution rates for municipal employees.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 526, H. 780, H. 859, H. 894, H. 895, H. 923.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock in the afternoon on Thursday, May 3, 2018.

THURSDAY, MAY 3, 2018

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. 57

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second 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. 716. An act relating to approval of the adoption of the charter of the Edward Farrar Utility District and the merger of the Village of Waterbury into the District.

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

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

S. 111. An act relating to privatization contracts.

S. 192. An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

S. 269. An act relating to blockchain, cryptocurrency, and financial technology.

S. 281. An act relating to the mitigation of systemic racism.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposals of amendment to House bill of the following title:

H. 711. An act relating to employment protections for crime victims.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Head of South Burlington
Rep. Stevens of Waterbury
Rep. Strong of Albany.

The House has considered Senate proposals of amendment to House bill of the following title:

H. 915. An act relating to the protection of pollinators.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Smith of New Haven
Rep. Bock of Chester
Rep. Norris of Shoreham.

The House has considered Senate proposal of amendment to House bill:

H. 593. An act relating to miscellaneous consumer protection provisions.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill:

H. 676. An act relating to miscellaneous energy subjects.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill:

H. 806. An act relating to the Southeast State Correctional Facility.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Message from the House No. 58

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

H. 924. An act relating to making appropriations for the support of government.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Toll of Danville
Reps. Fagan of Rutland City
Rep. Hooper of Montpelier

The House has considered Senate proposal of amendment to House bill of the following title:

H. 25. An act relating to sexual assault survivors' rights.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 59

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 85. An act relating to simplifying government for small businesses.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Myers of Essex
Rep. Sheldon of Middlebury
Rep. Kimbell of Woodstock

The House has considered Senate proposal of amendment to House proposals of amendment to Senate bill of the following title:

S. 101. An act relating to the conduct of forestry operations.

And has concurred therein.

The House has considered Senate proposals of amendment to the following House bills:

H. 378. An act relating to the creation of the Artificial Intelligence Task Force.

H. 404. An act relating to Medicaid reimbursement for long-acting reversible contraceptives.

H. 624. An act relating to the protection of information in the statewide voter checklist.

H. 710. An act relating to beer franchises.

H. 718. An act relating to creation of the Restorative Justice Study Committee.

H. 719. An act relating to insurance companies and trust companies.

H. 856. An act relating to miscellaneous amendments to municipal law.

H. 892. An act relating to regulation of short-term, limited-duration health insurance coverage and association health plans.

And has severally concurred therein.

The Governor has informed the House that on May 1, 2018, he approved and signed bills originating in the House of the following titles:

H. 551. An act relating to flags and flag-flying protocol.

H. 566. An act relating to animal cruelty.

H. 843. An act relating to technical corrections.

Bill Referred

House bill of the following title was read the first time:

H. 716. An act relating to approval of the adoption of the charter of the Edward Farrar Utility District and the merger of the Village of Waterbury into the District.

and pursuant to Temporary Rule 44A was referred to the Committee on Rules.

House Proposals of Amendment to Senate Proposal of Amendment Concurred In

H. 874.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to inmate access to prescription drugs.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: In Sec. 1, 28 V.S.A. § 801, after the section heading "MEDICAL CARE OF INMATES" by inserting the following:

* * *

(b)(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless

extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

Second: In Sec. 1, 28 V.S.A. § 801(e)(1), after the words "Except as otherwise provided in this subsection, an" by striking "offender" and inserting in lieu thereof "~~offender~~ inmate"

Third: In Sec. 1, 28 V.S.A. § 801(e)(1), after the words "prescription monitoring or information system" by inserting the following: , including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment,

Fourth: In Sec. 1, 28 V.S.A. § 801(e), after subdivision (4), by inserting a subdivision (5) to read as follows:

(5) As used in this subchapter:

(A) "Medically necessary" describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual's diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) "Medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.

Fifth: By inserting after Sec. 1 a new section to be Sec. 1a to read as follows:

Sec. 1a. 18 V.S.A. § 4750 is added to read:

§ 4750. DEFINITION

As used in this chapter, "medication-assisted treatment" means the use of U.S. Federal Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment Concurred In with Amendment

S. 166.

House proposal of amendment to Senate bill entitled:

An act relating to the provision of medication-assisted treatment for inmates.

Was taken up.

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that medication-assisted treatment offered at or facilitated by a correctional facility is a medically necessary component of treatment for inmates diagnosed with opioid use disorder.

Sec. 2. 18 V.S.A. § 4750 is added to read:

§ 4750. DEFINITION

As used in this chapter, "medication-assisted treatment" means the use of U.S. Federal Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Sec. 3. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

* * *

(b)(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

* * *

(e)(1) Except as otherwise provided in this subsection, an ~~offender~~ inmate who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse~~, or a licensed nurse practitioner~~ and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care

provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system, including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment, shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner,~~ or a licensed advanced practice registered nurse.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner,~~ or an advanced practice registered nurse, it is not ~~in the inmate's best interest~~ medically necessary to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall ~~enter~~ cause the reason for the discontinuance to be entered into the inmate's ~~permanent~~ medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

(5) As used in this subchapter:

(A) "Medically necessary" describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual's diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) "Medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.

* * *

Sec. 4. 28 V.S.A. § 801b is added to read:

§ 801b. MEDICATION-ASSISTED TREATMENT IN CORRECTIONAL FACILITIES

(a) If an inmate receiving medication-assisted treatment prior to entering the correctional facility continues to receive medication prescribed in the course of medication-assisted treatment pursuant to section 801 of this title, the inmate shall be authorized to receive that medication for as long as medically necessary.

(b)(1) If at any time an inmate screens positive as having an opioid use disorder, the inmate may elect to commence buprenorphine-specific medication-assisted treatment if it is deemed medically necessary by a provider authorized to prescribe buprenorphine. The inmate shall be authorized to receive the medication as soon as possible and for as long as medically necessary.

(2) Nothing in this subsection shall prevent an inmate who commences medication-assisted treatment while in a correctional facility from transferring from buprenorphine to methadone if:

(A) methadone is deemed medically necessary by a provider authorized to prescribe methadone; and

(B) the inmate elects to commence methadone as recommended by a provider authorized to prescribe methadone.

(c) The licensed practitioner who makes the clinical judgment to discontinue a medication shall cause the reason for the discontinuance to be entered into the inmate's medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(d) As part of reentry planning for an inmate who screens positive for an opioid use disorder and for whom medication assisted treatment is medically necessary, the Department shall commence medication-assisted treatment prior to release. If medication-assisted treatment is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.

(e) Any counseling or behavioral therapies provided in conjunction with the use of medication-assisted treatment shall be medically necessary.

* * *

Sec. 5. MEMORANDUM OF UNDERSTANDING; MEDICATION-ASSISTED TREATMENT IN STATE CORRECTIONAL FACILITIES

(a) On or before December 31, 2018, the Departments of Corrections and of Health may enter into a memorandum of understanding with opioid treatment programs throughout the State, certified and accredited pursuant to 42 C.F.R. part 8, that serve regions in which a State correctional facility is located to provide medication-assisted treatment to those inmates for whom a licensed practitioner has determined medication-assisted treatment is medically necessary. Treatment received pursuant to this section shall be coordinated pursuant to 18 V.S.A. § 4753.

(b) As used in this section, "medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.

Sec. 5a. EVALUATION; MEDICATION-ASSISTED TREATMENT FACILITATED BY CORRECTIONAL FACILITIES

On or before January 15, 2022, the Department of Corrections shall present an evaluation on the effectiveness of the medication-assisted treatment program facilitated by correctional facilities to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Rodgers moved that the Senate concur in the House proposal of amendment with an amendment as follows:

In Sec. 4, 28 V.S.A. § 801b, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d)(1) As part of reentry planning, the Department shall commence medication-assisted treatment prior to an inmate's release if:

(A) the inmate screens positive for an opioid use disorder;

(B) medication-assisted treatment is medically necessary; and

(C) the inmate elects to commence medication-assisted treatment.

(2) If medication-assisted treatment is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.

Which was agreed to.

Rules Suspended; Proposal of Amendment; Consideration Postponed

H. 911.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and Senate bill entitled:

An act relating to changes in Vermont's personal income tax and education financing system.

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Finance, 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:

* * * Personal Income Tax Changes * * *
* * * Taxable Income * * *

Sec. 1. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

* * *

(21) "Taxable income" means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first $5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(C) Decreased by the following exemptions and deductions:

(i) ~~the amount of personal exemptions taken at the federal level~~ a personal exemption of $4050.00 per person for the taxpayer, for the spouse or the deceased spouse of the taxpayer whose filing status under section 5822 of this chapter is married filing a joint return or surviving spouse, and for each individual qualifying as a dependent of the taxpayer under 26 U.S.C. § 152, provided that no exemption may be claimed for an individual who is a dependent of another taxpayer;

(ii) ~~for taxpayers who do not itemize at the federal level, the amount of the~~ a standard deduction ~~taken at the federal level~~ determined as follows:

(I) for taxpayers whose filing status under section 5822 of this chapter is unmarried (other than surviving spouses or heads of households) or married filing separate returns, $6,000.00;

(II) for taxpayers whose filing status under section 5822 of this chapter is head of household, $9,000.00;

(III) for taxpayers whose filing status under section 5822 of this chapter is married filing joint return or surviving spouse, $12,000.00; ~~and~~

~~(iii) for taxpayers who itemize at the federal level:~~

~~(I) the amount of federally itemized deductions for medical and dental expenses and charitable contributions;~~

~~(II) the total amount of federally itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, and charitable contributions, deducted from federal adjusted gross income for the taxable year, but in no event shall the amount under this subdivision exceed two and one-half times the federal standard deduction allowable to the taxpayer; and~~

~~(III) in no event shall the total amount of deductions allowed under subdivisions (I) and (II) of this subdivision (21)(C)(iii) reduce the total amount of itemized deductions below the federal standard deduction allowable to the taxpayer~~ an additional deduction of $1,000.00 for each federal deduction for which the taxpayer qualified and received under 26 U.S.C. § 63(f); and

(iv) the dollar amounts of the personal exemption allowed under subdivision (i) of this subdivision (21)(C), the standard deduction allowed under subdivision (ii) of this subdivision (21)(C), and the additional deduction allowed under subdivision (iii) of this subdivision (21)(C) shall be adjusted annually for inflation by the Commissioner of Taxes by using the percentage increase in the Consumer Price Index beginning with taxable year 2019 and ending with the taxable year in question. As used in this subdivision, "consumer price index" means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

* * *

* * * Personal Income Tax Rates * * *

Sec. 2. PERSONAL INCOME TAX RATES

(a) 2009 Spec. Sess. Acts and Resolves No. 2, Sec. 20 is repealed.

(b) For taxable year 2018 and after, income tax rates under 32 V.S.A. § 5822(a)(1)-(5), after taking into consideration any inflation adjustments to taxable income as required by 32 V.S.A. § 5822(b)(2), shall be as follows:

(1) taxable income that without the passage of this act would have been subject to a rate of 3.55 percent shall be taxed at the rate of 3.35 percent instead;

(2) taxable income that without the passage of this act would have been subject to a rate of 6.80 percent shall be taxed at the rate of 6.60 percent instead;

(3) taxable income that without the passage of this act would have been subject to a rate of 7.80 percent shall be taxed at the rate of 7.60 percent instead;

(4) taxable income that without the passage of this act would have been subject to a rate of 8.80 percent shall be taxed at the rate of 8.70 percent instead; and

(5) taxable income that without the passage of this act would have been subject to a rate of 8.95 percent shall be taxed at the rate of 8.85 percent instead;

(c) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall revise the tables in 32 V.S.A. § 5822(a)(1)-(5) to reflect the changes to the tax rates and tax brackets made in this section.

* * * Charitable Credit; Earned Income Tax Credit; Social Security Income; Other Adjustments * * *

Sec. 3. 32 V.S.A. § 5822 is amended to read:

§ 5822. TAX ON INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS

(a) A tax is imposed for each taxable year upon the taxable income earned or received in that year by every individual, estate, and trust, subject to income taxation under the laws of the United States, in an amount determined by the following tables, and adjusted as required under this section:

* * *

(b) As used in this section:

(1) "Married individuals," "surviving spouse," "head of household," "unmarried individual," "estate," and "trust" have the same meaning as under the Internal Revenue Code.

(2) The amounts of taxable income shown in the tables in this section shall be adjusted annually for inflation by the Commissioner of Taxes~~,~~ using the ~~Consumer Price Index adjustment percentage, in the manner prescribed for inflation adjustment of federal income tax tables for the taxable year by the Commissioner of Internal Revenue, beginning with taxable year 2003~~ percentage increase in the Consumer Price Index beginning with taxable year 2019 and ending with the taxable year in question. As used in this subdivision, "consumer price index" means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

* * *

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: credit for people who are elderly or permanently totally disabled, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

* * *

(3) Individuals shall receive a nonrefundable charitable contribution credit against the tax imposed under this section for the taxable year. The credit shall be five percent of the charitable contributions made during the taxable year that are allowable under 26 U.S.C. § 170. This credit shall be available irrespective of a taxpayer's election not to itemize at the federal level.

* * *

Sec. 4. 32 V.S.A. § 5828b(a) is amended to read:

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be ~~32~~ 35 percent of the earned income tax credit granted to the individual under the laws of the United States, multiplied by the percentage ~~which~~ that the individual's earned income that is earned or received during the period of the individual's residency in this State bears to the individual's total earned income.

Sec. 5. 32 V.S.A. § 5830e is added to read:

§ 5830e. SOCIAL SECURITY INCOME

The portion of federally taxable Social Security benefits excluded from taxable income under subdivision 5811(21)(B)(iv) of this chapter shall be as follows:

(1) For taxpayers whose filing status is single, married filing separately, head of household, or qualifying widow or widower:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to $45,000.00, all federally taxable benefits received under the federal Social Security Act shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than $45,000.00 but less than $55,000.00, the percentage of federally taxable benefits received under the Social Security Act to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over $45,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from $55,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by $10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the federally taxable benefits received under the Social Security Act.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than $55,000.00, no amount of the federally taxable benefits received under the Social Security Act shall be excluded under this section.

(2) For taxpayers whose filing status is married filing jointly:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to $60,000.00, all federally taxable benefits received under the Social Security Act shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than $60,000.00 but less than $70,000.00, the percentage of federally taxable benefits received under the Social Security Act to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over $60,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from $70,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by $10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the federally taxable benefits received under the Social Security Act.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than $70,000.00, no amount of the federally taxable benefits received under the Social Security Act shall be excluded under this section.

Sec. 6. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

* * *

(w) The statutory purpose of the partial exemption of federally taxable benefits under the Social Security Act in section 5830e of this title is to lessen the tax burden on Vermonters with low to moderate income who derive part of their income from Social Security payments.

Sec. 7. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect ~~for taxable year 2016~~ on December 31, 2017, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 8. FEDERAL TAX REFORM

On or before November, 15, 2018, the Office of Legislative Council, with the assistance of the Joint Fiscal Office and the Department of Taxes, shall report to the Joint Fiscal Committee, the Senate Committee on Finance, and the House Committee on Ways and Means on the federal and state

implementation of changes necessitated by the Tax Cut and Jobs Act and shall identify potential areas for legislative or administrative reactions.

* * * Education Financing Changes * * *

* * * Yield, Applicable Percentage and Nonresidential Rate for Fiscal Year 2019 * * *

Sec. 9. PROPERTY DOLLAR EQUIVALENT YIELD AND INCOME DOLLAR EQUIVALENT YIELD FOR FISCAL YEAR 2019

(a) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the property dollar equivalent yield shall be $9,863.00.

(b) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the income dollar equivalent yield shall be $11,920.00.

Sec. 10. NONRESIDENTIAL PROPERTY TAX RATE FOR FISCAL YEAR 2019

Notwithstanding any other provision of law, for fiscal year 2019 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(2) shall be $1.606 per $100.00.

Sec. 11. 32 V.S.A. § 5402b(a)(4) is amended to read:

(4) the percentage change in the ~~median~~ average education tax bill applied to nonresidential property~~,~~ and the percentage change in the ~~median~~ average education tax bill of homestead property, and the percentage change in the ~~median~~ average education tax bill for taxpayers who claim an adjustment under subsection 6066(a) of this title are equal.

* * *Statewide education property tax bills* * *

Sec. 12. 32 V.S.A. § 5402(b) is amended to read:

(b) The statewide education tax shall be calculated as follows:

* * *

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property; provided, however, that the tax levied under this chapter shall be billed to each taxpayer by the municipality in a manner that clearly indicates the tax is separate from any other tax assessed and collected under chapter 133, including an itemization of the separate taxes with an aggregated total of the taxes due.

* * *

Sec. 13. 32 V.S.A. § 6066a(f) is amended to read:

(f) Property tax bills.

(1) For taxpayers and amounts stated in the notice to towns on July 1, municipalities shall create and send to taxpayers a homestead property tax bill, instead of the bill required under subdivision 5402(b)(1) of this title, providing the total amount allocated to payment of homestead education property tax liabilities and notice of the balance due. Nothing in this subdivision, however, shall be interpreted as altering the requirement under subdivision 5402(b)(1) of this title that the statewide education homestead tax be billed in a manner that is stated clearly and separately from any other tax. Municipalities shall apply the amount allocated under this chapter to current-year property taxes in equal amounts to each of the taxpayers' property tax installments that include education taxes. Notwithstanding section 4772 of this title, if a town issues a corrected bill as a result of the November 1 notice sent by the Commissioner under subsection (a) of this section, issuance of ~~such~~ the corrected new bill does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. If the corrected bill is less than the original bill, and there are also no unpaid ~~current year~~ current-year taxes, interest, or penalties and no ~~past year~~ past-year delinquent taxes or penalties and interest charges, any overpayment shall be reflected on the corrected tax bill and refunded to the taxpayer.

* * *

* * * Effective Dates* * *

Sec. 14. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Secs. 1-6 (income tax changes) shall take effect retroactively on January 1, 2018 and apply to taxable year 2018 and after.

(c) Notwithstanding 1 V.S.A. § 214, Sec. 7 (income tax link to the federal tax statutes) shall take effect retroactively on January 1, 2017 and apply to taxable years beginning on January 1, 2017 and after.

(d) Secs. 9-10 (yields; nonresidential rate) shall take effect on July 1, 2018 and apply to fiscal year 2019 only.

(e) Secs. 8 (federal tax reform), 11 (Commissioner's recommendation), 12-13 (tax bills) shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ashe, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

Thereupon, the bill was read the second time by title only pursuant to Rule 43. Thereupon, pending the question, Shall the proposal of amendment of the Committee of Finance be agreed to?, Senator Ashe, moved that consideration of the bill be postponed, which was agreed to.

Proposal of Amendment; Third Reading Ordered

H. 912.

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

An act relating to the health care regulatory duties of the Green Mountain Care Board.

Reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 15 in its entirety and adding six new sections to read as follows:

* * * Medicaid Budget Estimates * * *

Sec. 15. 32 V.S.A. § 305a(c) is amended to read:

(c)(1)(A) The January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the Agency and the Joint Fiscal Office for State Health Care Assistance Programs or premium assistance programs supported by the State Health Care Resources and Global Commitment Funds, and for the Programs under any Medicaid Section 1115 waiver.

(B) For Board consideration, there shall be provided two versions of the next succeeding fiscal year's estimated per-member per-month expenditures:

(i) one version shall include ~~an increase in Medicaid provider reimbursements in order to ensure that the expenditure estimates reflect amounts attributable to health care inflation as required by subdivisions 307(d)(5) and (d)(6) of this title~~ inflation trends as set forth in subdivision 307(d)(5) of this title; and

(ii) one version shall ~~be without the inflationary adjustment~~ reflect any additional increase or decrease to Medicaid provider reimbursements that would be necessary to attain Medicare levels as set forth in subdivision 307(d)(6) of this title.

(C) For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category.

(D) The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down State contribution payment and for the disproportionate share hospital payments.

(2) In July, the Administration and the Joint Fiscal Office shall make a report to the Emergency Board on the most recently ended fiscal year for all Medicaid and Medicaid-related programs, including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the Emergency Board may adopt revised estimates for the current fiscal year and estimates for the next succeeding fiscal year.

Sec. 16. 32 V.S.A. § 307(d) is amended to read:

(d) The Governor's budget shall include his or her recommendations for an annual budget for Medicaid and all other health care assistance programs administered by the Agency of Human Services. The Governor's proposed Medicaid budget shall include a proposed annual financial plan, and a proposed five-year financial plan, with the following information and analysis:

* * *

(5) health care inflation trends ~~consistent with~~ that reflect consideration of provider reimbursements approved under 18 V.S.A. § 9376 and expenditure trends reported under 18 V.S.A. § ~~9375a~~ 9383;

* * *

* * * Green Mountain Care Board Billback Formula * * *

Sec. 17. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) The Board may assess and collect from each regulated entity the actual costs incurred by the Board, including staff time and contracts for professional services, in carrying out its regulatory duties for health insurance rate review under 8 V.S.A. § 4062; hospital budget review under chapter 221, subchapter 7 of this title; and accountable care organization certification and budget review under section 9382 of this title.

(2)(A) ~~Except~~ In addition to the assessment and collection of actual costs pursuant to subdivision (1) of this subsection and except as otherwise provided in ~~subdivision (2)~~ subdivisions (2)(C) and (3) of this subsection, all other expenses ~~incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by~~ of the Board shall be borne as follows:

~~(A)~~(i) 40 percent by the State from State monies;

~~(B)~~(ii) ~~15~~ 30 percent by the hospitals;

~~(C)~~(iii) ~~15~~ 24 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125~~;~~

~~(D) 15 percent by~~, health insurance companies licensed under 8 V.S.A. chapter 101~~; and~~

~~(E) 15 percent by~~, and health maintenance organizations licensed under 8 V.S.A. chapter 139; and

(iv) six percent by accountable care organizations certified under section 9382 of this title.

(B) Expenses under subdivision (A)(iii) of this subdivision (2) shall be allocated to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this subdivision (2) shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care, limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

(C) Expenses incurred by the Board for regulatory duties associated with certificates of need shall be assessed pursuant to the provisions of section 9441 of this title and not in accordance with the formula set forth in subdivision (A) of this subdivision (2).

~~(2)~~(3) The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision ~~(1)~~(2) of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

~~(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.~~

(4) If the amount of the proportional assessment to any entity calculated in accordance with the formula set forth in subdivision (2)(A) of this subsection would be less than $150.00, the Board shall assess the entity a minimum fee of $150.00. The Board shall apply the amounts collected based on the difference between each applicable entity's proportional assessment amount and $150.00 to reduce the total amount assessed to the regulated entities pursuant to subdivisions (2)(A)(ii)–(iv) of this subsection.

* * * Composition of Green Mountain Care Board and Advisory Group * * *

Sec. 18. 18 V.S.A. § 9374 is amended to read:

§ 9374. BOARD MEMBERSHIP; AUTHORITY

(a)(1) On July 1, 2011, the Green Mountain Care Board is created and shall consist of a chair and four members. The Chair and all of the members shall be State employees and shall be exempt from the State classified system. The Chair shall receive compensation equal to that of a Superior judge, and the compensation for the remaining members shall be two-thirds of the amount received by the Chair.

(2) The Chair and the members of the Board shall be nominated by the Green Mountain Care Board Nominating Committee established in subchapter 2 of this chapter using the qualifications described in section 9392 of this chapter and shall be otherwise appointed and confirmed in the manner of a Superior judge. The Governor shall not appoint a nominee who was denied confirmation by the Senate within the past six years. At least one member of the Board shall be an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as a registered nurse or an advanced practice registered nurse under 26 V.S.A. chapter 28.

* * *

(c)(1) No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to supervision or regulation by the Board; provided that for a health care ~~practitioner~~ professional, the employment restriction in this subdivision ~~shall apply only to administrative or managerial employment or affiliation with a hospital or other health care facility, as defined in section 9432 of this title, and~~ shall not be construed to limit generally the ability of the health care ~~practitioner~~ professional to practice his or her profession.

* * *

* * * Regulation of Freestanding Health Care Facilities * * *

Sec. 19. REGULATION OF FREESTANDING HEALTH CARE FACILITIES; WORKING GROUP; REPORT

(a) The Secretary of Human Services or designee shall convene a working group to develop recommendations for the regulation of freestanding health care facilities and their role in a coordinated and cohesive health care delivery system. The recommendations shall include:

(1) whether and how the State should license and regulate ambulatory surgical centers, freestanding birth centers, urgent care clinics, retail health clinics, and other freestanding health care facilities; and

(2) whether and to what extent these facilities should participate in Vermont's health care reform initiatives.

(b) The working group shall comprise representatives of ambulatory surgical centers, urgent care clinics, hospitals, the Green Mountain Care Board, the Department of Vermont Health Access, the Department of Health, the Office of the Health Care Advocate, the Vermont Program for Quality in Health Care, Inc., and other interested stakeholders.

(c) On or before February 1, 2019, the working group shall provide its recommendations to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

(a) Secs. 6 (certificate of need) and 17 (billback formula) shall take effect on July 1, 2018, provided that for applications for a certificate of need that are already in process on that date, the rules and procedures in place at the time the application was filed shall continue to apply until a final decision is made on the application.

(b) Sec. 18 shall take effect on passage and shall apply beginning with the first vacancy occurring on the Green Mountain Care Board on or after that date; provided, however, that it shall not apply to the vacancy of a member serving on the Board on the date of passage who seeks to serve more than one term.

(c) The remaining sections of this act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 4, 18 V.S.A. § 9405(b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) ~~The Plan shall include~~ In developing the Plan, the Board shall:

(A) ~~A statement of principles reflecting the policies~~ consider the principles in section 9371 of this title, as well as the purposes enumerated in sections 9401 and 9431 of this ~~chapter to be used in allocating resources and in establishing priorities for health services.~~ title;

~~(B) Identification of the current supply and distribution of hospital, nursing home, and other inpatient services; home health and mental health services; treatment and prevention services for alcohol and other drug abuse; emergency care; ambulatory care services, including primary care resources, federally qualified health centers, and free clinics; major medical equipment; and health screening and early intervention services.~~

~~(C) Consistent with the principles set forth in subdivision (A) of this subdivision (1), recommendations for the appropriate supply and distribution of resources, programs, and services identified in subdivision (B) of this subdivision (1), options for implementing such recommendations and mechanisms which will encourage the appropriate integration of these services on a local or regional basis. To arrive at such recommendations, the Green Mountain Care Board shall consider at least the following factors:~~

~~(i) the values and goals reflected in the State Health Plan;~~

~~(ii) the needs of the population on a statewide basis;~~

~~(iii) the needs of particular geographic areas of the State, as identified in the State Health Plan;~~

~~(iv) the needs of uninsured and underinsured populations;~~

~~(v) the use of Vermont facilities by out-of-state residents;~~

~~(vi) the use of out-of-state facilities by Vermont residents;~~

~~(vii) the needs of populations with special health care needs;~~

~~(viii) the desirability of providing high quality services in an economical and efficient manner, including the appropriate use of midlevel practitioners;~~

~~(ix) the cost impact of these resource requirements on health care expenditures;~~

~~(x) the overall quality and use of health care services as reported by the Vermont Program for Quality in Health Care and the Vermont Ethics Network;~~

~~(xi) the overall quality and cost of services as reported in the annual hospital community reports;~~

~~(xii) individual hospital four-year capital budget projections; and~~

~~(xiii) the four-year projection of health care expenditures prepared by the Board~~

(B) identify priorities using information from:

(i) the State Health Improvement Plan;

(ii) the community health needs assessments required by section 9405a of this title;

(iii) available health care workforce information;

(iv) materials provided to the Board through its other regulatory processes, including hospital budget review, oversight of accountable care organizations, issuance and denial of certificates of need, and health insurance rate review; and

(v) the public input process set forth in this section;

(C) use existing data sources to identify and analyze the gaps between the supply of health resources and the health needs of Vermont residents and to identify utilization trends to determine areas of underutilization and overutilization; and

(D) consider the cost impacts of fulfilling any gaps between the supply of health resources and the health needs of Vermont residents.

Second: By striking out Sec. 11, 32 V.S.A. § 307(d), in its entirety and inserting in lieu thereof the following:

Sec. 11. [Deleted.]

Third: By inserting a reader assistance heading and a new section to be Sec. 13a to read as follows:

* * * Accountable Care Organizations; Fair and Equitable Payment Amounts * * *

Sec. 13a. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(3) The ACO has established appropriate mechanisms to receive and distribute payments to its participating health care providers in a fair and equitable manner, and any payment differential based on whether a provider is affiliated with a hospital or health care facility or practices independently is disclosed and factually justified.

* * *

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 recommendation of proposal of amendment of the Committee on Health and Welfare be amended as recommended by the Committee on Finance.?, Senator Sirotkin moved to amend the proposal of amendment of the Committee on Finance, by striking out the third instance of amendment in its entirety and inserting in lieu thereof a new third instance of amendment to read as follows:

Third: By inserting a reader assistance heading and a new section to be Sec. 13a to read as follows:

* * * Accountable Care Organizations; Fair and Equitable Payment Amounts * * *

Sec. 13a. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(3) The ACO has established appropriate mechanisms to receive and distribute payments to its participating health care providers in a fair and equitable manner. To the extent that the ACO has the authority and ability to establish provider reimbursement rates, the ACO shall minimize differentials in payment methodology and amounts among comparable participating

providers across all practice settings, as long as doing so is not inconsistent with the ACO's overall payment reform objectives.

* * *

Which was agreed to.

Thereupon, the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance, as amended.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare, as amended?, Senator Ayer moved to amend the proposal of amendment of the Committee on Health and Welfare, as amended, as follows:

Sec. 15. 32 V.S.A. § 305a(c) is amended to read:

(c)(1)(A) The January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the Agency and the Joint Fiscal Office for State Health Care Assistance Programs or premium assistance programs supported by the State Health Care Resources and Global Commitment Funds, and for the Programs under any Medicaid Section 1115 waiver.

(B) For Board consideration, there shall be provided ~~two~~ three versions of the next succeeding fiscal year's estimated per-member per-month expenditures:

(i) one version shall include ~~an increase in Medicaid provider reimbursements in order to ensure that the expenditure estimates reflect amounts attributable to health care inflation as required by subdivisions 307(d)(5) and (d)(6) of this title and~~ inflation trends as set forth in subdivision 307(d)(5) of this title;

(ii) one version shall be without the inflationary adjustment; and

(iii) one version shall reflect any additional increase or decrease to Medicaid provider reimbursements that would be necessary to attain Medicare levels as set forth in subdivision 307(d)(6) of this title.

(C) For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category.

(D) The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down State contribution payment and for the disproportionate share hospital payments.

(2) In July, the Administration and the Joint Fiscal Office shall make a report to the Emergency Board on the most recently ended fiscal year for all Medicaid and Medicaid-related programs, including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the Emergency Board may adopt revised estimates for the current fiscal year and estimates for the next succeeding fiscal year.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Health and Welfare, as amended was agreed to and third reading of the bill was ordered.

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 908. An act relating to the Administrative Procedure Act.

H. 910. An act relating to the Open Meeting Law and the Public Records Act.

Third Readings Ordered

H. 925.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the City of Barre.

Reported that the bill ought to pass in concurrence.

Senator Cummings, for the Committee on Finance, to which the bill was referred, 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. 926.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the Town of Colchester.

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; Consideration Postponed

H. 614.

Senator Soucy, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to the sale and use of fireworks.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, in 20 V.S.A. § 3132, in subsection (e), after the word "sale" by inserting the following: a form to be developed by the State Fire Marshall that shall provide; and by striking out subsection (f) in its entirety.

Second: By striking out Sec. 2 in its entirety.

And by renumbering the remaining section to be numerically correct.

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 bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Sears moved to commit the bill to the Committee on Judiciary. Thereupon, Senator Sears requested and was granted leave to withdraw his motion.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Sears requested that the question be divided?

Thereupon, on motion of Senator Soucy, consideration of the bill was postponed until the next legislative day.

Proposal of Amendment; Third Reading Ordered

H. 660.

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification.

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:

Sec. 1. 13 V.S.A. § 5451 is amended to read:

§ 5451. CREATION OF COMMISSION

(a) The Vermont ~~sentencing commission~~ Sentencing Commission is established for the purpose of overseeing criminal sentencing practices in the ~~state~~ State, reducing geographical disparities in sentencing, and making recommendations regarding criminal sentencing to the ~~general assembly~~ General Assembly.

(b) The ~~committee~~ Commission shall consist of the following members:

* * *

(2) the ~~administrative judge~~ Chief Superior Judge or designee, provided that the designee is a sitting or retired Vermont judge;

* * *

(16) the ~~executive director~~ Executive Director of the Vermont ~~center for justice research~~ Crime Research Group; and

* * *

Sec. 2. 13 V.S.A. § 5452 is amended to read:

§ 5452. DUTIES

* * *

(c) It shall be a priority for the Sentencing Commission to develop responses to the significant impacts that increased opioid addiction have had on the criminal justice system. The Commission shall consider:

(1) whether and under what circumstances offenses committed as a result of opioid addiction should be classified as civil rather than criminal offenses;

(2) whether the possession or sale of specific, lesser amounts of opioids and other regulated drugs should be classified as civil rather than criminal offenses;

(3) how to maximize treatment for offenders as a response to offenses committed as a result of opioid addiction.

Sec. 3. VERMONT SENTENCING COMMISSION; REPORT ON SENTENCING DISPARITIES AND CRIMINAL CODE RECLASSIFICATION

(a)(1) In order to improve the consistent and uniform application of criminal justice throughout Vermont, the Vermont Sentencing Commission established under 13 V.S.A. § 5451 shall review Vermont's criminal offenses and place each one in a standardized penalty classification system.

(2) The Commission shall develop a classification system that creates categories of criminal offenses on the basis of the maximum potential period of imprisonment and the maximum potential fine. The Commission shall propose legislation that places each of Vermont's criminal statutes into one of the classification offense categories it identifies.

(3) When determining the appropriate category for each offense, the Commission shall consider whether the existing statutory penalties for the offense are appropriate or in need of adjustment better to reflect prevailing average sentencing practices and the effective uses of criminal punishment. For purposes of this analysis, the Commission shall for each offense consider the average sentence and the average amount of time actually served. If the Commission is unable to determine an appropriate classification for a particular offense, the Commission shall indicate multiple classification possibilities for that offense. Unless there is a compelling rationale, the Commission shall not propose establishing new mandatory minimum sentences or increasing existing minimum or maximum sentences.

(4) For purposes of the classification system developed pursuant to this section, the Commission shall consider the recommendations of the Criminal Code Reclassification Study Committee and shall consider whether to propose:

(A) rules of statutory interpretation specifically for criminal provisions;

(B) the consistent use of mens rea terminology in all criminal provisions;

(C) a comprehensive section of definitions applicable to all criminal provisions;

(D) the decriminalization of some or all fine-only offenses and the transferal of them to the Judicial Bureau for consideration as civil offenses; and

(E) a redefinition of what constitutes an attempt in Vermont criminal law, including whether the Model Penal Code's definition of attempt should be adopted in Vermont.

(b)(1) On or before December 15, 2018, the Commission shall report to the Joint Justice Oversight Committee on its progress toward achieving the goals of this section. The report required by this subdivision may be provided by oral testimony.

(2) On or before November 30, 2019, the Commission shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

Sec. 4. APPROPRIATION

The sum of $50,000.00 is appropriated from the General Fund to the Judiciary in FY 2019 to carry out the purposes of this act. It is the intent of the General Assembly to fund at least the same amount in FY 2020.

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, 2021.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

In Sec. 4, in the first sentence, after the words "Judiciary in" by inserting the following: FY 2018 to carry forward to

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, and the recommendation of proposal of amendment of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered

H. 736.

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

An act relating to lead poisoning prevention.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By inserting a new Sec. 1 before the existing Sec. 1 to read as follows:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that the regulatory authority over lead poisoning prevention practices, which is currently divided between the State of Vermont and the U.S. Environmental Protection Agency (EPA), shall be assumed by the State. The Commissioner of Health shall take necessary steps to receive all appropriate authority from the EPA not later than December 2019.

Second: In Sec. 2, in 18 V.S.A. § 1751(b), in subdivision (18), following "or likely exposure to", by striking out the following: "lead-based paint" and inserting in lieu thereof the following: ~~lead-based paint~~ lead

Third: In Sec. 2, in 18 V.S.A. § 1751(b), in subdivision (22)(B), by striking out the following: "lead-based paint" in the second instance in which it appears and inserting in lieu thereof the following: lead

Fourth: In Sec. 2, in 18 V.S.A. § 1751(b), by renumbering the existing subdivision (24) to appear after the existing subdivision (27) and by renumbering all affected subdivisions to be numerically correct

Fifth: In Sec. 2, in 18 V.S.A. § 1763, in the first sentence, following "subsection 1759(e) of this chapter or", by striking out the following: "lead-based paint" and inserting in lieu thereof the following: ~~lead-based paint~~ lead

Sixth: In Sec. 2, in 18 V.S.A. § 1764, following "under subsection", by striking out the following: "1752(d)" and inserting in lieu thereof the following: ~~1752(d)~~ 1752(e)

Seventh: In Sec. 2, in 18 V.S.A. § 1765, in subsection (a), following "determines that", by striking out the following: "lead-based paint" and inserting in lieu thereof the following: ~~lead-based paint~~ lead and following "rental target", by striking out the word "property" and inserting in lieu thereof the following: ~~property~~ housing

Eighth: By inserting a new Sec. 3 before the effective date section to read as follows:

Sec. 3. STATUS UPDATES

On or before February 1 of 2019 and 2020, the Commissioner of Health shall provide a status update regarding the implementation of the lead poisoning prevention program to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

And by renumbering all sections to be numerically correct

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

By striking out the *Eighth* proposal of amendment in its entirety and inserting in lieu thereof the following:

Eighth: By inserting a new Sec. 3 to read as follows:

Sec. 3. STATUS UPDATES

On or before February 1 of 2019 and 2020, the Commissioner of Health shall provide a status update regarding the implementation of the lead poisoning prevention program and associated fees to the House Committees on Human Services and on Ways and Means and to the Senate Committees on Finance and on Health and Welfare.

And by renumbering the remaining sections to be numerically correct

And that the bill be further amended in Sec. 2, 18 V.S.A. § 1759(f), by striking out the word "implantation" and inserting in lieu thereof implementation

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 the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, the proposals of amendment recommended by the Committee on Health and Welfare, as amended, were severally agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 899.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to fees for records filed in town offices and a town fee report and request.

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:

Sec. 1. 32 V.S.A. § 1671 is amended to read:

§ 1671. TOWN CLERK FEES RELATED TO RECORDS; RESERVE FUND

(a) For the purposes of this section, a "page" is defined as a single side of a leaf of paper on which is printed, written, or otherwise placed information to be recorded or filed. The maximum covered area on a page shall be 7 1/2 inches by ~~14~~ 12 inches. All letters shall be at least one-sixteenth inch in height or in at least eight point type. Unless otherwise provided by law, the fees to town clerks shall be as follows:

(1) For recording a trust mortgage deed as provided in 24 V.S.A. § 1155, ~~$10.00 per page;~~ $20.00 for the first page and $15.00 for each additional page.

(2) For filing or recording a copy of a complaint to foreclose a mortgage as provided in 12 V.S.A. § 4523(b), ~~$10.00 per page;~~ $20.00 for the first page and $15.00 for each additional page.

(3) For examination of records by town clerk, a fee of $5.00 per hour may be charged but not more than $25.00 for each examination on any one calendar day~~;~~.

(4) For examination of records by others, a fee of $2.00 per hour may be charged~~;~~.

(5) ~~Town clerks may require fees for all filing, recording, and copying to be paid in advance;~~ [Repealed.]

(6)(A) ~~For~~ Except as provided in subdivisions (B) and (C) of this subdivision (6), for the recording or filing, or both, of any document that is to become a matter of public record in the town clerk's office, ~~or for any certified copy of such document,~~ a fee of ~~$10.00 per page shall be charged; except that for~~ $20.00 for the first page and $15.00 for each additional page.

(B) For the recording or filing, or both, of a property transfer return, a flat fee of ~~$10.00~~ $25.00 shall be charged~~;~~.

(C) For the recording or filing, or both, of documents issued by a municipal officer, employee, or entity, including land use permits, certificates of compliance or occupancy, and notices of violation, a flat fee of $15.00 shall be charged.

(7) For uncertified copies of records and documents on file, or recorded, a fee of $1.00 per page shall be charged, with a minimum fee of $2.00; however, copies of minutes of municipal meetings or meetings of local boards and commissions, copies of grand lists and checklists and copies of any public

records that any agency of that political subdivision has deposited with the clerk shall be available to the public at actual cost~~;~~.

(8) For survey plats filed in accordance with 27 V.S.A. chapter 17, a fee of ~~$15.00 per 11 inch by 17 inch sheet, $15.00 per 18 inch by 24 inch sheet, and $15.00 per 24 inch by 36 inch~~ $30.00 per sheet shall be charged.

(9) Unless otherwise specified by law, for any certified copy of a document that is a matter of public record in the town clerk's office, a fee of $10.00 per page shall be charged.

(b)(1) A schedule of all fees shall be posted in the town clerk's office.

(2) A town clerk may require fees for all filing, recording, and copying to be paid in advance.

(c)(1) The legislative body ~~may create~~ shall maintain a Restoration Reserve Fund ~~of no less than $0.50 per page and no more than $1.00 per page from recording fees established~~ into which shall be deposited:

(A) an amount equivalent to at least $10.00 for each record filed under subdivisions (a)(1) ~~and~~, (a)(2), (a)(6)(A), and (a)(8) of this section; and

(B) any additional fees collected under this section that the legislative body may approve for deposit into the Fund.

(3)(A) ~~The~~ Monies in the Restoration Reserve Fund shall be used solely for restoration, preservation, and conservation of municipal records. Permitted uses of Fund monies may include:

(i) the purchase of hardware or software related to carrying out these activities in a manner that is consistent with legal requirements; and

(ii) the acquisition or maintenance of safes or vaults as required under 24 V.S.A. § 1178.

(B) If a municipality has previously established the Fund, no additional action will be required.

(d) ~~A legislative body may establish or abolish a Restoration Reserve Fund only by affirmative vote at a legally warned meeting of the legislative body.~~ Nothing in this section shall preclude the legislative body of a municipality from committing funds to ~~a~~ the municipality's Restoration Reserve Fund in addition to those funds referenced in subsection (c) of this section.

Sec. 2. 32 V.S.A. § 606 is amended to read:

§ 606. LEGISLATIVE FEE REVIEW PROCESS; FEE BILL

When the consolidated fee reports and requests are submitted to the General Assembly pursuant to sections 605 ~~and~~, 605a, and 611 of this title, they shall

immediately be forwarded to the House Committee on Ways and Means, which shall consult with other standing legislative committees having jurisdiction of the subject area of a fee contained in the reports and requests. As soon as possible, the Committee on Ways and Means shall prepare and introduce a "consolidated fee bill" proposing:

(1) The creation, change, reauthorization, or termination of any fee.

(2) The amount of a newly created fee, or change in amount of an existing or reauthorized fee.

(3) The designation, or redesignation, of the fund into which revenue from a fee is to be deposited.

Sec. 3. 32 V.S.A. chapter 7, subchapter 6A is added to read:

Subchapter 6A. Town Fee Report and Request

§ 611. CONSOLIDATED TOWN FEE REPORT AND REQUEST

(a) As used in this section:

(1) "Cost" shall be narrowly construed, and may include reasonable and directly related costs of administration, maintenance, and other expenses due to providing the service or product or performing the regulatory function.

(2) "Fee" means a monetary charge collected by or on behalf of a town for a service or product provided to, or the regulation of, specified classes of individuals or entities.

(3) "Town" means a town, city, unorganized town or gore, and the unified towns and gores in Essex County.

(b) On or before the third Tuesday of the legislative session of 2019 and every three years thereafter, the Vermont Municipal Clerks' and Treasurers' Association and the Vermont League of Cities and Towns shall jointly submit a consolidated town fee report and request. The report shall be submitted to the House Committee on Ways and Means, the Senate Committee on Finance, and the House and Senate Committees on Government Operations. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(c) For each fee in existence on the preceding July 1, the report shall specify:

(1) its statutory authorization and termination date, if any;

(2) its current rate or amount and the date it was last set or adjusted by the General Assembly;

(3) the fund into which its revenues are deposited; and

(4) for each town, in each of the two previous fiscal years, the revenues derived from each fee.

(d) A fee request shall contain any proposal to:

(1) Create a new fee, or change, reauthorize, or terminate an existing fee, which shall include a description of the services provided or the function performed.

(2) Set a new or adjust an existing fee rate or amount. Each new or adjusted fee rate shall be accompanied by information justifying the rate, which may include:

(A) the relationship between the revenue to be raised by the fee or change in the fee and the cost or change in the cost of the service, product, or regulatory function supported by the fee;

(B) the inflationary pressures that have arisen since the fee was last set;

(C) the effect on budgetary adequacy if the fee is not increased;

(D) the existence of comparable fees in other jurisdictions;

(E) policies that might affect the acceptance or the viability of the fee amount; and

(F) other considerations.

(3) Designate, or redesignate, the fund into which revenue from a fee is to be deposited.

Sec. 4. EFFECTIVE DATE; TRANSITION

(a) This act shall take effect on July 1, 2018.

(b)(1) With regard to requests to file or record a document made through the mail for which insufficient fees have been tendered, until at least January 1, 2019, in lieu of imposing a requirement to pay fees for a filing or recording in advance under Sec. 1, 32 V.S.A. § 1671(b)(2), the town clerk or designee shall:

(A) file or record the document in the order received; and

(B) attempt to contact the sender to notify the sender of the deficiency in the amount tendered and the requirement to pay in full.

(2) The obligations to file or record the document and to contact a sender under this subsection shall not apply if the mailing does not include contact information in the form of a telephone number, e-mail address, facsimile number, or physical address. If such contact information is not

provided, the clerk may impose a requirement to pay fees for a filing or recording in advance pursuant to Sec. 1, 32 V.S.A. § 1671(b)(2).

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Campion, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to a town fee report and request.

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 the recommendation of proposal of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Government Operations, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 913.

Senator Pearson, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to boards and commissions.

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:

* * * Merger of Groundwater and Well Water Committees * * *

Sec. 1. 10 V.S.A. § 1392 is amended to read:

§ 1392. DUTIES; POWERS OF SECRETARY

(a) The Secretary shall develop a comprehensive groundwater management program to protect the quality of groundwater resources by:

* * *

(c)(1) The Secretary shall establish a groundwater coordinating committee, with representation from the Division of Drinking Water and Groundwater Protection within the Department, the Division of Geology and Mineral Resources within the Department, the Agency of Agriculture, Food and Markets, and the Departments of Forests, Parks and Recreation and of Health to provide advice in the development of the program and its implementation, on issues concerning groundwater quality and quantity, and on groundwater issues relevant to well-drilling activities and the licensure of well drillers.

(2) In carrying out his or her duties under this subchapter, the Secretary shall give due consideration to the recommendations of the groundwater coordinating committee.

(3) The Secretary may request representatives of other agencies and the private sector, including licensed well drillers, to serve on the groundwater coordinating committee.

* * *

Sec. 2. 10 V.S.A. § 1395b is amended to read:

§ 1395b. ~~WATER WELL ADVISORY COMMITTEE~~

~~(a) The Vermont water well advisory committee is created. The committee shall consist of seven members: the director of the groundwater and water supply division, the state geologist, a representative from the department of health, and four members appointed by the governor. Three of the four public members shall be licensed well drillers, with at least five years of experience. The fourth public member shall be a person not associated with the well-drilling business who has an interest in wells and water quality.~~

~~(b) The purpose of the committee is to advise and assist agency personnel in the formulation of policy, including recommended statutory and regulatory changes, regarding the proper installation and maintenance of water wells,~~

~~licensing of well drillers, and groundwater issues impacted by well-drilling activities. The committee shall promote and encourage cooperation and communication between governmental agencies, licensed well drillers, and members of the general public.~~

~~(c) Members shall be appointed for terms of five years, with the initial appointments of the public members made for lesser terms, so that the appointments do not all expire simultaneously. Vacancies shall be filled by the governor for the length of an unexpired term.~~

~~(d) The committee shall elect a chair and a secretary, and shall meet from time to time as may be necessary, but not less than quarterly.~~

~~(e) The public members of the committee shall be volunteers, and will serve without compensation.~~ [Repealed.]

Sec. 3. IMPLEMENTATION

(a) The terms of the members of the Vermont Water Well Advisory Committee shall expire on the effective date of this act.

(b) The Secretary of Natural Resources may provide those members with the opportunity to serve on the groundwater coordinating committee.

* * * Repeal of Valuation Appeal Board * * *

Sec. 4. 32 V.S.A. § 5407 is amended to read:

§ 5407. ~~VALUATION APPEAL BOARD~~

~~(a) There is established a Valuation Appeal Board to consist of five members. The members shall be appointed by the Governor with the advice and consent of the Senate, for three-year terms beginning February 1 of the year in which the appointment is made, except that one of the initial appointments shall be for a term of one year and two of the initial appointments shall be for a term of two years. A vacancy in the Board shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

~~(b) Persons serving on the Appeal Board shall be knowledgeable and experienced in at least one of the following fields: agriculture, business management, law, taxation, appraisal and valuation techniques, municipal affairs, or related areas. No member of the Valuation Appeal Board shall be otherwise employed by the State or be a lister. In making appointments, attention shall be given to the desirability of providing geographical balance to the degree reasonably practical.~~

~~(c) A Chair shall be designated biennially by the Governor from among the members of the Board and any vacancy in the Office of the Chair shall be filled by designation of the Governor.~~

~~(d) Members of the Valuation Appeal Board shall receive a sum not to exceed $80.00 per diem for each day of official duties of the Board together with reimbursement of reasonable expenses incurred in the performance of their duties, as determined by the Director of Property Valuation and Review.~~

~~(e) The Board shall be attached for administrative purposes to the Division of Property Valuation and Review of the Department of Taxes of the Agency of Administration.~~ [Repealed.]

Sec. 5. 32 V.S.A. § 5408 is amended to read:

§ 5408. PETITION FOR REDETERMINATION

(a) Not later than 35 days after mailing of a notice under section 5406 of this title, a municipality may petition the Director of Property Valuation and Review for a redetermination of the municipality's equalized education property value and coefficient of dispersion. ~~Such~~ The petition shall be in writing and shall be signed by the chair of the legislative body of the municipality or ~~his or her~~ designee.

(b)(1) Upon receipt of a petition for redetermination under subsection (a) of this section, the Director shall, after written notice, grant a hearing upon the petition to the aggrieved town.

(2) The Director shall thereafter notify the town and the Secretary of Education of his or her redetermination of the equalized education property value and coefficient of dispersion of the town or district, in the manner provided for notices of original determinations under section 5406 of this title.

(c)(1) A municipality, within 30 days ~~of~~ after the Director's redetermination, may appeal the redetermination to the ~~Valuation Appeal Board. The Board shall notify the appellee of the filing of the appeal. The appeal shall be heard de novo in the manner provided by 3 V.S.A. chapter 25 for the hearing of contested cases.~~

~~(d) A municipality or the Division of Property Valuation and Review may appeal from a decision of the Valuation Appeal Board to the~~ Superior Court of the county in which the municipality is located. The Superior Court shall hear the matter de novo in the manner provided by ~~V.R.C.P.~~ Rule 74 of the Vermont Rules of Civil Procedure.

(2) An appeal from the decision of the Superior Court shall be to the Supreme Court under the Vermont Rules of Appellate Procedure.

* * * Permitting Per Diems Currently Prohibited * * *

Sec. 6. 3 V.S.A. § 22 is amended to read:

§ 22. THE COMMISSION ON WOMEN

(a)(1) The Commission on Women is created as the successor to the Governor's Commission on Women established by Executive Order No. 20-86. The Commission shall be organized and have the duties and responsibilities as provided in this section.

(2) The Commission shall be an independent agency of the government of Vermont and shall not be subject to the control of any other department or agency.

(3) Members of the Commission shall be drawn from throughout the State and from diverse racial, ethnic, religious, age, sexual orientation, and socioeconomic backgrounds~~,~~ and shall have had experience working toward the improvement of the status of women in society.

(b) The Commission shall consist of 16 members, appointed as follows:

(1) Eight members shall be appointed by the Governor~~; no~~, not more than four of whom shall be from one political party.

(2)(A) ~~Six~~ Eight members shall be appointed by the ~~legislature~~ General Assembly, ~~three~~ four by the Senate Committee on Committees, and ~~three~~ four by the Speaker of the House~~; no~~.

(B) Not more than two appointees shall be members of the ~~legislature. Each~~ General Assembly, and each appointing authority shall appoint ~~no~~ not more than two members from the same political party.

~~(3) Two members, one each from the two major political parties.~~

(c) The terms of members shall be four years. ~~Members of the Commission currently appointed and serving pursuant to Executive Order No. 20-86 on July 1, 2002 may continue to serve for the duration of the four year term to which they were appointed. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of subsection (b) of this section, and made in the following order:~~

~~(1) For terms expiring on June 30, 2002, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the speaker.~~

~~(2) For terms expiring on June 30, 2003, two shall be made by the Governor, and one each shall be made by the two major political parties.~~

~~(3) For terms expiring on June 30, 2004, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the speaker.~~

~~(4) For terms expiring on June 30, 2005, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the Speaker. Thereafter, appointments~~ Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term.

(d)(1) Members of the Commission shall elect biennially by majority vote ~~a~~ the Chair of the Commission.

(2) Members of the Commission shall ~~receive no~~ be entitled to receive per diem compensation ~~for their services, but shall be entitled to~~ and reimbursement ~~for~~ of expenses ~~in the manner and amount provided to employees of the State~~ as permitted under 32 V.S.A. § 1010, which shall be paid by the Commission.

* * *

(i)(1) No part of any funds appropriated to the Commission by the ~~legislature~~ General Assembly shall, in the absence of express authorization by the ~~Legislature~~ General Assembly, be used directly or indirectly for legislative or administrative advocacy. The Commission shall review and amend as necessary all existing contracts and grants to ensure compliance with this subsection.

(2) ~~For purposes of~~ As used in this subsection, legislative or administrative advocacy means employment of a lobbyist as defined in 2 V.S.A. chapter 11, or employment ~~of~~, ~~or~~ establishment ~~of~~, or maintenance of~~,~~ a lobbyist position whose primary function is to influence legislators or State officials with respect to pending legislation or ~~regulations~~ rules.

Sec. 7. COMMISSION ON WOMEN; CURRENT TERMS

A member of the Commission on Women on the effective date of this act whose appointing authority is repealed under the provisions of Sec. 6 of this act may serve the remainder of her or his term.

Sec. 8. 10 V.S.A. § 1372 is amended to read:

§ 1372. MEMBERS~~,~~; APPOINTMENT~~,~~; TERM

(a) Within 30 days after he or she has executed the ~~compact~~ Compact with any or all of the states legally joined therein, the ~~governor~~ Governor shall appoint three persons to serve as commissioners to the New England Interstate Water Pollution Control Commission. The ~~commissioner of environmental~~

~~conservation~~ Commissioner of Environmental Conservation and the ~~commissioner of health~~ Commissioner of Health shall serve as ex officio commissioners ~~thereon~~ on the Commission.

(b) The commissioners so appointed shall hold office for six years. ~~Vacancies~~ A vacancy occurring in the office of ~~the commissioners~~ a commissioner shall be filled by the ~~governor~~ Governor for the unexpired portion of the term.

(c) The commissioners shall ~~serve without~~ be entitled to per diem compensation ~~but shall be paid for their actual~~ and reimbursement of expenses ~~incurred in and incident to the performance of their duties~~ as permitted under 32 V.S.A. § 1010.

(d) The commissioners shall have the powers and duties and be subject to limitations as set forth in the ~~compact~~ Compact.

* * * Joint Information Technology Oversight Committee * * *

Sec. 9. 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

(a) Creation. There is created the Joint Information Technology Oversight Committee to oversee investments in and use of information technology in Vermont.

(b) Membership. The Committee shall be composed of six members as follows:

(1) three members of the House of Representatives, not all of whom shall be from the same political party, who shall be appointed by the Speaker of the House; and

(2) three members of the Senate, not all of whom shall be from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall oversee, evaluate, and make recommendations on the following:

(1) the State's current deployment, management, and oversight of information technology in the furtherance of State governmental activities, including data processing systems, telecommunications networks, and related technologies, particularly with regard to issues of compatibility among existing and proposed technologies;

(2) issues related to the storage of, maintenance of, access to, privacy of, and restrictions on use of computerized records;

(3) issues of public policy related to the development and promotion of the private, commercial, and nonprofit information infrastructure in the State, its relationship to the State government information infrastructure, and its integration with national and international information networks; and

(4) cybersecurity.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Meetings.

(1) The Speaker of the House and the Committee on Committees shall appoint one member from the House and one member of the Senate as co-chairs of the Committee.

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

(3) The Committee may meet when the General Assembly is in session or at the call of the co-chairs.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

* * * Sunset Advisory Commission * * *

Sec. 10. 3 V.S.A. § 268 is added to read:

§ 268. BOARDS AND COMMISSIONS; SUNSET ADVISORY COMMISSION

(a) Creation.

(1) There is created the Sunset Advisory Commission to review existing State boards and commissions, to recommend the elimination of any board or commission that it deems no longer necessary or the revision of any of the powers and duties of a board or commission, and to recommend whether members of the boards and commissions should be entitled to receive per diem compensation.

(2) As used in this section, "State boards and commissions" means professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, and any other boards or commissions of the State.

(b) Membership.

(1) The Commission shall be composed of the following six members:

(A) two current members of the House of Representatives who shall not both be from the same political party and one of whom shall be appointed co-chair, who shall be appointed by the Speaker of the House;

(B) two current members of the Senate, who shall not both be from the same political party and one of whom shall be appointed co-chair, who shall be appointed by the Committee on Committees; and

(C) two persons appointed by the Governor.

(2) Members shall be appointed at the beginning of each biennium. A member shall serve biennially and until his or her successor is appointed, except that a legislative member's term on the Commission shall expire on the date he or she ceases to be a member of the General Assembly.

(c) Powers and duties. The Commission shall have the following powers and duties:

(1) Inventory; group; review schedule.

(A)(i) The Commission shall inventory all of the State boards and commissions, organize them into groups, and establish a schedule to conduct a review of one group each biennium.

(ii) The inventory shall include the names of the members of the State boards and commissions, their term length and expiration, and their appointing authority.

(B) The Commission shall provide its inventory of the State boards and commissions to the Secretary of State for the Secretary to maintain as set forth in section 116a of this title.

(2) Biennial review.

(A) Each biennium, the Commission shall review all of the State boards and commissions within one of its inventoried groups and shall take testimony regarding whether each of those boards and commissions should continue to operate or be eliminated and whether the powers and duties of any of those boards and commissions should be revised.

(B) In its review of each State board and commission, the Commission shall consider:

(i) the purpose of the board or commission and whether that purpose is still needed;

(ii) how well the board or commission performs in executing that purpose; and

(iii) if the purpose is still needed, whether State government would be more effective and efficient if the purpose were executed in a different manner.

(C) Each board and commission shall have the burden of justifying its continued operation.

(D) For any board or commission that the Commission determines should continue to operate, the Commission shall also determine whether members of that board or commission should be entitled to receive per diem compensation and if so, the amount of that compensation.

(3) Biennial report. On or before the end of the biennium during which it reviews a group, the Commission shall submit to the House and Senate Committees on Government Operations its findings, any recommendation to eliminate a State board or commission within that group or to revise the powers and duties of a board or commission within the group, its recommendations regarding board or commission member per diem compensation, and any other recommendations for legislative action. The Commission shall also specifically recommend whether there should be changes to the information the Secretary of State provides in his or her inventory of the State boards and commissions as set forth in 3 V.S.A. § 116a. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(d) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of Legislative Council, the Joint Fiscal Office, and the Agency of Administration.

(e) Compensation and expense reimbursement.

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

(2) Other members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings per year. These payments shall be made from monies appropriated to the Agency of Administration.

Sec. 11. TRANSITIONAL PROVISION; INITIAL SUNSET ADVISORY COMMISSION

The members of the initial Sunset Advisory Commission established in 3 V.S.A. § 268 in Sec. 10 of this act shall be appointed on or before October 1, 2018 and shall meet prior to the 2019-2020 biennium in order to inventory all of the State boards and commissions and organize them into groups as described in Sec. 10 of this act in 3 V.S.A. § 268(c) so as to be able to review all groups within two bienniums, and during the 2019-2020 biennium those members shall conduct the first biennial review of a group in accordance with that subsection.

Sec. 12. SUNSET OF THE SUNSET ADVISORY COMMISSION

3 V.S.A. § 268 (boards and commissions; Sunset Advisory Commission) is repealed on January 4, 2023.

* * * Secretary of State; Inventory of Boards and Commissions * * *

Sec. 13. 3 V.S.A. § 116a is added to read:

§ 116a. MAINTENANCE OF INVENTORY OF STATE BOARDS AND COMMISSIONS

(a)(1) The Secretary of State shall maintain and make available on his or her official website an inventory of the State boards and commissions, and shall update that inventory when changes are made that affect the information provided in the inventory.

(2)(A) The inventory shall include the names of the members of each State board and commission, their term length and expiration, and their appointing authority.

(B) Each State board and commission shall be responsible for providing to the Secretary of State this inventory information and any updates to it.

(b) As used in this section, "State boards and commissions" means professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, and any other boards or commissions of the State.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except that Sec. 13, 3 V.S.A. § 116a (Secretary of State; maintenance of inventory of State boards and commissions) shall take effect on January 1, 2019.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations?, Senator White moved to amend the proposal of amendment of the Committee on Government Operations, in Sec. 14 after the words "except that" by inserting the following: Sec. 9. 2 V.S.A. chapter 18 shall take effect on passage and

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations, as amended?, Senators Ayer, Clarkson, Collamore, Pearson and White moved to amend the proposal of amendment of the Committee on Government Operations, as amended, by adding a reader assistance heading and a new section to be Sec. 13a to read as follows:

* * * Membership of Health Reform Oversight Committee * * *

Sec. 13a. 2 V.S.A. § 691 is amended to read:

§ 691. COMMITTEE CREATION

There is created the legislative Health Reform Oversight Committee. The Committee shall be composed of the following eight members:

* * *

(8) ~~the Chair of the Senate Committee on Economic Development, Housing and General Affairs~~ one member of the Senate appointed by the Committee on Committees.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Government Operations, as amended was agreed to and third reading of the bill was ordered.

Rules Suspended; House Proposal of Amendment Concurred in With an Amendment

H. 25.

Appearing on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to sexual assault survivors' rights.

Was taken up for immediate consideration.

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

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

Sec. 1. 13 V.S.A. § 4003 is amended to read:

§ 4003. CARRYING DANGEROUS WEAPONS

A person who carries a dangerous or deadly weapon~~, openly or concealed,~~ with the intent ~~or avowed purpose of injuring a fellow man, or who carries a dangerous or deadly weapon within any state institution or upon the grounds or lands owned or leased for the use of such institution, without the approval of the warden or superintendent of the institution,~~ to injure another in violation of the criminal laws of this State shall be imprisoned for not more than two years or fined not more than ~~$200.00~~ $2,000.00, or both. It shall be a felony punishable by not more than 10 years of imprisonment or a fine of $25,000.00, or both, if the person intends to injure multiple persons.

Sec. 2. 13 V.S.A. § 1703 is added to read:

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

(1) "Domestic terrorism" means engaging in or taking a substantial step to commit a violation of the criminal laws of this State with the intent to:

(A) cause death or serious bodily injury to multiple persons; or

(B) place any civilian population in reasonable apprehension of death or serious bodily injury.

(2) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(3) "Substantial step" shall mean conduct that is strongly corroborative of the actor's criminal purpose. Without negating the sufficiency of other

conduct, the following, if strongly corroborative of the actor's criminal purpose, shall not be held insufficient as a matter of law:

(A) lying in wait, searching for, or following the contemplated victim of the crime;

(B) enticing or seeking to entice the contemplated victim of the crime to go to the place contemplated for the commission of the crime;

(C) reconnoitering the place contemplated for the commission of the crime;

(D) unlawfully entering a structure, vehicle, or enclosure contemplated for the commission of the crime;

(E) possessing materials to be employed in the commission of the crime that are:

(i) specially designed for such unlawful use; or

(ii) that can serve no lawful purpose under the circumstances;

(F) possessing, collecting, or fabricating materials to be employed in the commission of the crime, at or near the place contemplated for its commission, if such possession, collection, or fabrication serves no lawful purpose of the actor under the circumstances; or

(G) soliciting an innocent agent to engage in conduct constituting an element of the crime.

(b) A person who willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than $50,000.00, or both.

(c) It shall be an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the crime or otherwise prevented its commission under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose. The establishment of such a defense does not affect the liability of an accomplice who did not join in such abandonment or prevention. Renunciation of criminal purpose is not voluntary if it is motivated, in whole or in part, by circumstances, not present or apparent at the inception of the actor's course of conduct, that increase the probability of detection or apprehension or that make more difficult the accomplishment of the criminal purpose. Renunciation is not complete if it is motivated by a decision to postpone the criminal conduct until a more advantageous time or to transfer the criminal effort to another but similar objective or victim or group of victims.

Sec. 3. 13 V.S.A. § 4004 is amended to read:

§ 4004. POSSESSION OF DANGEROUS OR DEADLY WEAPON IN A SCHOOL BUS OR SCHOOL BUILDING OR ON SCHOOL PROPERTY

(a) No person shall knowingly possess a firearm or a dangerous or deadly weapon while within a school building or on a school bus. A person who violates this section shall, for the first offense, be imprisoned for not more than one year or fined not more than $1,000.00, or both, and for a second or subsequent offense shall be imprisoned for not more than three years or fined not more than $5,000.00, or both.

(b) No person shall knowingly possess a firearm or a dangerous or deadly weapon on any school property with the intent to injure another person. A person who violates this section shall, for the first offense, be imprisoned for not more than ~~two~~ three years or fined not more than $1,000.00, or both, and for a second or subsequent offense shall be imprisoned for not more than ~~three~~ five years or fined not more than $5,000.00, or both.

(c) This section shall not apply to:

(1) A law enforcement officer while engaged in law enforcement duties.

(2) Possession and use of firearms or dangerous or deadly weapons if the board of school directors, or the superintendent or principal if delegated authority to do so by the board, authorizes possession or use for specific occasions or for instructional or other specific purposes.

(d) As used in this section:

(1) "School property" means any property owned by a school, including motor vehicles.

(2) "Owned by the school" means owned, leased, controlled, or subcontracted by the school.

(3) "Dangerous or deadly weapon" ~~has~~ shall have the same meaning ~~defined~~ as in section 4016 of this title.

(4) "Firearm" ~~has~~ shall have the same meaning ~~defined~~ as in section 4016 of this title.

(5) "Law enforcement officer" ~~has~~ shall have the same meaning ~~defined~~ as in section 4016 of this title.

(e) The provisions of this section shall not limit or restrict any prosecution for any other offense, including simple assault or aggravated assault.

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 domestic terrorism"

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment, as follows:

First: In Sec. 1, 13 V.S.A. § 4003, in the first sentence, by striking out the words "in violation of the criminal laws of this State"

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 13 V.S.A. § 1703 is added to read:

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

(1) "Domestic terrorism" means engaging in or taking a substantial step to commit a violation of the criminal laws of this State with the intent to:

(A) cause death or serious bodily injury to multiple persons; or

(B) threaten any civilian population with mass destruction, mass killings, or kidnapping.

(2) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(3) "Substantial step" shall mean conduct that is strongly corroborative of the actor's intent to complete the commission of the offense.

(b) A person who willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than $50,000.00, or both.

(c) It shall be an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the crime or otherwise prevented its commission under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

Which was agreed to, Yeas 27, Nays 0.

Senator Ashe 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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: McCormack, Starr, Westman.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S.166, H. 25, H. 874, H. 908, H. 910.

Rules Suspended; Bill Committed

H. 196.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

An act relating to paid family leave.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Economic Development, Housing and General Affairs, 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 Economic Development, Housing and General Affairs and the Committee on Finance *intact*,

Which was agreed to.

Rules Suspended; Bill Committed

H. 917.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

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

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Transportation, 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 Transportation and the Committee on Finance *intact*,

Which was agreed to.

Committee of Conference Appointed

H. 924.

An act relating to making appropriations for the support of government.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Kitchel
Senator Sears
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the third day of May, 2018 he approved and signed a bill originating in the Senate of the following title:

S. 182. An act relating to the investment authority of municipal trustees of public funds.

Adjournment

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

FRIDAY, MAY 4, 2018

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. 60

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 175. An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

S. 206. An act relating to business consumer protection for point-of-sale equipment leases.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 17. Joint resolution opposing the U.S. Environmental Protection Agency's proposed rollback of federal motor vehicle emission standards.

In the adoption 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. 58. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The House has considered Senate proposal of amendment to House proposals of amendment to Senate bill of the following title:

S. 92. An act relating to interchangeable biological products.

And has concurred therein.

The House has considered Senate proposals of amendment to House bill entitled:

H. 780. An act relating to portable rides at agricultural fairs, field days, and other similar events.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Lawrence of Lyndon
Reps. Bartholomew of Hartland
Rep. Young of Glover.

The Governor has informed the House that on May 2, 2018, he approved and signed bills originating in the House of the following titles:

H. 906. An act relating to professional licensing for service members and veterans.

H. 429. An act relating to establishment of a communication facilitator program.

H. 300. An act relating to the statute of limitations for recovery and possession of property actions against the grantee of a tax collector's deed.

The Governor has informed the House that on May 3, 2018, he approved and signed bills originating in the House of the following titles:

H. 693. An act relating to the Honor and Remember Flag.

H. 199. An act relating to reinstating legislative members to the Commission on Alzheimer's Disease and Related Disorders.

Joint Resolution Placed on Calendar

J.R.S. 59.

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

By All Members of the Senate,

J.R.S. 59. Joint resolution supporting the Gettysburg Battlefield Preservation Association's effort to preserve the Camp Letterman hospital site.

Whereas, Vermonters honor the memory of Dr. Henry Janes, the Waterbury village physician and U.S. Army surgeon sent to Gettysburg immediately after the battle to take charge of all the wounded, and

Whereas, Doctor Janes established the main hospital, called Camp Letterman, east of the village of Gettysburg, and

Whereas, much of the site of Camp Letterman is part of a 191-acre parcel that the land developer S&A Homes owns and plans to develop for townhouses, and

Whereas, an extensive list of Civil War-related associations, historians, and historical societies have asked that the 17 key acres of Camp Letterman be preserved, and

Whereas, those precious acres include the area where the tents containing the wounded were located, and

Whereas, Vermont wounded were treated there, including members of the Second Vermont Brigade that broke the right flank of Pickett's Charge, and

Whereas, the wounded Vermonters were among the 4,000 Union and Confederate soldiers who were patients at Camp Letterman, and not all of these patients survived, and

Whereas, if the 17 acres that were a part of Camp Letterman are not preserved, a major Civil War site, important to the Civil War history of Vermont, will be lost, and

Whereas, Vermonters have long rallied to the preservation of sites that are dear to our State's and our nation's history, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly supports the Gettysburg Battlefield Preservation Association's effort to preserve the Camp Letterman hospital site and requests that S&A Homes preserve these 17 acres of historic ground, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Gettysburg Battlefield Preservation Association and to S&A Homes in State College, Pennsylvania.

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 Referred

J.R.H. 17.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution opposing the U.S. Environmental Protection Agency's proposed rollback of federal motor vehicle emission standards.

Whereas, the federal Greenhouse Gas Emission Standards, the Corporate Average Fuel Economy (CAFE) Standards, and the waiver allowing California vehicle emissions standards to be more stringent than those of the federal government have saved tens of thousands of American lives, reduced U.S. carbon emissions by millions of tons of CO_2, and saved American motorists billions of dollars in fuel costs, and

Whereas, these programs and the waiver authority are under the jurisdiction of the federal Clean Air Act, and have contributed to a modern automobile that lasts longer, requires far fewer tune-ups, pollutes the air considerably less, and requires less fuel to operate, and

Whereas, in the 1970s, U.S. Representative James Jeffords fought for the strongest possible auto emissions standards and unsuccessfully advocated for a minimum mileage standard instead of the adopted average standard, and

Whereas, Vermont has joined with other states and the District of Columbia, including Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, and Washington in adopting the more stringent California vehicle emissions standards, and

Whereas, if fuel efficiency had not improved from 2005 through 2015, including as a result of the current standards adopted in 2012, households would have spent 25 percent more on fuel, and

Whereas, even with the slightly higher purchase price attributable to incorporating the technology required to comply with the 2012 standards, the average new vehicle buyer starts saving during the first month of ownership, and

Whereas, the International Council on Clean Transportation recently found that, due to technological improvements and innovation, compliance costs for model years 2022–2025 will be 34 percent to 40 percent lower than originally projected, and

Whereas, auto manufacturers are already complying with the 2012 standards, and more than half of the new vehicles introduced in 2017 already meet the 2020 level of the standards, and 32 percent comply with the 2025 level, and

Whereas, Synapse Energy Economics has reported that the 2022 and 2025 standards will create more than 100,000 U.S. jobs in the auto industry by 2025 and more than 250,000 by 2035, and

Whereas, the American Lung Association recently released a poll showing that voters overwhelmingly support the U.S. Environmental Protection Agency's (EPA) current fuel efficiency standards for cars, SUVs, and light trucks in model years 2022 to 2025, and the poll also found that nearly seven in 10 voters want the EPA to leave current fuel efficiency standards in place, and

Whereas, the best-selling passenger car in America — while more fuel efficient than its earlier models— earned the National Highway Traffic Safety Administration's highest-possible, 5-star rating in every safety category and earned a 2017 Top Safety Pick Plus designation from the Insurance Institute for Highway Safety, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly commends the Agency of Natural Resources and the Vermont Attorney General for their expressed opposition to the EPA's proposal to roll back any of the Greenhouse Gas Emissions or CAFE Standards or to revoke the emissions waiver granted to California under the Clean Air Act, and be it further

Resolved: That the General Assembly urges the Vermont Attorney General to join in any legal action against the EPA's authority to adopt these regulatory changes, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the EPA Administrator, the Secretary of Natural Resources, the Vermont Attorney General, and the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was treated as a bill and referred to the Committee on Natural Resources and Energy.

Consideration Resumed; Bill Recommitted

H. 614.

Consideration was resumed on House bill entitled:

An act relating to the sale and use of fireworks.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as *firstly* proposed by the Committee on Economic Development, Housing and General Affairs?, on motion of Senator Sirotkin the bill was recommitted to the Committee on Economic Development, Housing and General Affairs.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 911.

Consideration was resumed on House bill entitled:

An act relating to changes in Vermont's personal income tax and education financing system.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Finance?, was agreed to on a roll call, Yeas 26, Nays 3.

Senator Ashe 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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, White.

Those Senators who voted in the negative were: Benning, Collamore, Flory.

The Senator absent and not voting was: Westman.

Thereupon, the question, Shall the bill be read the third time?, was decided in the affirmative.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In with Amendment

H. 143.

House proposal of amendment to Senate Proposal of Amendment to House bill entitled:

An act relating to automobile insurance requirements and transportation network companies.

Was taken up.

The House concurs in the Senate proposal of amendment with further amendment thereto by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that this act is a step toward uniform regulation of all vehicle for hire companies and vehicle for hire drivers in Vermont.

Sec. 2. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) "Digital network" or "network" means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(2) "Personal vehicle" means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) "Prearranged ride" or "ride" means the transportation provided by a driver to a transportation network company rider, beginning when a driver accepts the rider's request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) "Transportation network company" or "company" means a person that uses a digital network to connect riders to drivers who provide prearranged rides.

(5) "Transportation network company driver" or "driver" means an individual who:

(A) receives connections to potential riders and related services from a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) "Transportation network company rider" or "rider" means an individual who uses a company's digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the rider.

(b) Company's financial responsibility.

(1) Beginning on July 1, 2018, a driver, or company on the driver's behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company's digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company's digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least $50,000.00 for death and bodily injury per person, $100,000.00 for death and bodily injury per incident, and $25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least $1,000,000.00 for death, bodily injury, and property damage; and

(ii) uninsured and underinsured motorist coverage that provides at least $1,000,000.00 for death, bodily injury, and property damage.

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of this subsection has lapsed or does not provide the required coverage, insurance maintained by the company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident or traffic violation, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident or traffic violation.

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty consistent with subsection 800(b) of this title, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a civil penalty consistent with subsection 800(d) of this title. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

(c) Disclosures. A transportation network company shall disclose in writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the company's network and available to receive transportation requests or engaged in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

(A) liability coverage for bodily injury and property damage;

(B) personal injury protection coverage;

(C) uninsured and underinsured motorist coverage;

(D) medical payments coverage;

(E) comprehensive physical damage coverage; and

(F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the

12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

§ 751. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the company's network without requiring the individual to submit to the company an application that includes:

(1) the individual's name, address, and date of birth;

(2) a copy of the individual's driver's license;

(3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and

(4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) contracts with an accredited entity to conduct a local, State, and national background check of the individual, including the multistate-multijurisdiction criminal records locator or other similar national database, the U.S. Department of Justice national sex offender public website, and the Vermont sex offender public website;

(B) confirms that the individual is at least 18 years of age and, if the individual is 18 years of age, he or she has at least one year of driving experience or has been issued a commercial driver license; and

(C) confirms that the individual possesses proof of registration, automobile liability insurance, and proof of inspection if required by the state of vehicle registration for the vehicle to be used to provide prearranged rides.

(2) The background checks required by this subsection shall be conducted annually by the company.

(3) With respect to a person who is a driver as of the effective date of this act, the requirements of subdivision (1)(A) of this subsection (b) shall be deemed satisfied if the background check is completed within 30 days of the effective date of this act or if a background check that satisfies the requirements of subdivision (1)(A) of this subsection (b) was conducted by the

company on or after July 1, 2017. This subdivision shall not be construed to exempt drivers from undergoing an annual background check as required under subdivision (2) of this subsection (b).

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) a felony level violation of 18 V.S.A. chapter 84 for selling, dispensing, or trafficking a regulated drug;

(C) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(D) a felony violation of 13 V.S.A. chapter 47 (frauds) or 57 (larceny and embezzlement); or

(E) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1091 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction;

(3) has been subject to a civil suspension within the last seven years under section 1205 (operating a vehicle while under the influence of alcohol or drugs) of this title; or

(4) is listed on the U.S. Department of Justice national sex offender public website or the Vermont sex offender public website or has been convicted of homicide, manslaughter, kidnapping, or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(d) A company shall establish and enforce a zero tolerance policy for drug and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(e) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

§ 752. RECORDS; INSPECTION

(a) The Commissioner of Motor Vehicles or designee, not more frequently than once per year, shall visually inspect a random sample of up to 25 drivers' records per company demonstrating compliance with the requirements of this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont. A company shall have an ongoing duty to make such records available for inspection under this section during reasonable business hours and in a manner approved by the Commissioner.

(b) The Commissioner or designee may visually inspect additional random samples of drivers' records if there is a reasonable basis to suspect that a company is not in compliance with this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont.

(c) If the Commissioner receives notice of a complaint against a company or a driver, the company shall cooperate in investigating the complaint, including producing any necessary records.

(d) Any records, data, or information disclosed to the Commissioner by a company, including the names, addresses, and any other personally identifiable information regarding drivers, are exempt from inspection and copying under the Public Records Act and shall not be released.

§ 753. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty pursuant to this section if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than $500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

(1) a factual description of the alleged violation;

(2) a reference to the particular statute allegedly violated;

(3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

§ 754. PREEMPTION; SAVINGS CLAUSE

(a) Municipal ordinances, resolutions, or bylaws regulating transportation network companies are preempted to the extent they are inconsistent with the provisions of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2020.

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Motor Vehicles, the Director of the Office of Professional Regulation, and representatives from other State agencies and departments, as the Commissioner deems necessary, and with input from the Vermont League of Cities and Towns and industry and consumer stakeholders, including representatives of transportation network companies (TNCs) and non-TNC companies and career drivers, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be regulated by the State, and how State regulations would affect relevant municipal regulations. Among other things, the Commissioner shall consider:

(1) issues related to public safety, necessity, and convenience;

(2) regulatory models adopted in other state and local jurisdictions, including in both urban and rural municipalities in Vermont, applicable to transportation network companies and other vehicle for hire companies;

(3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;

(4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures, generally, and with consideration of other, similarly situated jurisdictions, other commercial automobile policy requirements, enhanced personal liability coverage for drivers, and the costs and benefits of requiring Med Pay coverage;

(5) matters related to fares, including the provision of fare estimates to riders, restrictions on "surge pricing," and payment methods;

(6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees and, if applicable, recommended amounts; the employment status of drivers; and increased access for people with disabilities;

(7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and

(8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a "vehicle for hire" is a passenger vehicle transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

(1) those which an employer uses to transport employees;

(2) those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15);

(3) buses, trolleys, trains, or similar mass transit vehicles;

(4) courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2018, the Commissioner shall submit a progress report outlining his or her findings and recommendations to the Chairs of the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

(d) On or before January 15, 2019, the Commissioner shall submit a final report of his or her findings and recommendations to the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

Sec. 4. TNC INSURANCE REQUIREMENTS; STUDY

(a) The Commissioner of Financial Regulation shall conduct a study regarding the statutory minimum levels of financial responsibility applicable to transportation network companies (TNC) in Vermont, in particular, the minimums required under 23 V.S.A. § 750(b)(2)(A)(i) (the so-called "gap period"). The purpose of the study is to ensure these requirements correlate with potential liability exposure so that persons are made whole in the event of an automobile accident involving a transportation network company driver.

(b) Consistent with the purpose of this section, and in a form and manner prescribed by the Commissioner, each TNC company doing business in Vermont shall submit claims data elements necessary to inform the Commissioner's determination with respect to the appropriateness of the statutory minimum levels of financial responsibility. Any data disclosed to the Commissioner by a company pursuant to this section are exempt from inspection and copying under the Public Records Act and shall not be released.

(c) On or before January 15, 2019, the Commissioner shall report his or her aggregated findings and recommendations to the House Committees on Commerce and Economic Development and on Judiciary and the Senate Committees on Judiciary and on Finance.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to transportation network companies.

Thereupon, pending the question, Shall the Senate concur in the House proposal to the Senate proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment to the Senate proposal of amendment with an amendment as follows:

First: In Sec. 2, 23 V.S.A. chapter 10, in § 750(b)(3), by striking out subdivision (A) in its entirety and by inserting in lieu thereof a new subdivision (A) to read as follows:

(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least $1,000,000.00 for death, bodily injury, and property damage;

(ii) uninsured and underinsured motorist coverage that provides at least $1,000,000.00 for death, bodily injury, and property damage; and

(iii) $10,000.00 in medical payments coverage (Med Pay).

Second: In Sec. 2, 23 V.S.A. chapter 10, in § 751(c)(3), by striking out the word "seven" and by inserting in lieu thereof three

Which was agreed to.

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 132. An act relating to limiting landowner liability for posting the dangers of swimming holes.

H. 660. An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification.

H. 736. An act relating to lead poisoning prevention.

H. 899. An act relating to fees for records filed in town offices and a town fee report and request.

H. 913. An act relating to boards and commissions.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 925. An act relating to approval of amendments to the charter of the City of Barre.

H. 926. An act relating to approval of amendments to the charter of the Town of Colchester.

Third Reading Ordered

H. 927.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the City of Montpelier.

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.

Rules Suspended; Bills Delivered

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

H. 132, H. 143, H. 660, H. 736, H. 899, H. 913, H. 925, H. 926.

Adjournment

On motion of Senator Ashe, the Senate adjourned until twelve o'clock and fifty minutes in the afternoon.

Afternoon

The Senate was called to order by the President.

Proposals of Amendment; Bill Passed in Concurrence with Proposals of Amendment

H. 912.

House bill entitled:

An act relating to the health care regulatory duties of the Green Mountain Care Board.

Was taken up.

Thereupon, pending third reading of the bill, Senator Pearson moved to amend the Senate proposal of amendment as follows:

First: In Sec. 18, 18 V.S.A. § 9374(c), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(c)(1) No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to supervision or regulation by the Board; provided that ~~for a health care practitioner, the employment restriction in this subdivision shall apply only to administrative or managerial employment or affiliation with a hospital or other health care facility, as defined in section 9432 of this title, and shall not be construed to limit generally the ability of the health care practitioner to practice his or her profession~~ these restrictions shall not preclude a Board member who is a health care professional from participating in an accountable care organization as long as the Board member is not otherwise affiliated in any way with a person subject to supervision or regulation by the Board.

Second: In Sec. 20, effective dates, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Sec. 18 shall take effect on passage and shall apply beginning with the first vacancy occurring on the Green Mountain Care Board on or after that date; provided, however, that it shall not be construed to disqualify a non-health care professional member serving on the Board on the date of passage of this act from being reappointed after the date of passage to serve one or more additional terms.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Pearson?, Senator Lyons requested that the question be divided.

Thereupon, the *first* proposal of amendment was decided in the affirmative on a division of the Senate Yeas 14, Nays 14. There being a tie, the Secretary took the vote of the President who voted "Yea".

Thereupon, the *second* proposal of amendment was decided in the affirmative.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Proposal of Amendment; Third Reading Ordered

H. 636.

Senator Rodgers, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to miscellaneous fish and wildlife subjects.

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:

* * * Information Collection * * *

Sec. 1. 10 V.S.A. § 4132 is amended to read:

§ 4132. GENERAL DUTIES OF COMMISSIONER

(a) The Commissioner shall have charge of the enforcement of the provisions of this part.

* * *

(f) The Commissioner may collect data, conduct scientific research, and contract with qualified consultants for the purposes of managing fish and wildlife in the State and achieving the requirements and policies of this part.

The Commissioner may designate as confidential any records produced or acquired by Department staff or contractors in the conduct of a study of or research related to fish, wildlife, wild plants, or the habitat of fish, wildlife, or wild plants, if release of the records would present a threat of harm to a species or the habitat of a species. Records designated as confidential under this subsection shall be exempt from inspection and copying under the Public Records Act. Records of Department staff or contractors that are not designated as confidential under this subsection shall be available for inspection and copying under the Public Records Act.

* * * Acquisition of Property; Grants * * *

Sec. 2. 10 V.S.A. § 4144(a) is amended to read:

(a) The ~~secretary~~ Secretary with approval of the Governor may acquire for the use of the ~~State~~ Department of Fish and Wildlife by gift, purchase, or lease ~~in the name of the State,~~ any and all rights and interests in lands, ponds, or streams, and hunting and fishing rights and privileges in any lands or waters in the State, ~~with~~ and the necessary rights of ingress or egress to and from such lands and waters. The Secretary's authority to acquire property interests under this section shall include all of the interests that may be acquired under subsection 6303(a) of this title.

Sec. 3. 10 V.S.A. § 4147 is amended to read:

§ 4147. FISH AND WILDLIFE LANDS

(a) Notwithstanding the provisions of 29 V.S.A. § 166, the Secretary with the approval of the Governor~~,~~ may convey, exchange, sell, or lease lands ~~under the Secretary's jurisdiction~~ of the Department of Fish and Wildlife for one or more of the following purposes:

(1) resolving trespass issues and implementing boundary line adjustments and right-of-way and deed corrections, provided that the transfers are advantageous to the State;

(2) implementing the acquisition of new lands for conservation and public recreation when, in his or her judgment, it is advantageous to the State ~~to do so in the highest orderly development of such lands and management of game thereon~~.

(b) ~~Provided, however, such~~ The lease, sale, or exchange of lands under this section shall not include oil and gas leases and shall not be contrary to the terms of any contract ~~which~~ that has been entered into by the State.

* * *

* * * Licensing; Lottery Applications * * *

Sec. 4. 10 V.S.A. § 4254(e) is amended to read:

(e) The Commissioner shall establish:

(1) license agencies, for the sale and distribution of licenses or lottery applications for licenses, including any town clerk who desires to sell licenses or process lottery applications for licenses;

(2) the number, type, and location of license agencies, other than town clerk agencies;

(3) the qualifications of all agencies and agents except town clerks;

(4) controls for the inventory, safeguarding, issue, and recall of all licensing materials;

(5) the times and methods for reporting the sale and issuance of all licenses;

(6) procedures for accounting for and return of all monies and negotiable documents due the Department from agencies in accordance with the provisions of this title and Title 32 of the Vermont Statutes Annotated;

(7) procedures for the audit of all license programs and license agency transactions and the proper retention and inspection of all accounting and inventory records related to the sale or issuance of licenses;

(8) procedures for the suspension of any license agent or agency, including a town clerk agent, for noncompliance with the provisions of this title, any written agreement between the agent and the Department, or any licensing rule established by the Department;

(9) that for each license or lottery application, $1.50 of the fee is a filing fee that may be retained by the agent, except for the super sport license for which $5.00 of the fee is a filing fee that may be retained by the agent; and

(10) that for licenses, lottery applications, and tags issued where the Department does not receive any part of the fee, $1.50 may be charged as a filing fee and retained by the agent.

* * * Migratory Waterfowl Stamp Program * * *

Sec. 5. 10 V.S.A. § 4277 is amended to read:

§ 4277. MIGRATORY WATERFOWL STAMP PROGRAM

(a) Definitions. As used in this section:

(1) "Migratory waterfowl" means all waterfowl species in the family anatidae, including wild ducks, geese, brant, and swans.

(2) "Stamp" means the State migratory waterfowl hunting stamp furnished by the Department of Fish and Wildlife as provided for in this section and the federal migratory waterfowl stamp furnished by the U.S. Department of the Interior.

(b) Waterfowl stamp required. No person 16 years of age or older shall attempt to take or take any migratory waterfowl in this State without first obtaining a State and federal migratory waterfowl stamp for the current year in addition to a regular hunting license as provided by section 4251 of this title. A stamp shall not be transferable. The State stamp year shall run from January 1 to December 31.

(c) Waterfowl stamp design, production, and distribution. The Commissioner of Fish and Wildlife shall be responsible for the design, production, procurement, distribution, and sale of ~~all stamps~~ the State stamp and all marketable stamp ~~byproducts~~ by-products such as posters, artwork, calendars, and other items.

(d) Fee. ~~Stamps~~ State stamps shall be sold at the direction of the Commissioner for a fee of $7.50. The issuing agent may retain a fee of $1.00 for each stamp and shall remit $6.50 of each fee to the Department of Fish and Wildlife. The Commissioner shall establish a uniform sale price for all categories of ~~byproducts~~ by-products.

(e) Disposition of waterfowl receipts. All State waterfowl stamp receipts and all receipts from the sale of State stamp ~~byproducts~~ by-products shall be deposited in the Fish and Wildlife Fund. All State stamp and ~~byproducts~~ by-products receipts shall be expended through the appropriation process for waterfowl acquisition and improvement projects.

(f) Advisory ~~committee~~ Committee. There is hereby created ~~a~~ the Migratory Waterfowl Advisory Committee which shall consist of five persons and up to three alternates appointed by and serving at the pleasure of the Commissioner of Fish and Wildlife. The Commissioner shall designate ~~a~~ the Chair. The Committee shall be consulted with and may make recommendations to the Commissioner in regard to all projects and activities supported with the funds derived from the implementation of this section. The Commissioner shall make an annual financial and progress report to the Committee with regard to all activities authorized by this section.

* * * Forfeiture * * *

Sec. 6. 10 V.S.A. § 4505 is amended to read:

§ 4505. HEARING; FORFEITURE

The game warden or other officer shall retain possession of firearms, jacks, lights, motor vehicles, and devices taken until final disposition of the charge

against the owner, possessor, or person using the same in violation of the provisions of section 4745, 4781, 4783, 4784, 4705(a), 4280, 4747, or 4606 of this title, in accordance with the provisions of section 4503 of this title. When the owner, possessor, or person using firearms, jacks, lights, motor vehicles, and devices in violation of the section is convicted of the offense, the court where the conviction is had shall cause the owner, if known, and possessor, and all persons having the custody of or exercising any control over the firearms, jacks, lights, motor vehicles, and devices seized, either as principal, clerk, servant, or agent and the respondent to appear and show cause, if any they have, why a forfeiture or condemnation order should not issue. The hearings may be held as a collateral proceeding to the trial of the respondent in the discretion of the court.

* * * Enforcement; Violations * * *

Sec. 7. 10 V.S.A. § 4551 is amended to read:

§ 4551. FISH AND WILDLIFE VIOLATION DEFINED

A violation of any provision of this part, other than a violation for which a term of imprisonment may be imposed, or a minor violation as defined in section 4572 of this title, or a violation of a rule adopted under this part shall be known as a fish and wildlife violation.

Sec. 8. 10 V.S.A. § 4705 is amended to read:

§ 4705. SHOOTING FROM MOTOR VEHICLES OR AIRCRAFT; SHOOTING FROM OR ACROSS HIGHWAY; PERMIT

(a) A person shall not take, or attempt to take, a wild animal by shooting from a motor vehicle, motorboat, airplane, snowmobile, or other motor propelled motor-propelled craft or any vehicle drawn by a motor propelled motor-propelled vehicle except as permitted under subsection (e) of this section.

(b) A person shall not carry or possess while in or on a vehicle propelled by mechanical power or drawn by a vehicle propelled by mechanical power within the right of way right-of-way of a public highway a rifle or shotgun containing a loaded cartridge or shell in the chamber, mechanism, or in a magazine, or clip within a rifle or shotgun, or a muzzle-loading rifle or muzzle-loading shotgun that has been charged with powder and projectile and the ignition system of which has been enabled by having an affixed or attached percussion cap, primer, battery, or priming powder, except as permitted under subsections (d) and (e) of this section. A person who possesses a rifle, crossbow, or shotgun, including a muzzle-loading rifle or muzzle-loading shotgun, in or on a vehicle propelled by mechanical power, or drawn by a vehicle propelled by mechanical power within a right of way right-of-way of a

public highway shall upon demand of an enforcement officer exhibit the firearm for examination to determine compliance with this section.

(c) A person while on or within 25 feet of the traveled portion of a public highway, except a public highway designated Class 4 on a town highway map, shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person while on or within the traveled portion of a public highway designated Class 4 on a town highway map shall not take or attempt to take any wild animal by shooting a firearm, a muzzle loader, a bow and arrow, or a crossbow. A person shall not shoot a firearm, a muzzle loader, a bow and arrow, or a crossbow over or across the traveled portion of a public highway, except for a person shooting over or across the traveled portion of a public highway from a sport shooting range, as that term is defined in section 5227 of this title, provided that:

(1) the sport shooting range was established before January 1, 2014; and

(2) the operators of the sport shooting range post signage warning users of the public highway of the potential danger from the sport shooting range.

(d) This section shall not restrict the possession or use of a loaded firearm by an enforcement officer in performance of his or her duty.

* * *

Sec. 9. 10 V.S.A. § 4709 is amended to read:

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

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

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

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

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

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

~~(d)~~(f)(1) The Commissioner shall not issue a permit under this section for the importation or possession of the following live species, a hybrid or genetic variant of the following species, offspring of the following species, or offspring or a hybrid of a genetically engineered variant of the following species: wild boar, wild hog, wild swine, feral pig, feral hog, feral swine, old world swine, razorback, Eurasian wild boar, or Russian wild boar (Sus scrofo Linnaeus).

(2) This subsection shall not apply to the domestic pig (Sus domesticus) involved in domestic hog production and shall not restrict or limit the authority of the Secretary of Agriculture, Food and Markets to regulate the importation or possession of the domestic pig as livestock or as a domestic animal under Title 6 of the Vermont Statutes Annotated.

* * * Trapping * * *

Sec. 10. 10 V.S.A. § 4254c is added to read:

§ 4254c. NOTICE OF TRAPPING; DOG OR CAT

A person who incidentally traps a dog or cat shall notify a fish and wildlife warden or the Department within 24 hours after discovery of the trapped dog or cat. The Department shall maintain records of all reports of incidentally trapped dogs or cats submitted under this section, and the reports shall include the disposition of each incidentally trapped dog or cat.

Sec. 11. 10 V.S.A. § 4828 is amended to read:

§ 4828. TAKING OF RABBIT OR FUR-BEARING ANIMALS BY LANDOWNER; SELECTBOARD; CERTIFICATE; PENALTY

(a)(1) The provisions of law or ~~regulations~~ rules of the Board relating to the taking of rabbits or fur-bearing animals shall not apply to:

(A) an owner, the owner's employee, tenant, or caretaker of property protecting the property from damage by rabbits or fur-bearing animals~~,~~; or

(B) ~~to~~ a member of the selectboard of a town protecting public highways or bridges from such damage or submersion with the permission of the owner of lands affected.

(2) A person who for compensation sets a trap for rabbits or fur-bearing animals on the property of another in defense of that property shall possess a valid trapping license.

(3)(A) ~~However, if~~ If required by rule of the ~~board~~ Board, an owner~~,~~; the owner's employee, tenant, or caretaker~~, or the members~~; a member of the selectboard~~,~~; or a person who sets a trap for compensation who ~~desire~~ desires to possess during the closed season the skins of any fur-bearing animals taken in defense of property, highways, or bridges shall notify the Commissioner or the Commissioner's representative within 84 hours after taking ~~such~~ the animal, and shall hold ~~such~~ the pelts for inspection by such authorized representatives.

(b) Before disposing of ~~such~~ pelts taken under this section, if required by rule of the Board, the property owner~~,~~; the owner's employee, tenant, or caretaker~~, or~~; a member of the selectboard; or a person who sets a trap for compensation shall secure from the Commissioner or a designee a certificate describing the pelts, and showing that the pelts were legally taken during a closed season and in defense of property, highways, or bridges. In the event of storage, sale, or transfer, ~~such~~ the certificates shall accompany the pelts ~~described therein~~.

Sec. 12. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(9) Game: game birds or game quadrupeds, or both.

(10) Game birds: quail, partridge, woodcock, pheasant, plover of any kind, Wilson snipe, other shore birds, rail, coot, gallinule, wild ducks, wild geese, and wild turkey.

* * *

(13) Rabbit: to include wild hare.

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals, domestic fowl, or domestic pets.

* * *

(23) Take and taking: pursuing, shooting, hunting, killing, capturing, trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts, such as disturbing, harrying ~~or,~~ worrying, or wounding or placing, setting, drawing, or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in a lawful manner.

* * *

(27) Commissioner: Commissioner of Fish and Wildlife.

* * *

(31) Big game: deer, bear, moose, wild turkey, caribou, elk, and anadromous Atlantic salmon taken in the Connecticut River Basin.

* * *

(40) Domestic pet: domesticated dogs, domesticated cats, domesticated ferrets, psittacine birds, or any domesticated animal.

Sec. 13. FISH AND WILDLIFE BOARD RULES; TRAPPING

On or before January 1, 2019, the Fish and Wildlife Board shall adopt by rule those requirements of Fish and Wildlife Board Rule 44 regarding the trapping of fur-bearing animals that shall apply to persons trapping for compensation under 10 V.S.A. § 4828.

* * * Coyote Hunting * * *

Sec. 14. 10 V.S.A. § 4716 is added to read:

§ 4716. COYOTE-HUNTING COMPETITIONS; PROHIBITION

(a) As used in this section, "coyote-hunting competition" means a contest in which people compete in the capturing or taking of coyotes for a prize.

(b) A person shall not hold or conduct a coyote-hunting competition in the State.

(c) A person shall not participate in a coyote-hunting competition in the State.

(d) A person who violates this section shall be fined not more than $1,000.00 nor less than $400.00 for a first offense. Upon a second and all subsequent convictions or any conviction while under license suspension related to the requirements of part 4 of this title, a person who violates this section shall be fined not more than $4,000.00 nor less than $2,000.00.

Sec. 15. 10 V.S.A. § 4502(b) is amended to read:

(b) A person violating provisions of this part shall receive points for convictions in accordance with the following schedule (all sections are in this title of the Vermont Statutes Annotated):

* * *

(2) Ten points shall be assessed for:

* * *

(TT) § 4716. Participating in a coyote-hunting competition.

(3) Twenty points shall be assessed for:

* * *

(CC) § 4716. Holding or conducting a coyote-hunting competition.

* * * Fish and Wildlife Violations; Criminal or Civil * * *

Sec. 16. DEPARTMENT OF FISH AND WILDLIFE; REVIEW OF CRIMINAL OR CIVIL NATURE OF VIOLATIONS

The Department of Fish and Wildlife shall conduct a review of the potential criminal and civil charges for all fish and wildlife violations. On or before January 15, 2019, the Department shall submit to the House Committees on Natural Resources, Fish, and Wildlife and on Judiciary and the Senate Committees on Natural Resources and Energy and on Judiciary a report recommending changes to the criminal and civil charges for fish and wildlife violations. The report shall summarize the process the Department used to review the charges for fish and wildlife violations and shall explain the basis for the Department's recommendations. Prior to preparing the report required by this section, the Department shall consult with interested stakeholders, the Judiciary, State's Attorneys, criminal defense lawyers, and fish and game groups.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) Secs. 10 (incidental trapping), 12 (definitions), 13 (trapping rules amendment), and 14–15 (coyote-hunting competition prohibition; points) shall take effect on January 1, 2019.

(b) Sec. 11 (trapping for compensation) shall take effect on January 1, 2020.

(c) This section and all other sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

By striking out Sec. 17 (effective dates) and its reader assistance in its entirety and inserting in lieu thereof a new Sec. 17 to read as follows:

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) This section and Sec. 4 (licensing; lottery applications) shall take effect on passage.

(b) Secs. 10 (incidental trapping), 12 (definitions), 13 (trapping rules amendment), and 14–15 (coyote-hunting competition prohibition; points) shall take effect on January 1, 2019.

(c) Sec. 11 (trapping for compensation) shall take effect on January 1, 2020.

(d) All other sections shall take effect on July 1, 2018.

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, and the recommendation of proposal of amendment of the Committee on Natural Resources and Energy was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by 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. 897.

Senator Baruth, for the Committee on Education, to which was referred House bill entitled:

An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

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:

* * * Findings * * *

Sec. 1. FINDINGS

(a) In 2016 Acts and Resolves No. 148, the General Assembly directed the Agency of Education to contract with a consulting firm to review current practices and recommend best practices for the delivery of special education services in school districts. The Agency of Education contracted with the District Management Group, which issued in November 2017 its report entitled "Expanding and Strengthening Best-Practice Supports for Students who Struggle" (Delivery of Services Report).

(b) In Act 148, the General Assembly also directed the Agency of Education to contract for a study of special education funding and practice and to recommend a funding model for Vermont designed to provide incentives for desirable practices and stimulate innovation in the delivery of services. The General Assembly required that the study consider a census-based model of funding. The Agency of Education contracted with the University of Vermont and State Agricultural College, and the report of its Department of Education and Social Services entitled "Study of Vermont State Funding for Special Education" was issued in December 2017 (Funding Report).

(c) The Delivery of Services Report made the following five recommendations on best practices for the delivery of special education services:

(1) ensure core instruction meets most needs of most students;

(2) provide additional instructional time outside core subjects to students who struggle, rather than providing interventions instead of core instruction;

(3) ensure students who struggle receive all instruction from highly skilled teachers;

(4) create or strengthen a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) provide specialized instruction from skilled and trained experts to students with more intensive needs.

(d) The Funding Report noted, based on feedback from various stakeholders, including educators, school leaders, State officials, parents, and others, that Vermont's existing reimbursement model of funding special education has a number of limitations in that it:

(1) is administratively costly for the State and localities;

(2) is misaligned with policy priorities, particularly with regard to the delivery of a multitiered system of supports and positive behavioral interventions and supports;

(3) creates misplaced incentives for student identification, categorization, and placement;

(4) discourages cost containment; and

(5) is unpredictable and lacks transparency.

(e) The Funding Report assessed various funding models that support students who require additional support, including a census-based funding model. A census-based model would award funding to supervisory unions based on the number of students within the supervisory union and could be used by the supervisory union to support the delivery of services to all students. The Funding Report noted that the advantages of a census-based model are that it is simple and transparent, allows flexibility in how the funding is used by supervisory unions, is aligned with the policy priorities of serving students who require additional support across the general and special education service-delivery systems, and is predictable.

* * * Goals * * *

Sec. 2. GOALS

(a) By enacting this legislation, the General Assembly intends to enhance the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts.

(b)(1) To support the enhanced delivery of these services, the State funding model for special education shall change for all supervisory unions in fiscal year 2021, for school year 2020-2021, from a reimbursement model to a census-based model, which will provide more flexibility in how the funding can be used, is aligned with the State's policy priorities of serving students who require additional support across the general and special education service-delivery systems, and will simplify administration.

(2) The General Assembly recognizes that a student on an individualized education program, is entitled, under federal law, to a free and appropriate public education in the least restrictive environment in accordance with that program. The changes to State funding for special education and the delivery of special education services as envisioned under this act are intended to facilitate the exercise of this entitlement.

(c) The General Assembly recognizes that it might be appropriate and equitable to provide a higher amount of census-based funding to supervisory unions that have relatively higher costs in supporting students who require additional support, but the General Assembly does not have sufficient information on which to base this determination. Therefore, this act directs the Agency of Education to make a recommendation to the General Assembly on whether the amount of the census grant should be increased for supervisory unions that have relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. The General Assembly intends to reconsider this matter after receiving this recommendation and before the census-based model is implemented.

Sec. 3. 16 V.S.A. § 2901 is amended to read:

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL EDUCATION ENVIRONMENT

(a) ~~It is the policy of the State that each~~ Each local school district shall develop and maintain, in consultation with parents, a comprehensive system of education that ~~will~~ is designed to result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations that are needed by students in the district. These services could include a separate alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is ~~disrupting the class or~~ having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide ~~quality~~ high-quality services to that student or to other students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. ~~§ 1401 et seq.~~ chapter 33, Individuals with Disabilities Education Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act of 1973; and 42 U.S.C. ~~§ 12101 et seq.~~ chapter 126, Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section.

Sec. 4. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom~~,~~ and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The tiered system of supports shall:

(1) be aligned as appropriate with the general education curriculum;

(2) be designed to enhance the ability of the general education system to meet the needs of all students;

(3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;

(4) seek to identify and respond to students in need of support for ~~at-risk behaviors~~ emotional or behavioral challenges and to students in need of specialized, individualized behavior supports; ~~and~~

(5) provide all students with a continuum of evidence-based ~~and research-based behavior~~ positive behavioral practices that ~~teach and encourage prosocial skills and behaviors schoolwide~~ promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students;

(6) promote collaboration with families, community supports, and the system of health and human services; and

(7) provide professional development, as needed, to support all staff in full implementation of the multi-tiered system of support.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

(2) Identify the classroom accommodations, remedial services, and other supports ~~that have been~~ to be provided to the identified student.

(3) Assist teachers to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.

(5) Maintain a written record of its actions.

~~(6) Report no less than annually to the Secretary, in a form the Secretary prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).~~

(d) No individual entitlement or private right of action is created by this section.

(e) The Secretary shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section. The Secretary shall develop and provide to supervisory unions information to share with parents of children suspected of having a disability that describes the differences between the tiered system of academic and behavioral supports required under this section, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, including how and when school staff and parents of children having a suspected disability may request interventions and services under those entitlements.

(f) It is the intent of the General Assembly that a gifted and talented student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the General Assembly that funding under chapter 101 of this title shall be available for a gifted and talented

student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

(g) The tiered system of academic and behavioral supports required under this section shall not be used by a school district to deny a timely initial comprehensive special education evaluation for children suspected of having a disability. The Agency of Education shall adopt policies and procedures to ensure that a school district's evaluation of a child suspected of having a disability is not denied because of implementation of the tiered system of academic and behavioral supports. The policies and procedures shall include:

(1) the definition of what level of progress is sufficient for a child to stop receiving instructional services and supports through the tiered system of academic and behavioral supports;

(2) guidance on how long children are to be served in each tier; and

(3) guidance on how a child's progress is to be measured.

* * * Census-based Funding Model; Amendment of Special Education Laws * * *

Sec. 5. 16 V.S.A. chapter 101 is amended to read:

CHAPTER 101. SPECIAL EDUCATION

Subchapter 1. General Provisions

§ 2941. POLICY AND PURPOSE

It is the policy of the State to ensure equal educational opportunities for all children in Vermont. This means that children with disabilities are entitled to receive a free appropriate public education. ~~It is further the policy of the State to pay 60 percent of the statewide costs expended by public education for children with disabilities.~~ The purpose of this chapter is to enable the Agency to ensure the provision of ~~the~~ special ~~educational facilities and instruction~~ education services and supports in accordance with individualized education programs necessary to meet the needs of children with disabilities.

§ 2942. DEFINITIONS

As used in this chapter

* * *

(8) A "student who requires additional support" means a student who:

(A) is on an individualized education program;

(B) is on a section 504 plan under the Rehabilitation Act of 1973, 29 U.S.C. § 794;

(C) is not on an individualized education program or section 504 plan but whose ability to learn is negatively impacted by a disability or by social, emotional, or behavioral needs, or whose ability to learn is negatively impacted because the student is otherwise at risk;

(D) is an English language learner; or

(E) reads below grade level.

* * *

Subchapter 2. Aid for Special Education and Support Services

§ 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ CENSUS GRANT

(a) ~~Each supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union's mainstream salary standard multiplied by 60 percent.~~

~~(b) The supervisory union shall expend all such assistance for special education services or for remedial or compensatory services in accordance with its service plan as required under section 2964 of this title. It shall likewise expend, from local funds, an amount not less than 40 percent of its mainstream salary standard for special education.~~

~~(c) As used in this section:~~

~~(1) "Mainstream salary standard" means:~~

~~(A) the supervisory union's full-time equivalent staffing for special education for the preceding year multiplied by the average special education teacher salary in the State for the preceding year; plus~~

~~(B) an amount equal to the average special education administrator salary in the State for the preceding year, plus, for any supervisory union with member districts which have in the aggregate more than 1,500 average daily membership, a fraction of an additional full-time equivalent salary for a special education administrator, the numerator of which is the aggregate average daily membership of the supervisory union's member districts minus 1,500, and the denominator of which is the aggregate average daily membership of member districts in the largest supervisory union in the State minus 1,500.~~

~~(2) "Full-time equivalent staffing" means 9.75 special education teaching positions per 1,000 average daily membership.~~

~~(d) If in any fiscal year, a supervisory union in which a school is maintained does not expend an amount equal to its mainstream salary standard~~

~~on special education expenditures, the supervisory union may expend the balance, including the matching funds, to provide support and remedial services pursuant to section 2902 or 2903 of this title. A supervisory union choosing to expend funds in this way shall submit a report describing the services provided and their costs with the final financial report submitted under section 2968 of this title.~~

As used in this section:

(1) "Average daily membership" shall have the same meaning as in subdivision 4001(1) of this title, except it shall exclude State-placed students.

(2) "Average daily membership of a supervisory union" means the aggregate average daily membership of the school districts that are members of the supervisory union or, for a supervisory district, the average daily membership of the supervisory district.

(3) "Long-term membership" of a supervisory union in any school year means the average of the supervisory union's average daily membership over three school years.

(4) "Uniform base amount" means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under 16 V.S.A. §§ 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances); and

(ii) increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis; by

(B) the statewide average daily membership for prekindergarten through grade 12 for the 2019–2020 school year.

(b) The State commits to satisfying its special education maintenance of fiscal support requirement under 34 C.F.R. § 300.163(a).

(c) Each supervisory union shall receive a census grant each fiscal year to support the provision of special education services to students on an individualized education program. Supervisory unions shall use this funding and other available sources of funding to provide special education services to students in accordance with their individualized education programs as mandated under federal law. A supervisory union may use census grant funds to support the delivery of the supervisory union's comprehensive system of

educational services under sections 2901 and 2902 of this title, but shall not use census grant funds in a manner that abrogates its responsibility to provide special education services to students in accordance with their individualized education programs as mandated under federal law.

(d)(1)(A) For fiscal year 2021, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years 2017, 2018, and 2019 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

(ii) the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(B) The amount determined under subdivision (A) of this subdivision (1) shall be divided by the supervisory union's long-term membership, to determine the base amount of the census grant, which is the amount of the census grant calculated on a per student basis.

(2) For fiscal year 2025 and subsequent fiscal years, the amount of the census grant for a supervisory union shall be the uniform base amount multiplied by the supervisory union's long-term membership.

(3) For fiscal years 2022, 2023, and 2024, the amount of the census grant for a supervisory union shall be determined by multiplying the supervisory union's long-term membership by a base amount established under this subdivision. The base amounts for each supervisory union for fiscal years 2022, 2023, and 2024 shall move gradually the supervisory union's fiscal year 2021 base amount to the fiscal year 2025 uniform base amount by pro rating the change between the supervisory union's fiscal year 2021 base amount and the fiscal year 2025 uniform base amount over this three-fiscal-year period.

§ 2962. EXTRAORDINARY ~~SERVICES~~ SPECIAL EDUCATION REIMBURSEMENT

(a) ~~Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or to a supervisory union.~~

~~(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to 95 percent of its extraordinary special education expenditures.~~

~~(c) As used in this subchapter, "extraordinary special education expenditures" means a school district's or supervisory union's allowable expenditures that for any one child exceed $60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.~~

(1) As used in this section, "child" means a student with disabilities who is three years of age or older in the current school year.

(2) As used in this subchapter, "extraordinary expenditures" means a supervisory union's allowable special education expenditures that for any one child in a fiscal year exceed $60,000.00, increased annually by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(3) The State Board of Education shall define allowable special education expenditures that shall include any expenditures required under federal law in order to implement fully individual education programs under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, and any costs of mediation conducted by a mediator who is approved by the Secretary.

(b) If a supervisory union has extraordinary expenditures, it shall be eligible for extraordinary special education reimbursement (extraordinary reimbursement) as provided in this section.

(c) A supervisory union that has extraordinary expenditures in a fiscal year for any one child shall be eligible for extraordinary reimbursement equal to:

(1) an amount equal to its special education expenditures in that fiscal year for that child that exceed the extraordinary expenditures threshold amount under subdivision (a)(2) of this section (excess expenditures) multiplied by 95 percent; plus

(2) an amount equal to the lesser of:

(A) the amount of its excess expenditures; or

(B)(i) the extraordinary expenditures threshold amount under subdivision (a)(2) of this section; minus

(ii) the base amount of the census grant received by the supervisory union under subsection 2961(d) of this title for that fiscal year; multiplied by

(iii) 60 percent.

(d) The State Board of Education shall establish by rule the administrative process for supervisory unions to submit claims for extraordinary reimbursement under this section and for the review and payment of those claims.

(e) Under section 2973 of this title, a supervisory union, in its role as the local education agency, may place a student with an individualized education plan under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, with certain approved independent schools that accept public tuition. If the approved independent school is entitled to special education cost reimbursement under that section, it may bill the supervisory union for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures' threshold as defined in subdivision (a)(2) of this section, the supervisory union shall be entitled to extraordinary reimbursement under this section for that student as if it incurred those costs directly.

§ 2963. ~~SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT~~

~~(a) Based on where the related cost is incurred, each town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or supervisory union shall receive a special education expenditures reimbursement grant each school year.~~

~~(b) The amount of a school district's or supervisory union's special education expenditures reimbursement shall be equal to the total of its special education expenditures multiplied by the reimbursement rate for that year.~~

~~(c) As used in this subchapter:~~

~~(1) Special education expenditures are allowable expenditures for special education, as defined by rule of the State Board, less the following:~~

~~(A) revenue from federal aid for special education;~~

~~(B) mainstream service costs, as defined in subdivision 2961(c)(1) of this title;~~

~~(C) extraordinary special education expenditures, as defined in section 2962 of this title;~~

~~(D) any transportation expenses already reimbursed;~~

~~(E) special education costs for a student eligible for aid under section 2963a of this title; and~~

~~(F) other State funds used for special education costs as defined by the State Board by rule.~~

~~(2) The State Board shall define allowable expenditures under this subsection. Allowable expenditures shall include any expenditures required under federal law.~~

~~(3) "Special education expenditures reimbursement rate" means a percentage of special education expenditures that is calculated to achieve the 60 percent share required by subsection 2967(b) of this title.~~ [Repealed.]

§ 2963a. ~~EXCEPTIONAL CIRCUMSTANCES~~

~~(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a school district or supervisory union for 80 percent of the costs not eligible for reimbursement under section 2962 of this title for each student causing the school district or supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a school district or supervisory union to be eligible for reimbursement under this section, the total costs of the school district or supervisory union eligible for extraordinary services reimbursement must equal or exceed 15 percent of the total costs eligible for State assistance under sections 2961, 2962, and 2963 of this title.~~

~~(b) An eligible school district or supervisory union may apply to the Secretary to receive reimbursement under this section. The Secretary shall award reimbursement to a school district or supervisory union under this section if the Secretary makes a determination that the school district or supervisory union considered all the cost-effective and appropriate available alternatives for placement and programs for students before incurring these costs. A decision of the Secretary shall be final.~~ [Repealed.]

§ 2964. ~~SERVICE PLAN~~

~~(a) As a condition of receiving assistance under this subchapter, a supervisory union shall file a service plan with the Secretary annually on or before October 15. The service plan shall contain the anticipated special education expenditures for the following school year for the supervisory union and its member districts. The plan shall be in a form prescribed by the Secretary and shall include information on services planned and anticipated expenditures.~~

~~(b) If a supervisory union fails to file a service plan by October 15, the Secretary may withhold any funds due the supervisory union and its member districts under this title until a service plan is filed and accepted by the Secretary as properly completed.~~ [Repealed.]

* * *

§ 2967. AID PROJECTION~~; STATE SHARE~~

(a) On or before December 15, the Secretary shall publish an estimate, by supervisory union ~~and its member districts to the extent they anticipate reimbursable~~, of its anticipated special education expenditures under this chapter~~, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in~~ for the ensuing school year.

(b) ~~The total expenditures made by the State in any fiscal year pursuant to this chapter shall be 60 percent of the statewide total special education expenditures of funds that are not derived from federal sources. Special~~ As used in this section, special education expenditures shall include:

(1) costs eligible for grants and reimbursements under sections 2961 ~~through 2963a~~ and 2962 of this title;

(2) costs for services for persons who are visually impaired; ~~and~~

(3) costs for persons who are deaf ~~and~~ or hard of hearing;

~~(3)~~(4) costs for the interdisciplinary team program;

~~(4) costs for regional specialists in multiple disabilities;~~

(5) funds expended for training and programs to meet the needs of students with emotional or behavioral ~~problems~~ challenges under subsection 2969(c) of this title; and

(6) funds expended for training under subsection 2969(d) of this title.

§ 2968. ~~REPORTS~~

~~(a) On or before November 15, March 15, and August 1 of each school year, each supervisory union and its member districts to the extent they incur reimbursable expenditures under this chapter shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total expenditures for special education actually incurred during the preceding period, and shall describe revenues derived from different funding sources, including federal assistance, State assistance under this chapter, and local effort.~~

~~(b) If a supervisory union or its member districts that have incurred reimbursable expenditures under this chapter fail to file a complete report by~~

~~August 1, until the properly completed August 1 report is filed and accepted by the Secretary, the Secretary may withhold any funds due the supervisory union or school district under this title and shall subtract $100.00 per business day from funds due to the supervisory union or school district under this title for that fiscal year. The Secretary may waive the $100.00 penalty required under this subsection upon appeal by the supervisory union or school district. The Secretary shall establish procedures for administration of this subsection.~~

~~(c) The Secretary shall review and monitor the reports received pursuant to subsection (a) of this section as well as the service plans received pursuant to section 2964 of this title, and shall assist supervisory unions and school districts to complete and submit these documents in a timely and accurate fashion.~~

~~(d) Special education receipts and expenditures shall be included within the audits required of a supervisory union and its member districts that have incurred reimbursable expenditures under this chapter pursuant to section 323 of this title.~~ [Repealed.]

§ 2969. PAYMENTS

(a)(1) On or before August 15, December 15, and April 15 of each fiscal year, the State Treasurer shall withdraw from the Education Fund, based on a warrant issued by the Commissioner of Finance and Management, and shall forward to each supervisory union ~~and its member districts to the extent they anticipate reimbursable expenditures under this chapter, the amount of State assistance estimated in accordance with State Board rules to be necessary to fund sections 2961 through 2963a of this title in the current fiscal period. The State Board shall by rule ensure that the amount of such assistance shall be adjusted to compensate for any overpayments or underpayments determined, after review and acceptance of the reports submitted under section 2968 of this title, to have been made in previous periods. Notwithstanding this subsection, failure to submit the reports within the timelines established by subsection 2968(a) of this title shall result in the withholding of any payments until the report is filed~~ one-third of the census grant due to the supervisory union under section 2961 of this title for that fiscal year.

(2) On or before November 15, January 15, April 15, and August 1 of each school year, each supervisory union, to the extent it incurs extraordinary expenditures under section 2962 of this title, shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total extraordinary expenditures actually incurred during the reporting period.

(3) On or before December 15, February 15, May 15, and September 15 of each school year, based on a warrant issued by the Commissioner of

Finance and Management, the State Treasurer shall withdraw from the Education Fund and shall forward to each supervisory union the amount of extraordinary reimbursement incurred by the supervisory union under section 2962 of this title that is unreimbursed and determined by the Agency of Education to be payable to the supervisory union.

(b) [Repealed.]

(c) For the purpose of meeting the needs of students with emotional or behavioral ~~problems~~ challenges, each fiscal year the Secretary shall use for training, program development, and building school and regional capacity~~,~~ up to one percent of the State funds appropriated under this subchapter.

(d) For the training of teachers, administrators, and other personnel in the identification and evaluation of~~,~~ and provision of ~~education~~ educational services to children who require educational supports, each fiscal year the Secretary shall use up to 0.75 percent of the State funds appropriated under this subchapter. In order to set priorities for the use of these funds, the Secretary shall identify effective practices and areas of critical need. The Secretary may expend up to five percent of these funds for statewide training and shall distribute the remaining funds to school districts or supervisory unions.

(e) School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in their school systems and give assurances that at least 50 percent of the costs of training, including in-kind costs, will be assumed by the applicant. The Secretary shall establish written procedures and criteria for the award of such funds. In addition, the Secretary may identify schools most in need of training assistance and may pay for 100 percent of the assistance to the supervisory union or school district for these schools.

* * *

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

~~(a)~~ Annually, the Secretary shall report to the State Board regarding:

(1) ~~special education expenditures by supervisory unions~~ the total amount of census grants made to supervisory unions under section 2961 of this title;

(2) ~~the rate of growth or decrease in special education costs, including the identity of high- and low-spending supervisory unions~~ the total amount of extraordinary special education reimbursement made to supervisory unions under section 2962 of this title;

(3) results for special education students;

(4) the availability of special education staff;

(5) the consistency of special education program implementation statewide;

(6) the status of ~~the education support systems~~ tiered systems of supports in supervisory unions; and

(7) a statewide summary of the special education student count, including:

(A) the percentage of the total average daily membership represented by special education students statewide and by supervisory union;

(B) the percentage of special education students by disability category; and

(C) the percentage of special education students served by public schools within the supervisory union, by day placement, and by residential placement.

~~(b) The Secretary's report shall include the following data for both high- and low-spending supervisory unions:~~

~~(1) each supervisory union's special education staff-to-child count ratios as compared to the State average, including a breakdown of ratios by staffing categories;~~

~~(2) each supervisory union's percentage of students in day programs and residential placements as compared to the State average of students in those placements and information about the categories of disabilities for the students in such placements;~~

~~(3) whether the supervisory union was in compliance with section 2901 of this title;~~

~~(4) any unusual community characteristics in each supervisory union relevant to special education placements;~~

~~(5) a review of high- and low-spending supervisory unions' special education student count patterns over time;~~

~~(6) a review of the supervisory union's compliance with federal and State requirements to provide a free, appropriate public education to eligible students; and~~

~~(7) any other factors affecting its spending.~~

~~(c) The Secretary shall review low-spending supervisory unions to determine the reasons for their spending patterns and whether those supervisory unions used cost-effective strategies appropriate to replicate in other supervisory unions.~~

~~(d) For the purposes of this section, a "high-spending supervisory union" is a supervisory union that, in the previous school year, spent at least 20 percent more than the statewide average of special education eligible costs per average daily membership. Also for the purposes of this section, a "low-spending supervisory union" is a supervisory union that, in the previous school year, spent no more than 80 percent of the statewide average of special education eligible costs per average daily membership.~~

~~(e) The Secretary and Agency staff shall assist the high-spending supervisory unions, that have been identified in subsection (a) of this section and have not presented an explanation for their spending that is satisfactory to the Secretary, to identify reasonable alternatives and to develop a remediation plan. Development of the remediation plan shall include an on-site review. The supervisory union shall have two years to make progress on the remediation plan. At the conclusion of the two years or earlier, the supervisory union shall report its progress on the remediation plan.~~

~~(f) Within 30 days of receipt of the supervisory union's report of progress, the Secretary shall notify the supervisory union that its progress is either satisfactory or not satisfactory.~~

~~(1) If the supervisory union fails to make satisfactory progress, the Secretary shall notify the supervisory union that, in the ensuing school year, the Secretary shall withhold 10 percent of the supervisory union's special education expenditures reimbursement pending satisfactory compliance with the plan.~~

~~(2) If the supervisory union fails to make satisfactory progress after the first year of withholding, 10 percent shall be withheld in each subsequent year pending satisfactory compliance with the plan; provided, however, before funds are withheld in any year under this subdivision (f)(2), the supervisory union shall explain to the State Board either the reasons the supervisory union believes it made satisfactory progress on the remediation plan or the reasons it failed to do so. The State Board's decision whether to withhold funds under this subdivision shall be final.~~

~~(3) If the supervisory union makes satisfactory progress under any subdivision of this subsection, the Secretary shall release to the supervisory union any special education expenditures reimbursement withheld for the prior fiscal year only.~~

~~(g) Within 10 days after receiving the Secretary's notice under subdivision (f)(1) of this section, the supervisory union may challenge the Secretary's decision by filing a written objection to the State Board outlining the reasons the supervisory union believes it made satisfactory progress on the remediation plan. The Secretary may file a written response within 10 days after the supervisory union's objection is filed. The State Board may give the supervisory union and the Secretary an opportunity to be heard. The State Board's decision shall be final. The State shall withhold no portion of the supervisory union's reimbursement before the State Board issues its decision under this subsection.~~

~~(h) Nothing in this section shall prevent a supervisory union from seeking and receiving the technical assistance of Agency staff to reduce its special education spending.~~

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

The Secretary may use up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in ~~subsection 2967(b) of this title~~ State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. ~~These funds shall not be used for exceptional circumstances that are funded under section 2963a of this title.~~ The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

* * * Technical and Conforming Changes * * *

Sec. 6. 16 V.S.A. § 826 is amended to read:

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

* * *

(c) Excess special education costs incurred by a ~~district~~ supervisory union in providing special education services to a student beyond those covered by tuition may be charged to the student's supervisory union for the district of residence. However, only actual costs or actual proportionate costs attributable to the student may be charged.

* * *

Sec. 7. 16 V.S.A. § 2958 is amended to read:

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

(a) A ~~school district~~ supervisory union shall notify the parents and the

Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

* * *

Sec. 8. 16 V.S.A. § 4002 is amended to read:

§ 4002. PAYMENT; ALLOCATION

(a) State and federal funds appropriated for services delivered by the supervisory union and payable through the Agency shall be paid to the order of the supervisory union and administered in accordance with the plan adopted under subdivision 261a(4) of this title. Funding for special education services under section 2969 of this title shall be paid to the ~~districts and~~ supervisory unions in accordance with that section.

(b) The Secretary shall notify the superintendent or chief executive officer of each supervisory union in writing of federal or State funds disbursed to member school districts.

* * * Census-based Funding Advisory Group * * *

Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

(a) Creation. There is created the Census-based Funding Advisory Group to consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.

(b) Membership. The Advisory Group shall be composed of the following 12 members:

(1) the Executive Director of the Vermont Superintendents Association or designee;

(2) the Executive Director of the Vermont School Boards Association or designee;

(3) the Executive Director of the Vermont Council of Special Education Administrators or designee;

(4) the Executive Director of the Vermont Principals' Association or designee;

(5) the Executive Director of the Vermont Independent Schools Association or designee;

(6) the Executive Director of the Vermont-National Education Association or designee;

(7) the Secretary of Education or designee;

(8) one member selected by the Vermont-National Education Association who is a special education teacher;

(9) one member selected by the Vermont Association of School Business Officials;

(10) one member selected by the Vermont Legal Aid Disability Law Project;

(11) one member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights; and

(12) the Commissioner of the Vermont Department of Mental Health or designee.

(c) Powers and duties. The Advisory Group shall:

(1) advise the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;

(2) advise the Agency of Education and supervisory unions on the implementation of this act; and

(3) recommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.

(d) Assistance. The Advisory Group shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Meetings.

(1) The Secretary of Education shall call the first meeting of the Advisory Group to occur on or before September 30, 2018.

(2) The Advisory Group shall select a chair from among its members at the first meeting.

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

(4) The Advisory Group shall cease to exist on June 30, 2022.

(f) Reports. On or before January 15, 2019, the Advisory Group shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations on the

development of proposed rules to implement this act and any recommendations for legislation. On or before January 15 of 2020, 2021, and 2022, the Advisory Group shall submit a supplemental written report to the House and Senate Committees on Education and the State Board of Education with a status of implementation under this act and any recommendations for legislation.

(g) Reimbursement. Members of the Advisory 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 per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than eight meetings per year.

(h) Appropriation. The sum of $3,900.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020, 2021, and 2022 the amount of $3,900.00 to provide funding for per diem compensation and reimbursement under subsection (g) of this section.

* * * Census Grant Supplemental Adjustment; Pupil Weighting Factors; Report * * *

Sec. 10. REPEAL

2017 Acts and Resolves No. 49, Sec. 35 (education weighting report) is repealed.

Sec. 11. CENSUS GRANT SUPPLEMENTAL ADJUSTMENT; PUPIL WEIGHTING FACTORS; REPORT

(a) The Agency of Education, in consultation with the Secretary of Human Services, the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont-National Education Association, shall consider and make recommendations on the following:

(1) Whether the census grant, as defined in the amendment to 16 V.S.A. § 2961 in Sec. 5 of this act, should be increased for supervisory unions that have, in any year, relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. In making this recommendation, the Agency of Education shall consider the report entitled "Study of Vermont State Funding for Special Education" issued in December 2017 by the University of Vermont Department of Education and Social Services.

(2) Methods, other than the use of per pupil weighting factors, that would further the quality and equity of educational outcomes for students.

(3) The criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including each of the following:

(A) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(B) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(C) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and whether the modification would further the quality and equity of educational outcomes for students.

(D) Whether to add any weighting factors, including a school district population density factor and a factor for students who attend regional career technical education centers, and if so, why the weighting factor should be added and whether the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education shall consider the practices of other states, information from the National Conference of State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(b) On or before November 1, 2019, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

(c) The Agency of Education shall have the technical assistance of the Joint Fiscal Office and the Office of Legislative Council.

(d) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of $250,000.00 is appropriated for fiscal year 2018 from the Education Fund to the Agency of Education to provide funding for the purposes set forth in this section. The Agency of Education shall contract with a contractor with expertise in Vermont's education funding system to assist the Agency in producing the study required by this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this subsection.

* * * Training and Technical Assistance on the Delivery of Special Education Services * * *

Sec. 12. TRAINING AND TECHNICAL ASSISTANCE ON THE DELIVERY OF SPECIAL EDUCATION SERVICES

(a) The Agency of Education shall, for the 2018–2019, 2019–2020, and 2020–2021 school years, assist supervisory unions to expand and improve their delivery of services to students who require additional supports in accordance with the report entitled "Expanding and Strengthening Best-Practice Supports for Students who Struggle" delivered to the Agency of Education in November 2017 from the District Management Group. This assistance shall include the training of teachers and staff and technical assistance with the goal of embedding the following best practices for the delivery of special education services:

(1) ensuring core instruction meets most needs of most students;

(2) providing additional instructional time outside core subjects to students who require additional support, rather than providing interventions instead of core instruction;

(3) ensuring students who require additional support receive all instruction from highly skilled teachers;

(4) creating or strengthening a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) providing specialized instruction from skilled and trained experts to students with more intensive needs.

(b) The sum of $200,000.00 is appropriated from federal funds that are available under the Individuals with Disabilities Education Act for fiscal year 2019 to the Agency of Education, which the Agency shall administer in accordance with this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020 and 2021 the amount of $200,000.00 from federal funds that are available under the Individuals with Disabilities Education Act for administration in accordance with this section.

(c) The Agency of Education shall present to the General Assembly on or before December 15 in 2019, 2020, and 2021 a report describing what changes supervisory unions have made to expand and improve their delivery of services to students who require additional supports and describing the associated delivery challenges. The Agency shall share each report with all supervisory unions.

* * * Agency of Education; Staffing * * *

Sec. 13. AGENCY OF EDUCATION; STAFFING

The following positions are created in the Agency of Education: one full-time, exempt legal counsel specializing in special education law and two full-time, classified positions specializing in effective instruction for students who require additional support. There is appropriated to the Agency of Education from the General Fund for fiscal year 2019 the amount of $325,000.00 for salaries, benefits, and operating expenses.

* * * Extraordinary Services Reimbursement * * *

Sec. 14. 16 V.S.A. § 2962 is amended to read:

§ 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, ~~and~~ an unorganized town or gore or to a supervisory union.

(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to ~~90~~ 95 percent of its extraordinary special education expenditures.

(c) As used in this subchapter, "extraordinary special education expenditures" means a school district's or supervisory union's allowable expenditures that for any one child exceed ~~$50,000.00~~ $60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.

Sec. 15. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

* * *

(6) "Education spending" means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is

paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental ~~fund raising~~ fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

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

* * *

(v) Spending attributable to the district's share of special education spending ~~in excess of $50,000.00~~ that is not reimbursed as an extraordinary reimbursement under section 2962 of this title for any ~~one~~ student in the fiscal year occurring two years prior.

* * *

* * * Rulemaking * * *

Sec. 16. RULEMAKING

The Agency of Education shall recommend to the State Board proposed rules that are necessary to implement this act and, on or before November 1, 2019, the State Board of Education shall adopt rules that are necessary to implement this act. The State Board and the Agency of Education shall consult with the Census-based Funding Advisory Group established under Sec. 9 of this act in developing the State Board rules. The State Board rules shall include rules that establish processes for reporting, monitoring, and evaluation designed to ensure:

(1) the achievement of the goal under this act of enhancing the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts; and

(2) that supervisory unions are complying with the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33.

* * * Transition * * *

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year 2021.

(b) On or before November 1, 2019, a supervisory union shall submit to the Secretary such information as required by the Secretary to estimate the

supervisory union's projected fiscal year 2021 extraordinary special education reimbursement under Sec. 5 of this act.

(c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION COSTS

(a) Allowable special education costs shall include salaries and benefits of licensed special education teachers, including vocational special needs teachers and instructional aides for the time they carry out special education responsibilities.

(1) The allowable cost that a local education agency may claim includes a school period or service block during which the staff member identified in this subsection is providing special education services to a group of eight or fewer students, and not less than 25 percent of the students are receiving the special education services, in accordance with their individualized education programs.

(2) In addition to the time for carrying out special education responsibilities, a local education agency may claim up to 20 percent of special education staff members' time, if that staff spends the additional time performing consultation to assist with the development of and providing instructional services required by:

(A) a plan pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; or

(B) a plan for students who require additional assistance in order to succeed in the general education environment.

(b) This section is repealed on July 1, 2020.

* * * Approved Independent Schools * * *

Sec. 19. FINDINGS AND GOALS

(a) The General Assembly created the Approved Independent Schools Study Committee in 2017 Acts and Resolves No. 49 to consider and make recommendations on the criteria to be used by the State Board of Education for designation of an "approved" independent school. The Committee was specifically charged to consider and make recommendations on:

(1) the school's enrollment policy and any limitation on a student's ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(b) The General Assembly in Act 49 directed the State Board of Education to suspend further development of the amendments to its rules for approval of independent schools pending receipt of the report of the Committee.

(c) The Committee issued its report in December 2017, noting that, while it was unable to reach consensus on specific legislative language, it did agree unanimously that Vermont students with disabilities should be free to attend the schools that they, their parents, and their local education agency deem appropriate to them.

(d) This act completes that work and provides the direction necessary for the State Board of Education to develop further the amendments to its rules for approval of independent schools.

Sec. 20. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

* * *

(b) Approved independent schools.

(1) On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools. An independent school that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the local education agency and the school.

(2) Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school ~~has~~ have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation.

(3) Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.

* * *

(5) The State Board may revoke ~~or~~, suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources required to meet its stated objectives, for failure to comply with statutory requirements or the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon that revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in a public school, an approved or recognized independent school, or a home study program.

* * *

(8)(A) If an approved independent school experiences any of the following financial reporting events during the period of its approved status, the school shall notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement contributions;

(iv) the school's use of designated funds for nondesignated purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the State Board reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the State Board shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the State Board, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the State Board may establish a review team, that, with the consent of the school, includes a member of the Council of Independent Schools, to:

(I) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * *

Sec. 21. 16 V.S.A. § 2973 is amended to read:

§ 2973. INDEPENDENT ~~SCHOOL TUITION RATES~~ SCHOOLS

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school that accepts public tuition shall enroll any student with an individualized education plan who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school.

(2) In placing a student with an independent school under subdivision (1) of this subsection, the student's individualized education plan team and the LEA shall comply with all applicable federal and State requirements.

(3) An approved independent school is not required to demonstrate that it has the resources to serve every category of special education as defined under State Board of Education rules in order to be approved or retain its approval to receive public funding for general tuition.

(4) The terms "special education services," "LEA," and "individualized education plan" or "IEP" as used in this section shall have the same meanings as defined by State Board rules.

(b)(1) The Secretary of Education shall establish minimum standards of services for students receiving special education services in independent schools in Vermont~~; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the Agency and school districts for tuition, room, and board based on the level of services;~~ and may advise independent schools as to the need for certain special education services in Vermont.

(2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

(B)(i) An approved independent school that enrolls a student under subdivision (a)(1) of this section on a nonresidential basis may bill the responsible LEA for excess special education costs incurred by the independent school in providing special education services beyond those covered by general tuition. Reimbursement of these excess special education costs shall be based on the direct-costs rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education Technical Manual for special education cost accounting. The Agency of Education shall publish specific elements that must be included as part of an independent school's invoice for excess special education costs, and these elements shall be included in the written agreement required under subdivision (c)(2) of this section.

(ii) In establishing the direct cost rates for reimbursement under this subdivision (B), the Secretary shall apply the principle of treating an approved independent school and a public school with parity in the amount of federal, State, and local contributions to cover the costs of providing special education services.

(C)(i) The Secretary shall set, after consultation with independent schools in Vermont, the maximum tuition rates to be paid by the Agency and supervisory unions or school districts to independent schools that limit enrollment to students who are on an IEP or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school. The maximum tuition rates shall be based on the level of services provided by the school.

(ii) The tuition rates established by the Secretary under this subdivision (C) shall be no more than the costs that are reasonably related to the level of services provided by the school and shall be set forth on a form prescribed for that purpose by the Secretary of Education. The Secretary shall determine the relationship between costs and the level of services by using generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(iii) After the Secretary approves a tuition rate for an independent school under this subdivision (C), the school shall not exceed that tuition rate until such time as a new tuition rate is approved by the Secretary.

(3) An approved independent school shall provide such documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable under this subsection to the school are reasonable in relation to the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment under this subsection pending the Secretary's receipt of required documentation under this

subsection, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

(c)(1) In order to be approved as an independent school eligible to receive State funding under subdivision (a)(1) of this section, the school shall demonstrate the ability to serve students with disabilities by:

(A) demonstrating an understanding of special education requirements, including the:

(i) provision of a free and appropriate public education in accordance with federal and State law;

(ii) provision of education in the least restrictive environment in accordance with federal and State law;

(iii) characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law; and

(iv) procedural safeguards and parental rights, including discipline procedures, specified in federal and State law;

(B) committing to implementing the IEP of an enrolled student with special education needs, providing the required services, and appropriately documenting the services and the student's progress;

(C) subject to subsection (d) of this section, employing or contracting with staff who have the required licensure to provide special education services;

(D) agreeing to communicate with the responsible LEA concerning:

(i) the development of, and any changes to, the IEP;

(ii) services provided under the IEP and recommendations for a change in the services provided;

(iii) the student's progress;

(iv) the maintenance of the student's enrollment in the independent school; and

(v) the identification of students with suspected disabilities; and

(E) committing to participate in dispute resolution as provided under federal and State law.

(2) An approved independent school that enrolls a student requiring special education services who is placed under subdivision (a)(1) of this section:

(A) shall enter into a written agreement with the LEA:

(i) committing to the requirements under subdivision (1) of this subsection (c); and

(ii) if the LEA provides staff or resources to the approved independent school on an interim basis under subsection (d) of this section, setting forth the terms of that arrangement with assistance from the Agency of Education on the development of those terms and on the implementation of the arrangement; and

(B) subject to subsection (d) of this section, shall ensure that qualified school personnel attend evaluation and planning meetings and IEP meetings for the student.

(d) If an approved independent school enrolls a student under subdivision (a)(1) of this section but does not have the staff or State Board certification to provide special education services in the specific disability category that the student requires, then:

(1) The LEA, in consultation with the approved independent school and the Agency of Education, shall determine what special education services and supports the school is able to provide to the student.

(2) The LEA shall, on an interim basis and at its cost, provide such additional staff and other resources to the approved independent school as are necessary to support the student until such time as the approved independent school is able to directly provide these services and has the appropriate State Board certification; provided, however, that the school shall have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment.

(3) If the school does not have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment as required under subdivision (2) of this subsection (d), then, in the event that the State Board determines that the school has failed to make good faith and reasonable efforts to secure the required staff, resources, and certification, the State Board may take any action that is authorized by section 166 of this title.

~~(b)~~(e) Neither a school ~~districts~~ district nor any State agency shall pay rates for tuition, room, and board~~,~~ for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the Secretary.

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

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) The following sections shall take effect on July 1, 2020:

(1) Sec. 5 (amendment to 16 V.S.A. chapter 101); and

(2) Sec. 17 (transition).

(b) The following sections shall take effect on July 1, 2019:

(1) Sec. 14 (extraordinary services reimbursement);

(2) Sec. 15 (amendment to 16 V.S.A. § 4001); and

(3) Secs. 19-21 (approved independent schools).

(c) This section and the remaining sections shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Campion, for the Committee on Finance, to which the bill was referred, reported the same without recommendation.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education.

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 on a roll call, Yeas 26, Nays 2.

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: Ashe, Ayer, Balint, Baruth, Benning, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, White.

Those Senators who voted in the negative were: Branagan, Flory.

Those Senators absent and not voting were: McCormack, Westman.

House Proposal of Amendment; Consideration Postponed

S. 111.

House proposal of amendment to Senate bill entitled:

An act relating to privatization contracts.

Was taken up.

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

Sec. 1. 3 V.S.A. § 343 is amended to read:

§ 343. PRIVATIZATION CONTRACTS; PROCEDURE

(a) ~~No~~ An agency ~~may~~ shall not enter into a privatization contract, unless all of the following are satisfied:

* * *

(b)(1) A privatization contract shall contain specific performance measures regarding quantity, quality, and results and guarantees regarding the services performed.

(2) The agency shall provide information in the State's Workforce Report on the contractor's compliance with the specific performance measures set out in the contract.

(3) The agency may not renew the contract if the contractor fails to comply with the specific performance measures set out in the contract as required by subdivision (1) of this subsection.

(c)(1) Before an agency may renew a privatization contract for the first time, the Auditor of Accounts shall review the privatization contract analyzing whether it is achieving:

(A) the 10 percent cost-savings requirement set forth in subdivision (a)(2) of this section;

(B) the performance measures incorporated into the contract as required under subdivision (b)(1) of this section.

(2) If the Auditor of Accounts finds that a privatization contract has not achieved the cost savings required under subdivision (a)(2) of this section or complied with performance measures required under subdivision (b)(1) of this section, the Auditor of Accounts shall file a report with the agency and the House and Senate Committees on Government Operations, and the agency shall review whether to renew the privatization contract or perform the work with State employees.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Benning consideration of the bill was postponed until the next legislative day.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 269.

House proposal of amendment to Senate bill entitled:

An act relating to blockchain, cryptocurrency, and financial technology.

Was taken up.

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

* * * Definition of Blockchain Technology * * *

Sec. 1. 12 V.S.A. § 1913 is amended to read:

§ 1913. BLOCKCHAIN ENABLING

(a) As used in this section~~, "blockchain technology"~~ :

(1) "Blockchain" means a ~~mathematically~~ cryptographically secured, chronological, and decentralized consensus ledger or consensus database~~, whether~~ maintained via Internet ~~interaction~~, peer-to-peer network, or ~~otherwise~~ other interaction.

(2) "Blockchain technology" means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

* * *

* * * Personal Information Protection Companies * * *

Sec. 2. 8 V.S.A. chapter 78 is added to read:

CHAPTER 78. PERSONAL INFORMATION PROTECTION COMPANIES

§ 2451. DEFINITIONS

As used in this section:

(1) "Personal information" means data capable of being associated with a particular natural person, including gender identification, birth information,

marital status, citizenship and nationality, biometric records, government identification designations, and personal, educational, and financial histories.

(2) "Personal information protection company" means a business that is organized for the primary purpose of providing personal information protection services to individual consumers.

(3) "Personal information protection services" means:

(A) receiving, holding, and managing the disclosure or use of personal information concerning an individual consumer;

(B) pursuant to a written agreement that specifies the types of personal information to be held, and the scope of services to be provided, on behalf of the consumer; and

(C) in the best interest, and for the protection and benefit, of the consumer.

§ 2452. PERSONAL INFORMATION AS THE SUBJECT OF A FIDUCIARY RELATIONSHIP

A personal information protection company that accepts personal information pursuant to a written agreement to provide personal information protection services has a fiduciary responsibility to the consumer when providing personal protection services.

§ 2453. QUALIFIED PERSONAL INFORMATION PROTECTION COMPANY

(a) A personal information protection company shall qualify to conduct its business under the terms of this chapter and applicable rules adopted by the Department of Financial Regulation.

(b) A person shall not engage in business as a personal information protection company in this State without first obtaining a certificate of authority from the Department.

(c) A personal information protection company shall:

(1) be organized or authorized to do business under the laws of this State;

(2) maintain a place of business in this State;

(3) appoint a registered agent to accept service of process and to otherwise act on its behalf in this State, provided that whenever the registered agent cannot with reasonable diligence be found at the Vermont registered office of the company, the Secretary of State shall be an agent of the company upon whom any process, notice, or demand may be served;

(4) annually hold at least one meeting of its governing body in this State, at which meeting one or more members of the body are physically present; and

(5) develop, implement, and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards sufficient to protect personal information, and which may include the use of blockchain technology, as defined in 12 V.S.A. § 1913, in some or all of its business activities.

§ 2454. NAME; OFFICE

A personal information protection company shall file with the Department of Financial Regulation the name it proposes to use in connection with its business, which the Department shall not approve if it determines that the name may be misleading, likely to confuse the public, or deceptively similar to any other business name in use in this State.

§ 2455. CONDUCT OF BUSINESS

(a) A personal information protection company may:

(1) operate through remote interaction with the individuals entrusting personal information to the company, and there shall be no requirement of Vermont residency or other contact for any such individual to establish such a relationship with the company; and

(2) subject to applicable fiduciary duties, the terms of any agreement with the individual involved, and any applicable statutory or regulatory provision:

(A) provide elements of personal information to third parties with which the individual seeks to have a transaction, a service relationship, or other particular purpose interaction;

(B) provide certification or validation concerning personal information;

(C) receive compensation for acting in these capacities.

(b) An authorization to provide personal information may be either particular or general, provided it meets the terms of any agreement with the individual involved and any rules adopted by the Department of Financial Regulation.

§ 2456. FEES; AUTHORITY OF DEPARTMENT

(a)(1) The Department of Financial Regulation shall assess the following fees for a personal information protection company:

(A) an initial registration fee of $1,000.00, which includes a licensing fee of $500.00 and an investigation fee of $500.00;

(B) an annual renewal fee of $500.00;

(C) a change in address fee of $100.00.

(2) The Department shall have the authority to bill a personal information protection company for examination time at its standard rate.

(b) In addition to other powers conferred by this chapter, the Department shall have the authority to review records, conduct examinations, and require annual audits of a personal information protection company.

§ 2457. REPORTS; RULES

(a) The Department of Financial Regulation may prescribe by rule the timing and manner of reports by a personal information protection company to the Department.

(b) The Department may adopt rules to govern other aspects of the business of a personal information protection company, including its protection and safeguarding of personal information and its interaction with third parties with respect to personal information it holds.

Sec. 3. INSURANCE; BANKING; DFR STUDY; REPORT

(a) The Department of Financial Regulation shall review the potential application of blockchain technology to the provision of insurance and banking and consider areas for potential adoption and any necessary regulatory changes in Vermont.

(b) On or before January 15, 2019, the Department shall submit a report of its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 4. BLOCKCHAIN AND FINANCIAL TECHNOLOGY PROMOTION

The Agency of Commerce and Community Development shall incorporate into one or more of its economic development marketing and business support programs, events, and activities the following topics:

(1) opportunities to promote blockchain technology and financial technology-related economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency;

(2) legal and regulatory mechanisms that enable and promote the adoption of blockchain technology and financial technology in this State; and

(3) educational and workforce training opportunities in blockchain technology, financial technology, and related areas.

* * * Enabling Provisions for FinTech and Blockchain Approaches * * *

Sec. 5. 11 V.S.A. chapter 25, subchapter 12 is added to read:

Subchapter 12. Blockchain-Based Limited Liability Companies

§ 4171. DEFINITIONS

As used in this section:

(1) "Blockchain technology" has the same meaning as in 12 V.S.A. § 1913.

(2) "Participant" means:

(A) each person that has a partial or complete copy of the decentralized consensus ledger or database utilized by the blockchain technology, or otherwise participates in the validation processes of such ledger or database;

(B) each person in control of any digital asset native to the blockchain technology; and

(C) each person that makes a material contribution to the protocols.

(3) "Protocols" means the designated regulatory model of the software that governs the rules, operations, and communication between nodes on the network utilized by the participants.

(4) "Virtual currency" means a digital representation of value that:

(A) is used as a medium of exchange, unit of account, or store of value; and

(B) is not legal tender, whether or not denominated in legal tender.

§ 4172. ELECTION

A limited liability company organized pursuant to this title for the purpose of operating a business that utilizes blockchain technology for a material portion of its business activities may elect to be a blockchain-based limited liability company (BBLLC) by:

(1) specifying in its articles of organization that it elects to be a BBLLC; and

(2) meeting the requirements in subdivision 4173(2) and subsection 4174(a) of this title.

§ 4173. AUTHORITY; REQUIREMENTS

Notwithstanding any provision of this chapter to the contrary:

(1) A BBLLC may provide for its governance, in whole or in part, through blockchain technology.

(2) The operating agreement for a BBLLC shall:

(A) provide a summary description of the mission or purpose of the BBLLC;

(B) specify whether the decentralized consensus ledger or database utilized or enabled by the BBLLC will be fully decentralized or partially decentralized and whether such ledger or database will be fully or partially public or private, including the extent of participants' access to information and read and write permissions with respect to protocols;

(C) adopt voting procedures, which may include smart contracts carried out on the blockchain technology, to address:

(i) proposals from managers, members, or other groups of participants in the BBLLC for upgrades or modifications to software systems or protocols, or both;

(ii) other proposed changes to the BBLLC operating agreement; or

(iii) any other matter of governance or activities within the purpose of the BBLLC;

(D) adopt protocols to respond to system security breaches or other unauthorized actions that affect the integrity of the blockchain technology utilized by the BBLLC;

(E) provide how a person becomes a member of the BBLLC with an interest, which may be denominated in the form of units, shares of capital stock, or other forms of ownership or profit interests; and

(F) specify the rights and obligations of each group of participants within the BBLLC, including which participants shall be entitled to the rights and obligations of members and managers.

§ 4174. MULTIPLE ROLES OF MEMBERS AND MANAGERS

(a) A member or manager of a BBLLC may interact with the BBLLC in multiple roles, including as a member, manager, developer, node, miner, or other participant in the BBLLC, or as a trader and holder of the currency in its own account and for the account of others, provided such member or manager complies with any applicable fiduciary duties.

(b) The activities of a member or manager who interacts with the BBLLC through multiple roles are not deemed to take place in this State solely because the BBLLC is organized in this State.

§ 4175. CONSENSUS FORMATION ALGORITHMS AND GOVERNANCE PROCESSES

In its governance, a BBLLC may:

(1) adopt any reasonable algorithmic means for accomplishing the consensus process for validating records, as well as requirements, processes, and procedures for conducting operations, or making organizational decisions on the blockchain technology used by the BBLLC; and

(2) in accordance with any procedure specified pursuant to section 4173 of this title, modify the consensus process, requirements, processes, and procedures, or substitute a new consensus process, requirements, processes, or procedures that comply with the requirements of law and the governance provisions of the BBLLC.

§ 4176. SCOPE OF SUBCHAPTER; OTHER LAW

Except as expressly provided otherwise, this subchapter does not exempt a BBLLC from any other judicial, statutory, or regulatory provision of Vermont law or federal law, including State and federal securities laws. Except to the extent inconsistent with the provisions of this subchapter, the provisions of the Vermont Limited Liability Company Act govern.

Sec. 6. REPEAL

32 V.S.A. § 5811(26) (digital business entity) is repealed.

Sec. 7. 32 V.S.A. chapter 151, subchapter 3 is amended to read:

Subchapter 3. Taxation of Corporations

* * *

§ 5832. TAX ON INCOME OF CORPORATIONS

* * *

(2)(A) $75.00 for small farm corporations. "Small farm corporation" means any corporation organized for the purpose of farming, which during the taxable year is owned solely by active participants in that farm business and receives less than $100,000.00 gross receipts from that farm operation, exclusive of any income from forest crops; or

(B) ~~An amount determined in accordance with section 5832a of this title for a corporation which qualifies as and has elected to be taxed as a digital business entity for the taxable year; or~~ [Repealed.]

(C) For C corporations with gross receipts from $0-$2,000,000.00, the greater of the amount determined under subdivision (1) of this section or $300.00; or

(D) For C corporations with gross receipts from $2,000,001.00-$5,000,000.00, the greater of the amount determined under subdivision (1) of this section or $500.00; or

(E) For C corporations with gross receipts greater than $5,000,000.00, the greater of the amount determined under subdivision (1) of this section or $750.00.

§ 5832a. ~~DIGITAL BUSINESS ENTITY FRANCHISE TAX~~

~~(a) There is imposed upon every business entity which qualifies as and has elected to be taxed as a digital business entity an annual franchise tax equal to:~~

~~(1) the greater of 0.02 percent of the current value of the tangible and intangible assets of the company or $250.00, but in no case more than $500,000.00; or~~

~~(2) where the authorized capital stock does not exceed 5,000 shares, $250.00; where the authorized capital stock exceeds 5,000 shares but is not more than 10,000 shares, $500.00; and the further sum of $250.00 on each 10,000 shares or part thereof.~~

~~(b) In no case shall the tax on any corporation for a full taxable year, whether computed under subdivision (a)(1) or (2) of this section, be more than $500,000.00 or less than $250.00.~~

~~(c) In the case of a corporation that has not been in existence during the whole year, the amount of tax due, at the foregoing rates and as provided, shall be prorated for the portion of the year during which the corporation was in existence.~~

~~(d) In the case of a corporation changing during the taxable year the amount of its authorized capital stock, the total annual franchise tax payable at the foregoing rates shall be arrived at by adding together the franchise taxes calculated pursuant to subdivision (a)(2) of this section as prorated for the several periods of the year during which each distinct authorized amount of capital stock was in effect.~~

~~(e) For the purpose of computing the taxes imposed by this section, the authorized capital stock of a corporation shall be considered to be the total number of shares that the corporation is authorized to issue without regard to whether the number of shares that may be outstanding at any one time is limited to a lesser number.~~

~~(f) The franchise tax under this section shall be reported and paid in the same manner as the tax under subdivision 5832(2)(B) of this title; provided, however, that an electing corporation shall also provide the Commissioner with a copy of its federal tax return.~~ [Repealed.]

* * *

§ 5838. ~~DIGITAL BUSINESS ENTITY ELECTION~~

~~A corporation shall not be subject to the tax imposed by section 5832 of this title if the corporation qualifies as and elects to be taxed as a digital business entity for the taxable year.~~ [Repealed.]

* * * Blockchain Technology in Public Records * * *

Sec. 8. PUBLIC RECORDS

On or before January 15, 2019, the Vermont State Archives and Records Administration, in collaboration with the Vermont League of Cities and Towns, the Vermont Municipal Clerks' and Treasurers' Association, and the Agency of Digital Services, shall:

(1) evaluate blockchain technology for the systematic and efficient management of public records in accordance with 1 V.S.A. § 317a and 3 V.S.A. § 117;

(2) recommend legislation, including uniform laws, necessary to support the possible use of blockchain technology for the recording of land records pursuant to 24 V.S.A. § 1154 and for other public records; and

(3) submit its findings and recommendations to the House Committee on Commerce and Economic Development; the Senate Committee on Economic Development, Housing and General Affairs; and the House and Senate Committees on Government Operations.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to blockchain business development.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Clarkson, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

H. 593.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to miscellaneous consumer protection provisions.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: In Sec. 2, in subsection (a), by striking out "January" in both instances and inserting in lieu thereof "July"

Second: By striking out Secs. 6a and 7 in their entireties and inserting in lieu thereof Secs. 7–15 to read:

Sec. 7. ONE-STOP FREEZE NOTIFICATION

(a) The Attorney General, in consultation with industry stakeholders, shall consider one or more methods to ease the burden on consumers when placing or lifting a credit security freeze, including the right to place a freeze with a single nationwide credit reporting agency and require that agency to initiate a freeze with other agencies.

(b) On or before January 15, 2019, the Attorney General shall report his or her findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 8. 9 V.S.A. § 41a is amended to read:

§ 41a. LEGAL RATES

(a) Except as specifically provided by law, the rate of interest or the sum allowed for forbearance or use of money shall be 12 percent per annum computed by the actuarial method.

(b) The rate of interest or the sum allowed:

* * *

(10) Interest on a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes shall accrue at the rate of 12 percent per annum using simple interest, unless a court suspends or reduces the accrual of interest pursuant to 12 V.S.A. § 2903a.

* * *

Sec. 9. 12 V.S.A. chapter 113 is amended to read:

CHAPTER 113. ~~JUDGMENT LIEN~~ JUDGMENTS AND JUDGMENT LIENS

* * *

§ 2903. DURATION AND EFFECTIVENESS

* * *

(c) ~~Interest~~ Unless a court suspends or reduces the accrual of interest pursuant to section 2903a of this title, interest on a judgment lien shall accrue at the rate of 12 percent per annum using simple interest.

(d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and ~~V.R.C.P.~~ Rule 80.1 of the Vermont Rules of Civil Procedure. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, section 4531 of this title shall apply to foreclosure of a judgment lien.

§ 2903a. ACCRUAL OF POSTJUDGMENT INTEREST ON CREDIT CARD DEBT; SUSPENSION; REDUCTION; REINSTATEMENT

(a) Upon or after entering a judgment against a debtor in default on credit card debt incurred for personal, family, or household purposes, a court may suspend or reduce the accrual of interest on the judgment if it finds:

(1) the judgment debtor's income and assets are exempt from collection; or

(2) based on his or her current income, assets, and expenses, the judgment debtor does not have more financial resources available than what is reasonably necessary to support the debtor and his or her dependents.

(b) To request suspension or reduction of interest on a judgment, the debtor shall submit to the court a motion to suspend or reduce interest that includes:

(1) a completed financial disclosure, on a form adopted by the Vermont Judiciary; and

(2) any additional documentation the court prescribes.

(c) If the court approves the request, it:

(1) shall provide in its order that the suspension or reduction of interest is based on the judgment debtor's current income, assets, and expenses; and

(2) may require the judgment debtor periodically to provide the judgment creditor with an updated financial disclosure form.

(d) The court may revise its order upon a motion by the judgment creditor

or judgment debtor to reinstate, reduce further, or suspend the accrual of interest based on a substantial change in the judgment debtor's income, assets, or expenses.

* * *

Sec. 10. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Debt Collectors and Debt Collection

§ 2491. DEFINITIONS

As used in this subchapter:

(1) "Credit card debtor" means a consumer who is in default on credit card debt incurred for personal, family, or household purposes.

(2) "Debt collector" means a person who engages, or directly or indirectly aids, in collecting a credit card debt incurred for personal, family, or household purposes, and includes a debt buyer.

§ 2491a. ENFORCEMENT

A person who violates a provision of this subchapter commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

§ 2491b. CREDIT CARD DEBT COLLECTION; NOTICES TO CONSUMER

(a) Notice prior to initiating action. Prior to initiating an action to obtain a judgment against a credit card debtor, a debt collector shall deliver to the credit card debtor:

(1) a claim of exemption form adopted by the Vermont Judiciary; and

(2) a written notice that contains:

(A) the amount of the debt;

(B) the name of the person to whom the debt is owed;

(C) the name of the original creditor, the last four digits of the account, and the alleged date of the last payment if any;

(D) a statement that, if the credit card debtor indicates in writing that his or her current income and assets are exempt from collection, the debt collector will review the information in deciding whether and how to proceed in collecting the debt.

(b) Time for delivering notice prior to initiating action. A debt collector shall deliver the notice required in subsection (a) of this section not more than 90 days and not less than 30 days before initiating an action to obtain a judgment against a credit card debtor.

(c) Notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. Prior to filing a motion to collect on a judgment against a credit card debtor, an assignee of the judgment shall deliver to the judgment debtor:

(1) a copy of the judgment against the credit card debtor;

(2) the date and parties to each assignment of the judgment;

(3) a claim of exemption form adopted by the Vermont Judiciary; and

(4) a written statement that, if the credit card debtor indicates in writing that his or her current income and assets are exempt from collection, the assignee will review the information in deciding whether and how to proceed in collecting on the judgment.

(d) Time for delivering notice by assignee prior to filing a motion to collect on a judgment against credit card debtor. The assignee of a judgment shall deliver the notice required in subsection (c) of this section not more than 90 days and not less than 30 days before filing a motion to collect on the judgment.

§ 2491c. DEBT COLLECTION AFTER STATUTE OF LIMITATIONS EXPIRED; LIMITATIONS

(a)(1) A debt collector shall not initiate a civil action to collect a debt from a credit card debtor when the debt collector knows or reasonably should know that the statute of limitations provided in 12 V.S.A. § 511 has expired.

(2) Notwithstanding any other provision of law, when the limitations period provided in 12 V.S.A. § 511 expires, any subsequent payment toward, written or oral affirmation of, or other activity on the debt does not revive or extend the limitations period.

(b) After the statute of limitations provided in 12 V.S.A. § 511 has expired, a debt collector may only communicate with a credit card debtor concerning the debt after providing written or verbal notice that the credit card debtor has the right to request that the debt collector cease all communications with the credit card debtor concerning the debt and providing one of the following disclosures:

(1) If the debt is not past the date for obsolescence set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):

"The law limits how long you can be sued on a debt. Because of the age of your debt, we cannot sue you for it. However, if you do not pay the debt, [creditor or debt collector name] may [continue to] report it to the credit reporting agencies as unpaid for as long as the law permits this reporting."

(2) If the debt is past the date for obsolescence set forth in the federal

Fair Credit Reporting Act, 15 U.S.C. § 1681c(a):

"The law limits how long you can be sued on a debt. Because of the age of your debt, [creditor or debt collector name] cannot sue you for it and will not report it to any credit reporting agency."

Sec. 11. 12 V.S.A. § 2732 is amended to read:

§ 2732. GOODS, EFFECTS, AND CREDITS HELD BY THIRD PERSON

On request of the judgment creditor, the clerk of the court granting judgment shall issue ~~to the officer holding the execution~~ a summons as trustee to a third person having in his or her hands goods, effects, or credits, other than earnings, of the debtor that have not previously been attached on trustee process in connection with the action. The summons shall be in such form as the Supreme Court may by rule provide for a summons to a trustee in connection with the commencement of an action and shall state the date and amount of the judgment. The summons shall be served by the officer upon the trustee in like manner and with the same effect as mesne process. A copy of the summons shall be served upon the judgment debtor with the officer's endorsement thereon of the date of service upon the trustee. After service of the summons, proceedings shall be had as provided by law and by rule promulgated by the Supreme Court for trustee process in connection with the commencement of an action.

Sec. 12. 12 V.S.A. § 3170 is amended to read:

§ 3170. EXEMPTIONS; ISSUANCE OF ORDER

(a) No order approving the issuance of trustee process against earnings shall be entered against a judgment debtor who was, within the two-month period preceding the hearing provided in section 3169 of this title, a recipient of assistance from the Vermont Department for Children and Families or the Department of Vermont Health Access. The judgment debtor must establish this exemption at the time of hearing.

(b) The earnings of a judgment debtor shall be exempt as follows:

(1) 75 percent of the debtor's weekly disposable earnings~~,~~ or 30 times the ~~federal~~ minimum hourly wage, whichever is greater; or

(2) if the judgment debt arose from a consumer credit transaction, as that term is defined by 15 U.S.C. § 1602 and implementing regulations of the Federal Reserve Board, 85 percent of the debtor's weekly disposable earnings, or 40 times the ~~federal~~ minimum hourly wage, whichever is greater; or

(3) if the court finds that the weekly expenses reasonably incurred by the debtor for his or her maintenance and that of dependents exceed the amounts exempted by subdivisions (1) and (2) of this subsection, such greater

amount of earnings as the court shall order.

* * *

Sec. 13. 12 V.S.A. § 3173 is added to read:

§ 3173. TRUSTEE PROCESS AGAINST JUDGMENT DEBTOR'S BANK ACCOUNTS; PROCEDURE

(a)(1) A judgment creditor may, pursuant to this section, obtain trustee process against a judgment debtor's accounts or funds in the possession of a bank or other financial institution to enforce a money judgment in a civil action.

(2) Notwithstanding section 2732 of this title or any other provision of law, a judgment debtor's accounts or funds in the possession of a bank or other financial institution shall not be attached, be subject to trustee process, or be subject to execution by a judgment creditor unless the requirements of this section are satisfied.

(3) Nothing in this section shall prohibit a financial institution from exercising a contractual right of setoff against a judgment debtor's deposit accounts with the financial institution.

(b)(1) A judgment creditor may file an ex parte motion for trustee process against a judgment debtor's accounts or funds in the possession of a bank or other financial institution describing in detail the grounds for the motion, the amount alleged to be unpaid, including estimated costs anticipated to be expended for court fees and service on parties in connection with the trustee process procedure.

(2) The judgment creditor shall prepare a summons and a disclosure for the trustee, and a claim of exemption for the judgment debtor, on forms provided by the court.

(c)(1) Upon receipt of a motion for trustee process filed under this section when a judgment is final and has not been satisfied, the Superior clerk is authorized to issue one or more summonses to any trustee financial institution specified by the judgment creditor that possesses accounts or funds belonging to the judgment debtor.

(2) If the judgment creditor requests issuance of more than one summons, the judgment creditor shall specify, and the clerk shall include in the summons, which financial institution shall not freeze the amounts exempted by subdivision 2740(15) of this title.

(3) The clerk shall issue a notice of hearing concurrently with the summons and shall set the matter for hearing not sooner than 30 days after issuing the notice and summons.

(4) A summons issued pursuant to this subsection shall contain instructions to the trustee financial institution directing it not to freeze any funds of the judgment debtor that, based on deposit or other information kept by the trustee financial institution, are protected under 31 C.F.R. part 212 or exempt under subdivision 2740(15) of this title.

(d)(1) The judgment creditor shall serve on the trustee financial institution and the judgment debtor pursuant to Rule 4 of the Vermont Rules of Civil Procedure, unless the judgment debtor files an appearance pursuant to Rule 5 of the Vermont Rules of Civil Procedure after the motion for trustee process is filed:

(A) the motion for trustee process;

(B) the summons and notice of hearing issued by the clerk pursuant to subdivisions (c)(1) and (3) of this section;

(C) a claim of exemptions form approved by the Court Administrator that permits the judgment debtor to identify any of the debtor's funds in the possession of the trustee financial institution that may be exempt from execution under section 2740 of this title; and

(D) a disclosure form for the trustee.

(2) If the judgment creditor does not provide proof of service on the judgment debtor by the time of the hearing and the judgment debtor does not appear at the hearing, the court shall issue an order denying the motion for trustee process and directing the trustee financial institution to release all of the judgment debtor's held funds to the judgment debtor, unless the hearing is continued for good cause.

(e) Upon receipt of a summons served pursuant to subsection (d) of this section, a trustee financial institution, based on the instructions contained in the summons and deposit or other information kept by the institution:

(1) shall not freeze any funds in its possession belonging to the judgment debtor that are protected under 31 C.F.R. part 212 or that are exempt under subdivision 2740(15) of this title;

(2) shall freeze any funds up to the amount owed as provided in the summons to the trustee that are not protected under 31 C.F.R. part 212 and that are not exempt under subdivision 2740(15) of this title; and

(3) shall return the disclosure form to the court and to the parties within 10 days.

(f)(1) A judgment debtor may request an expedited hearing to determine a claim of exemption.

(2) The judgment debtor shall:

(A) submit the request in writing; and

(B) send a copy of the request to the court, to the judgment creditor, and to the trustee financial institution.

(3) The court shall give notice to the parties and hold the hearing within three business days after the judgment debtor makes the request.

(4) If the judgment debtor requests an expedited hearing, he or she is deemed to have entered an appearance and waived any further service.

(g) At the hearing on the motion for trustee process or motion for expedited hearing, the court shall consider the disclosure form from the trustee and the testimony and affidavits offered by any party, provided that an affiant is available to testify in person or by telephone. The court shall issue an order granting or denying the motion for trustee process, which shall:

(1) state the amount of the judgment unpaid, including costs incurred since filing the motion;

(2) state the rate of postjudgment interest due under 9 V.S.A. § 41a(b)(10);

(3) identify any funds of the judgment debtor in the possession of the trustee financial institution that are exempt from execution under section 2740 of this title and order release of those funds to the judgment debtor;

(4) review any proposed settlement between the judgment creditor and the judgment debtor and make a finding as to whether any waiver of exemptions was knowing; and

(5) identify the amount of funds in the possession of the trustee financial institution that shall be released to the judgment creditor.

(h) A trustee financial institution shall not be subject to criminal or civil liability for any actions taken in reliance upon the provisions of this section.

Sec. 14. IMPLEMENTATION; REPORT

(a) On or before January 15, 2020, the Attorney General, in consultation with the Judicial Branch, representatives of creditors and debtors, and national nonprofit organizations representing the receivables industry, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses:

(1) the implementation, outcomes, and effectiveness of Secs. 8–13 of this act;

(2) whether to expand the applicability of the provisions of Secs. 8–13 of this act beyond credit card debt; and

(3) any recommendations for further legislative action related to Secs. 8–13 of this act.

(b) On or before January 15, 2019, the Attorney General, in consultation with the Judicial Branch and representatives of creditors and debtors, shall submit to the House and Senate Committees on Judiciary, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs a report that addresses the potential costs and benefits of requiring a court to acquire and review a debtor's credit report when considering a request to reduce or suspend the accrual of postjudgment interest, who should be responsible for producing the credit report, and how to ensure consumer privacy if a credit report is used for those purposes in a court action.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Sec. 6 (credit information for personal insurance) shall take effect on passage and apply to personal insurance policies that either are written to be effective or are renewed on or after nine months after the date of passage.

(c) Secs. 1–2 (automatic renewal provisions) shall take effect on July 1, 2019.

(d) Secs. 4–5 (credit protection for vulnerable persons) shall take effect on January 1, 2019.

(e) Secs. 3 (retainage for construction materials) and 7 (one-stop notification study) shall take effect on July 1, 2018.

(f) Secs. 8–14 (credit card and debt collections) shall take effect on October 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sirotkin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 676.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to miscellaneous energy subjects.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by inserting a new Sec. 3 to read as follows:

Sec. 3. 6 V.S.A. chapter 217 is added to read:

CHAPTER 217. POLLINATOR-FRIENDLY SOLAR GENERATION STANDARD

§ 5101. DEFINITIONS

As used in this chapter:

(1) "Agency" means the Agency of Agriculture, Food and Markets.

(2) "Invasive species" means any species of vegetation that:

(A) is designated as a noxious weed on the Agency's Noxious Weed Rule under chapter 84 of this title;

(B) is listed on the Vermont Invasive Exotic Plant Committee Watch List;

(C) has been quarantined by the Agency as invasive; or

(D) has been determined to be invasive by the Agency of Natural Resources.

(3) "Native" refers to perennial vegetation that is native to Vermont. Native perennial vegetation does not include invasive species.

(4) "Naturalized" refers to perennial vegetation that is not native to Vermont, but is now considered to be well established and part of Vermont flora. Naturalized perennial vegetation does not include invasive species.

(5) "Owner" means a public or private entity that has a controlling interest in the solar site.

(6) "Perennial vegetation" means wildflowers, forbs, shrubs, sedges, rushes, and grasses that serve as habitat, forage, and migratory way stations for pollinators.

(7) "Pollinator" means bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes wild and managed insects.

(8) "Solar site" means a ground-mounted solar system for generating electricity and the area surrounding that system under the control of the owner.

(9) "Vegetation management plan" means a written document that includes short- and long-term site management practices that will provide and maintain native and naturalized perennial vegetation.

§ 5102. BENEFICIAL HABITAT STANDARD

(a) This section establishes a standard for owners that intend to claim that, through the voluntary planting and management of vegetation, a solar site provides greater benefits to pollinators and shrub-dependent birds than are provided by solar sites not so managed.

(b) In order for the solar site to meet the beneficial habitat standard and for the owner of a solar site to claim that the solar site is beneficial to those species or is pollinator-friendly, all the following shall apply:

(1) The owner adheres to guidance set forth by the Pollinator-Friendly Scorecard (Scorecard) published by the University of Vermont (UVM) Extension.

(2) The owner shall make the solar site's completed Scorecard available to the public and provide a copy of the completed Scorecard to the UVM Extension.

(3) If the site has a vegetation management plan:

(A) The plan shall maximize the use of native and naturalized perennial vegetation for foraging habitat beneficial to pollinators consistent with the solar site's Scorecard.

(B) The owner shall make the vegetation management plan available to the public and provide a copy of the plan to the UVM Extension.

(4) When establishing perennial vegetation and beneficial foraging habitat, the solar site shall use native and naturalized plant species and seed mixes whenever practicable.

(c) Nothing in this chapter affects any findings that must be made in order to issue a State permit or other approval for a solar site or the duty to comply with any conditions in such a permit or approval.

And by renumbering the remaining section to be numerically correct.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

Committees of Conference Appointed

H. 711.

An act relating to employment protections for crime victims.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Balint
Senator Nitka
Senator Soucy

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 780.

An act relating to portable rides at agricultural fairs, field days, and other similar events.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Starr
Senator Pollina
Senator Brooks

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 915.

An act relating to the protection of pollinators.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Branagan
Senator Rodgers
Senator Baruth

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 269.

An act relating to blockchain, cryptocurrency, and financial technology.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Clarkson
Senator Soucy
Senator Balint

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 269, H. 676, H. 711, H. 780, H. 912, H. 915.

Adjournment

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

SATURDAY, MAY 5, 2018

Pursuant to Rule 8 of the Senate Rules, in the absence of the President and the President *pro tempore*, the time for convening of the Senate having been set at nine o'clock and thirty minutes in the morning, the Senate was called to order by John H. Bloomer, Jr., Secretary of the Senate.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 61

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 105. An act relating to consumer justice enforcement.

S. 150. An act relating to automated license plate recognition systems.

S. 179. An act relating to community justice centers.

S. 180. An act relating to the Vermont Fair Repair Act.

S. 222. An act relating to miscellaneous judiciary procedures.

S. 262. An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access.

S. 273. An act relating to miscellaneous law enforcement amendments.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

Pursuant to the request of the Senate for a Committee of Conference upon

the disagreeing votes of the two Houses on Senate bill of the following title:

S. 269. An act relating to blockchain, cryptocurrency, and financial technology.

The Speaker has appointed as members of such committee on the part of the House:

Rep. O'Sullivan of Burlington
Rep. McCoy of Poultney
Rep. Young of Glover.

The House has considered Senate proposals of amendment to House bill of the following title:

H. 910. An act relating to the Open Meeting Law and the Public Records Act.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Harrison of Chittenden
Rep. Gannon of Wilmington
Rep. Weed of Enosburgh.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 203. An act relating to systemic improvements of the mental health system.

And has concurred therein with further proposal of amendment.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 908. An act relating to the Administrative Procedure Act.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposals of amendment to the following House bills:

H. 859. An act relating to requiring municipal corporations to affirmatively vote to retain ownership of lease lands.

H. 895. An act relating to legislative review of certain report requirements.

And has severally concurred therein.

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

H.C.R. 361. House concurrent resolution congratulating the 2017 West Rutland High School Golden Horde Division IV girls' championship softball team.

H.C.R. 362. House concurrent resolution congratulating the Migrant Justice organization on the progress achieved with its Milk with Dignity Program.

H.C.R. 363. House concurrent resolution honoring Vermont high school students who have achieved fluency in world languages other than English, and welcoming the establishment of a Vermont Seal of Biliteracy.

H.C.R. 364. House concurrent resolution congratulating the Clemmons family of Charlotte and it's A Sense of Place project on winning a National Creative Placemaking Fund grant.

H.C.R. 365. House concurrent resolution congratulating Cadence Wheeler of Springfield on his jumping achievements at State and New England indoor track and field championship meets.

H.C.R. 366. House concurrent resolution honoring former South Burlington Fire Captain Gary Rounds for his exemplary municipal public service.

H.C.R. 367. House concurrent resolution commemorating the 80th Anniversary of the Castleton Colonial Day Historic House Tour.

H.C.R. 368. House concurrent resolution congratulating the 2018 Essex High School Vermont-NEA Scholars' Bowl championship team.

H.C.R. 369. House concurrent resolution congratulating Carl Fung on winning the 2017 national LEGO REBRICK SuperBots contest.

H.C.R. 370. House concurrent resolution congratulating the Essex Junction all-stars Little League Baseball team on winning the 2017 Vermont State championship.

H.C.R. 371. House concurrent resolution designating Wednesday, June 27, 2018 as Post-Traumatic Stress Injury Awareness Day.

H.C.R. 372. House concurrent resolution congratulating the 2018 Vermont History Day winners.

H.C.R. 373. House concurrent resolution congratulating the Health Care & Rehabilitation Services of Southeastern Vermont on its 50th anniversary.

H.C.R. 374. House concurrent resolution congratulating Tessa Napolitano of Burlington on winning the 2018 Elks New England Regional Hoop Shoot for her age group.

H.C.R. 375. House concurrent resolution congratulating Ellie Whalen of Rutland Town on winning the 2018 Elks New England Regional Hoop Shoot for her age group.

H.C.R. 376. House concurrent resolution congratulating the 2017 Oxbow Union High School Olympians Division III championship girls' softball team and honoring Coach Robin Wozny on the completion of her outstanding high school coaching career.

H.C.R. 377. House concurrent resolution congratulating Alice Bennett of Bennington on her 100th birthday.

H.C.R. 378. House concurrent resolution congratulating Honorary Shaftsbury Fire Chief Charles O. Becker on 70 years of exemplary service.

H.C.R. 379. House concurrent resolution congratulating William Collins on 40 years of outstanding service as a Bennington Rescue Squad Emergency Medical Technician.

H.C.R. 380. House concurrent resolution in memory of former Georgia Justice of the Peace Charles Aubrey Thweatt.

H.C.R. 381. House concurrent resolution designating the week of May 7, 2018 as Women's Lung Health Week.

H.C.R. 382. House concurrent resolution recognizing the 2017 Miss Vermont's Outstanding Teen Jenna Lawrence's work on behalf of Alzheimer's public awareness and eradication.

H.C.R. 383. House concurrent resolution congratulating the Hinesburg Fire Department on its 75th anniversary.

H.C.R. 384. House concurrent resolution recognizing the importance of forests and forestry-related industries in Vermont in commemoration of Arbor Day.

H.C.R. 385. House concurrent resolution in memory of Bellows Falls educator and civic leader Francis X. Coyne.

H.C.R. 386. House concurrent resolution congratulating Wilson House in East Dorset on its 30th anniversary.

H.C.R. 387. House concurrent resolution congratulating Miss Vermont 2017 Erin Connor of Bridport.

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. 23. Senate concurrent resolution in memory of Gertrude Martha Hodge of Topsham.

And has adopted the same in concurrence.

The Governor has informed the House that on May 3, 2018, he approved and signed a bill originating in the House of the following title:

H. 690. An act relating to explanation of advance directives and treating clinicians who may sign a DNR/COLST.

Bill Referred to Committee on Finance

H. 576.

House 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 stormwater management.

Bills Referred to Committee on Appropriations

House 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 Appropriations:

H. 559. An act relating to miscellaneous environmental subjects.

H. 739. An act relating to energy productivity investments under the self-managed energy efficiency program.

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 Kitchel, Benning, Cummings and MacDonald,

S.C.R. 23.

Senate concurrent resolution in memory of Gertrude Martha Hodge of Topsham.

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 Reps. Potter and Burditt,

By Senators Collamore, Flory and Soucy,

H.C.R. 361.

House concurrent resolution congratulating the 2017 West Rutland High School Golden Horde Division IV girls' championship softball team.

By Reps. Morris and others,

H.C.R. 362.

House concurrent resolution congratulating the Migrant Justice organization on the progress achieved with its Milk with Dignity Program.

By Reps. Kimbell and others,

By Senators Baruth, Clarkson and Kitchel,

H.C.R. 363.

House concurrent resolution honoring Vermont high school students who have achieved fluency in world languages other than English, and welcoming the establishment of a Vermont Seal of Biliteracy.

By Reps. Morris and Yantachka,

H.C.R. 364.

House concurrent resolution congratulating the Clemmons family of Charlotte and it's A Sense of Place project on winning a National Creative Placemaking Fund grant.

By Reps. Forguites and others,

By Senators Clarkson, McCormack and Nitka,

H.C.R. 365.

House concurrent resolution congratulating Cadence Wheeler of Springfield on his jumping achievements at State and New England indoor track and field championship meets.

By Reps. Head and others,

H.C.R. 366.

House concurrent resolution honoring former South Burlington Fire Captain Gary Rounds for his exemplary municipal public service.

By Reps. Helm and Canfield,

H.C.R. 367.

House concurrent resolution commemorating the 80th Anniversary of the Castleton Colonial Day Historic House Tour.

By Reps. Myers and others,

H.C.R. 368.

House concurrent resolution congratulating the 2018 Essex High School Vermont-NEA Scholars' Bowl championship team.

By Reps. Myers and others,

H.C.R. 369.

House concurrent resolution congratulating Carl Fung on winning the 2017 national LEGO REBRICK SuperBots contest.

By Reps. Myers and others,

H.C.R. 370.

House concurrent resolution congratulating the Essex Junction all-stars Little League Baseball team on winning the 2017 Vermont State championship.

By Reps. Copeland-Hanzas and others,

H.C.R. 371.

House concurrent resolution designating Wednesday, June 27, 2018 as Post-Traumatic Stress Injury Awareness Day.

By Reps. Lippert and Ancel,

By Senator Campion,

H.C.R. 372.

House concurrent resolution congratulating the 2018 Vermont History Day winners.

By Reps. Stuart and others,

H.C.R. 373.

House concurrent resolution congratulating the Health Care & Rehabilitation Services of Southeastern Vermont on its 50th anniversary.

By Reps. Brennan and others,

H.C.R. 374.

House concurrent resolution congratulating Tessa Napolitano of Burlington on winning the 2018 Elks New England Regional Hoop Shoot for her age group.

By Reps. Brennan and others,

H.C.R. 375.

House concurrent resolution congratulating Ellie Whalen of Rutland Town on winning the 2018 Elks New England Regional Hoop Shoot for her age group.

By Reps. Copeland-Hanzas and Conquest,

By Senators Benning and Kitchel,

H.C.R. 376.

House concurrent resolution congratulating the 2017 Oxbow Union High School Olympians Division III championship girls' softball team and honoring Coach Robin Wozny on the completion of her outstanding high school coaching career.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 377.

House concurrent resolution congratulating Alice Bennett of Bennington on her 100th birthday.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 378.

House concurrent resolution congratulating Honorary Shaftsbury Fire Chief Charles O. Becker on 70 years of exemplary service.

By Reps. Morrissey and others,

By Senators Campion and Sears,

H.C.R. 379.

House concurrent resolution congratulating William Collins on 40 years of outstanding service as a Bennington Rescue Squad Emergency Medical Technician.

By Rep. Rosenquist,

By Senator Branagan,

H.C.R. 380.

House concurrent resolution in memory of former Georgia Justice of the Peace Charles Aubrey Thweatt.

By Reps. Burke and others,

By Senators Balint, Branagan, Bray, Brock, Clarkson, McCormack, Nitka and White,

H.C.R. 381.

House concurrent resolution designating the week of May 7, 2018 as Women's Lung Health Week.

By Reps. Dickinson and others,

By Senators Ashe, Balint, Baruth, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr and White,

H.C.R. 382.

House concurrent resolution recognizing the 2017 Miss Vermont's Outstanding Teen Jenna Lawrence's work on behalf of Alzheimer's public awareness and eradication.

By Rep. Lippert,

H.C.R. 383.

House concurrent resolution congratulating the Hinesburg Fire Department on its 75th anniversary.

By the Committee on Agriculture and Forestry,

H.C.R. 384.

House concurrent resolution recognizing the importance of forests and forestry-related industries in Vermont in commemoration of Arbor Day.

By Reps. Partridge and Trieber,

By Senators Balint and White,

H.C.R. 385.

House concurrent resolution in memory of Bellows Falls educator and civic leader Francis X. Coyne.

By Rep. Sullivan,

By Senators Campion and Sears,

H.C.R. 386.

House concurrent resolution congratulating Wilson House in East Dorset on its 30th anniversary.

By Reps. Smith and others,

By Senators Ayer and Bray,

H.C.R. 387.

House concurrent resolution congratulating Miss Vermont 2017 Erin Connor of Bridport.

Adjournment

At nine o'clock and forty-five minutes in the morning and no quorum of the Senate having assembled, pursuant to Rule 9 of the Senate Rules, the Senate adjourned until one o'clock in the afternoon on Monday, May 7, 2018 pursuant to J.R.S. 58.

MONDAY, MAY 7, 2018

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. 62

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 197. An act relating to liability for toxic substance exposures or releases.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 166. An act relating to the provision of medication-assisted treatment for inmates.

And has concurred therein.

Proposals of Amendment; Third Reading Ordered

H. 917.

Senator Mazza, for the Committee on Transportation, to which was referred House bill entitled:

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

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:

* * * Transportation Program Adopted as Amended; Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2019 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2019 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

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

(2) "Secretary" means the Secretary of Transportation.

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

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

* * * Federal Infrastructure Funding * * *

Sec. 2. FEDERAL INFRASTRUCTURE FUNDING

(a) Subsection (b) of this section shall expire on February 1, 2019.

(b)(1) If a federal infrastructure bill or other federal legislation that provides for infrastructure funding is enacted that provides Vermont with additional federal funding for transportation-related projects, to the extent that federal monies allocated to the State of Vermont are subject to a requirement that the monies be obligated or under contract by the State within a specified time period, the Secretary is authorized to exceed spending authority in the fiscal year 2018 and 2019 Transportation Programs and to obligate and expend the federal monies:

(A) on eligible projects in the fiscal year 2018 or 2019 Transportation Program; and

(B) on additional town highway projects or activities that meet federal eligibility and readiness criteria.

(2) Nothing in this subsection shall be construed to authorize the Secretary to obligate or expend State Transportation or TIB funds above amounts authorized in the fiscal year 2018 or 2019 Transportation Program.

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

* * * Infrastructure for Rebuilding America Grant * * *

Sec. 3. INFRASTRUCTURE FOR REBUILDING AMERICA GRANT

(a)(1) According to the Agency, in 2018, the U.S. Department of Transportation (USDOT) may solicit applications for grants under the Infrastructure for Rebuilding America (INFRA) Program.

(2) If USDOT does solicit INFRA grant applications in 2018, the Agency may submit an application for an INFRA grant for bridge and culvert projects on Interstate 89 with a total cost of up to $105,000,000.00, which amount includes a State match of up to $21,000,000.00. If it submits a grant application, the Agency shall identify Transportation Infrastructure Bonds as a possible source of State matching dollars and, promptly upon its submission to the USDOT, the Agency shall send an electronic copy of the grant application to the Joint Fiscal Office, which shall then transmit it to the Joint Fiscal

Committee and to the chairs of the House and Senate Committees on Transportation.

(b) If the Agency is awarded an INFRA grant as described in subsection (a) of this section and the grant requires that work under the grant begin during fiscal year 2019, the Agency shall include in its fiscal year 2019 budget adjustment proposal any adjustments to fiscal year 2019 appropriations and to the approved fiscal year 2019 Transportation Program that may be required to comply with the terms of the grant.

* * * Program Development; Traffic & Safety Operations * * *

Sec. 4. PROGRAM DEVELOPMENT—TRAFFIC & SAFETY OPERATIONS

The following project is added to the candidate list of the Program Development—Traffic & Safety Program within the fiscal year 2019 Transportation Program: South Burlington STP SGNL ( ) I-89 Exit 14 signal upgrades.

* * * Program Development; Bike & Pedestrian Facilities * * *

Sec. 5. PROGRAM DEVELOPMENT—BIKE & PEDESTRIAN FACILITIES

Spending authority on the Statewide—New Awards activity within the fiscal year 2019 Program Development—Bike & Pedestrian Facilities Program is amended as follows:

FY19	As Proposed	As Amended	Change
PE	0	0	0
ROW	0	0	0
Const	600,000	900,000	300,000
Total	600,000	900,000	300,000
Sources of funds			
State	300,000	450,000	150,000
Local	300,000	450,000	150,000
Federal	0	0	0
Total	600,000	900,000	300,000

* * * Aviation Program * * *

Sec. 6. AVIATION PROGRAM

For fiscal year 2019:

(1) The sources of funds for the AV-FY18-001 (local match of FAA projects; Burlington Airport) project within the Aviation Program are amended to read:

FY19	As Proposed	As Amended	Change
Sources of funds			
State	750,000	600,000	-150,000
Local	500,000	650,000	150,000
Federal	11,250,000	11,250,000	0
Total	12,500,000	12,500,000	0

(2) Spending authority of transportation funds in the Aviation Program is reduced by $150,000.00.

* * * Town Highway Bridge Program * * *

Sec. 7. TOWN HIGHWAY BRIDGE PROGRAM

The following project is added to the candidate list of the Town Highway Bridge Program within the fiscal year 2019 Transportation Program: Salisbury – Cornwall BO 1445( ), scoping for replacement of BR8 over the Otter Creek.

* * * Maintenance Program and District Leveling * * *

Sec. 8. MAINTENANCE PROGRAM AND DISTRICT LEVELING; SPENDING AUTHORITY

(a) As used in this section, "TDI" refers to Champlain VT, LLC d/b/a TDI New England and "TDI Agreement" refers to the lease option agreement entered into between TDI and the State on July 17, 2015.

(b) Authorized spending in fiscal year 2019 for the Statewide District Leveling activity in the Program Development—Paving Program is reduced by $2,400,000.00 in transportation funds and increased by $2,400,00.00 in federal funds.

(c) Authorized spending in fiscal year 2019 for operating expenses in the Maintenance Program is reduced by $1,600,000.00 in transportation funds.

(d) If TDI makes a payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or pursuant to a renegotiation of the TDI Agreement, the Secretary shall allocate the amount of the payment received to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(e) If TDI makes no payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or a renegotiation thereof or if a payment made by TDI is insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary shall allocate any

unreserved surplus in the Transportation Fund as of the end of fiscal year 2018 to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(f)(1) Subject to subdivision (2) of this subsection, and notwithstanding 32 V.S.A. § 706, if the contingent allocations directed in subsections (d) and (e) of this section do not occur or are insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary of Administration, after consulting with the Secretary of Transportation, is authorized to transfer balances of fiscal year 2019 Transportation Fund appropriations within the Agency to the extent required to restore the reduction in spending authority made in subsections (b) and (c) of this section, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the balances transferred.

(2) An appropriation may be transferred pursuant to subdivision (1) of this subsection only if the monies are not needed for a project:

(A) because the project has been delayed due to permitting, right-of-way, or other unforeseen issues; or

(B) because of cost savings generated by the project.

(3) In making any appropriation transfer authorized under this section, the Secretary of Administration shall avoid, to the extent possible, any reductions in appropriations to the town programs described in 19 V.S.A. § 306. Any reductions to these town programs shall not affect the timing of reimbursements to towns for projects or delay any projects or grants and shall be replaced in the affected appropriations in fiscal year 2020.

* * * Contingent Addition to State Highway System * * *

Sec. 9. CONTINGENT ADDITION OF VERMONT ROUTE 119 IN THE TOWN OF BRATTLEBORO TO THE STATE HIGHWAY SYSTEM

(a) If the condition specified in subsection (b) of this section is satisfied, pursuant to 19 V.S.A. § 15(a), upon substantial completion of construction of the Brattleboro-Hinsdale, NH bridge replacement project (BF A004(152)), the following highway segment in the Town of Brattleboro shall be added to the State highway system: the entirety of the new Vermont Route 119 in the Town of Brattleboro, extending from its intersection with Vernon Street (TH#4) to the westerly low watermark of the Connecticut River.

(b) The addition to the State highway system specified in subsection (a) of this section shall occur only if the Town of Brattleboro enters into a maintenance agreement with the Agency.

* * * Abandoned Aircraft * * *

Sec. 10. 5 V.S.A. chapter 9 is amended to read:

CHAPTER 9. GENERAL PROVISIONS; ABANDONED AIRCRAFT

Subchapter 1. Aeronautics; Authority and Duties; Penalties

* * *

Subchapter 2. Abandoned Aircraft

§ 221. DEFINITIONS

As used in this subchapter:

(1) "Airport manager" means the owner of an airport in this State or an agent authorized to act on behalf of an airport owner.

(2) "Storage operator" means a person who stores an aircraft or aircraft component at the request of an airport manager.

§ 222. ABANDONED AIRCRAFT; AUTHORITY TO TAKE CUSTODY, REMOVE, AND STORE; NOTICE OF INTENT; LIMITATION ON LIABILITY

(a) Subject to subsection (b) of this section, an airport manager who discovers an aircraft or aircraft component apparently abandoned, or an aircraft without a currently effective federal registration certificate, on the property of the airport has authority to:

(1) take custody of the aircraft or component;

(2) arrange for the aircraft or component to be secured and stored at its current location or to be removed and stored elsewhere.

(b)(1) As used in this subsection, a "notice of intent" shall include:

(A) a statement of the airport manager's intent to exercise authority under subsection (a) of this section and of the owner's responsibility for reasonable charges under this subchapter;

(B) the make and the factory or identification number of the aircraft or aircraft component;

(C) the current location of the aircraft or aircraft component and the planned location for its storage; and

(D) the aircraft registration number, if any.

(2) At least 60 days prior to exercising the authority granted in subsection (a) of this section, the airport manager shall:

(A) Attempt to provide a notice of intent to the owner and to the lienholder, if any, of the aircraft or aircraft component. If the address of the last place of residence of the owner or lienholder of the aircraft or aircraft component is ascertainable through the exercise of reasonable diligence, including inquiry of the Federal Aviation Administration's aircraft registry, the airport manager shall send the notice of intent by certified mail to the address or addresses; otherwise, the airport manager shall be deemed to have fulfilled the requirement of this subdivision (b)(2)(A) if the manager posts the notice of intent on the aircraft or aircraft component.

(B) Send a written notice of intent to the Secretary.

(c) The Secretary shall place on file notices of intent received under subdivision (b)(2)(B) of this section and, upon request, make the notices available for public inspection and copying.

(d) Except in the case of intentionally inflicted damages, an airport manager who takes custody of an aircraft or aircraft component or an airport manager or storage operator who arranges for the removal or storage of an aircraft or aircraft component under this subchapter shall not be liable to the owner or lienholder for any damages to the aircraft or aircraft component incurred while it was in the manager's custody or during its removal or storage.

§ 223. LIEN; RIGHT TO CONTEST COSTS

(a) If the notice requirements of subsection 222(b) of this title are fulfilled, all reasonable storage, removal, and other costs necessarily incurred thereafter by an airport manager or a storage operator in carrying out the provisions of this subchapter shall be a lien on the aircraft or aircraft component held by the person who incurred the costs.

(b) In exercising rights under section 224 or 226 of this title, the owner or lienholder may contest the reasonableness and necessity of the costs by bringing an action before the Transportation Board.

§ 224. RIGHT OF OWNER TO RECLAIM

The owner or lienholder of an aircraft or aircraft component stored under this subchapter may reclaim the aircraft or aircraft component prior to any sale by paying the outstanding costs described in section 223 of this title.

§ 225. SALE AUTHORIZED; NOTICE OF PROPOSED SALE

(a) If the owner or lienholder has not reclaimed the aircraft or aircraft component after the aircraft manager fulfills the notice requirements of

subsection 222(b) of this title, and if the airport manager fulfills the notice requirements of subsection (b) of this section, the airport manager may sell the aircraft or aircraft component in a commercially reasonable manner as described in 9A V.S.A. § 9-610 (disposition of collateral after default).

(b)(1) The notice of proposed sale required in this subsection shall include:

(A) the make and the factory or identification number of the aircraft or aircraft component;

(B) the aircraft registration number, if any;

(C) contact information for the person from whom the owner or lienholder may reclaim the aircraft or aircraft component pursuant to section 224 of this title; and

(D) the date and location of the proposed sale.

(2) At least 14 days before a sale under this section, the airport manager shall:

(A) if the value of the aircraft or aircraft component exceeds $1,000.00, publish the notice of proposed sale in a media outlet of general circulation in the municipality; and

(B) if the address of the last place of residence of the owner or the lienholder, if any, of the aircraft or aircraft component is ascertainable through the exercise of reasonable diligence, including inquiry of the Federal Aviation Administration's aircraft registry, send the notice of proposed sale by certified mail to the address or addresses; otherwise, the airport manager shall be deemed to have fulfilled the requirement of this subdivision (b)(2)(B) if the manager posts the notice on the aircraft or aircraft component.

§ 226. APPLICATION OF PROCEEDS

The airport manager shall pay the balance of the proceeds of the sale, if any, after payment of liens and the reasonable expenses incident to the sale, to the owner or lienholder of the aircraft or aircraft component, if claimed at any time within one year from the date of the sale. If the owner or lienholder does not claim the balance within one year, the airport manager shall retain the proceeds.

* * * Abandoned Vessels * * *

Sec. 11. 10 V.S.A. chapter 48A is added to read:

CHAPTER 48A. ABANDONED VESSELS

§ 1420. VESSELS; ABANDONMENT PROHIBITED; REMOVAL AND DISPOSITION OF ABANDONED VESSELS

(a) Definitions. In this chapter, unless the context clearly requires otherwise:

(1) "Abandon" means, with respect to a vessel, any of the following:

(A) to leave unattended on public waters or on immediately adjacent land for more than 30 days without the express consent of the Secretary or, if on immediately adjacent land, of the person in control of the land;

(B) to leave partially or fully submerged in public waters for more than 30 days without the express consent of the Secretary;

(C) to leave partially or fully submerged in public waters a petroleum-powered vessel for more than 48 hours without the express consent of the Secretary; or

(D) to leave unattended on public waters or on immediately adjacent land for any period if the vessel poses an imminent threat to navigation or to public health or safety.

(2) "Commissioner" means the Commissioner of Motor Vehicles or designee.

(3) "Law enforcement officer" means an individual described in 23 V.S.A. § 3302 who is certified by the Vermont Criminal Justice Training Council as a level II or level III law enforcement officer under 20 V.S.A. § 2358.

(4)(A) "Public waters" means:

(i) the portions of Lake Champlain, Lake Memphremagog, and the Connecticut River that are within the territorial limits of Vermont;

(ii) boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and impoundments and boatable tributaries of those impoundments of the Connecticut River upstream to the first barrier to navigation, within the territorial limits of Vermont; and

(iii) all natural inland lakes, ponds, and rivers within Vermont, and other waters within the territorial limits of Vermont including the Vermont portion of boundary waters, that are boatable under the laws of this State.

(B) "Public waters" does not include waters in private ponds and private preserves as set forth in chapter 119 of this title.

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

(6) "Storage operator" means:

(A) the Secretary, if storing an abandoned vessel after causing its removal pursuant to this section; or

(B) a person who stores a vessel removed pursuant to this section at the request of the Secretary, or a subsequent transferee thereof.

(7) "Vessel" means:

(A) a motorboat; or

(B) a sailboat, or other boat, that is 16 or more feet in length.

(b) Relationship with other laws. The authority conferred to the Secretary and the penalties established in this section are in addition to authority granted or penalties established elsewhere in law, and nothing in this section shall be construed to modify any authority or the application of penalties under any other provision of law, including under chapter 47, 159, 201, or 211 of this title.

(c) Abandonment of vessels prohibited.

(1) Civil violation. A person shall not abandon a vessel on public waters or immediately adjacent land. A person who violates this subdivision shall be subject to civil enforcement under chapters 201 and 211 of this title and, in any such enforcement action, the Secretary may obtain an order to recover costs specified in subdivision (d)(1) of this section incurred by the Agency of Natural Resources.

(2) Criminal violation. A person shall not knowingly abandon a petroleum-powered vessel or knowingly abandon a vessel that poses an imminent threat to navigation or to public health or safety. A person who violates this subdivision shall be subject to a fine of up to $10,000.00.

(d)(1) Removal of abandoned vessel. Upon request from a law enforcement officer or at his or her own initiative, the Secretary shall promptly cause the removal and safe storage of a vessel that is abandoned as described in subdivision (a)(1) of this section, unless the vessel is to be removed by a federal agency. If removal is requested by a law enforcement officer, the Secretary shall make reasonable efforts to determine if the vessel qualifies as abandoned. In addition, the Secretary shall have the authority to take actions as may be necessary to eliminate risks to public health or safety caused by the condition of the vessel.

(2) Responsibility for costs; lien.

(A) The owner of a vessel removed under the authority of this section shall be responsible for reasonable:

(i) removal costs;

(ii) cleanup and disposal costs;

(iii) storage costs incurred after the storage operator sends the Department of Motor Vehicles a notice of removal consistent with subdivision (e)(1) of this section; and

(iv) costs of enforcing this section borne by the Secretary.

(B) Costs for which an owner is responsible under subdivision (d)(2)(A) of this section shall be a lien on the vessel held by the person who incurred the costs. Nothing in this subdivision (d)(2)(B) shall be construed to modify any rights or authority to recover such costs that may exist under any other provision of law.

(3) Limitation on liability. Except in the case of intentionally inflicted damages, the Secretary shall not be liable to the owner or lienholder of an abandoned vessel for any damages to the vessel incurred during its removal or storage, or as a result of actions taken to eliminate risks to public health or safety caused by the condition of the vessel, in accordance with this section.

(e)(1) Notice of removal and place of storage. Within three business days of the date of removal of an abandoned vessel, the storage operator shall send notice to the Commissioner of:

(A) the federal, state, or foreign registration number, and the hull identification number, of the vessel, if any;

(B) a description of the vessel, including its color, size, and, if available, its manufacturer's trade name and manufacturer's series name;

(C) the date of removal and the location from where the vessel was removed;

(D) the name and contact information of an individual at the Agency of Natural Resources who can provide information about the vessel's removal and how to reclaim it; and

(E) the periodic storage charges that will apply, if any.

(2) Listing of removed vessel. The Commissioner shall post and maintain on the website of the Department of Motor Vehicles a listing of vessels removed under the authority of this section with the information received under subdivision (1) of this subsection.

(f) Disposition following removal.

(1) As used in this subdivision:

(A) A "notice of intent" shall include the information described in subdivision (e)(1) of this section and an indication of the storage operator's intent to take ownership or otherwise dispose of an abandoned vessel.

(B) The term "address" shall mean the plural "addresses" if more than one address is ascertained.

(2) Within 30 days after the date of removal of the abandoned vessel, a storage operator shall:

(A) Cause a notice of intent to be published in the environmental notice bulletin under 3 V.S.A. § 2826.

(B) Make reasonable efforts to ascertain the address of the owner and any lienholder and, if the address is ascertained, send the notice of intent to the address by certified mail, return receipt requested. Reasonable efforts shall include inquiring of the person in control of the waters or land from which the abandoned vessel was removed, the clerk of the municipality in which the waters or land is located, the State Police, the Office of the Secretary of State, and the Department of Motor Vehicles as to the identity and address of the owner and any lienholder.

(3) Ownership of the vessel shall pass to the storage operator free of all claims of any prior owner or lienholder if the owner or lienholder has not reclaimed the vessel and paid all costs authorized under subdivision (d)(2) of this section within 60 days after the later of:

(A) publication in the environmental notice bulletin under 3 V.S.A. § 2826; or

(B) if the address of the owner or lienholder is ascertained, the date the notice of intent is mailed.

(4) If ownership passes to the storage operator under this subsection, the storage operator may sell, transfer, or otherwise dispose of the vessel. However, if the vessel is subject to titling under 23 V.S.A. chapter 36, the storage operator shall apply to the Commissioner for a title or salvage title as may be appropriate, and the Commissioner shall issue an appropriate title or salvage title, at no charge, if the storage operator offers sufficient proof that ownership of the vessel lawfully passed to the storage operator under this section.

(g) Owner and lienholder rights. An owner or lienholder of an abandoned vessel removed from public waters or immediately adjacent land under this section may contest the removal, transfer of title, or other disposition of a vessel under this section, and the necessity or reasonableness of any costs described in subdivision (d)(2) of this section, by petitioning the Secretary. The contested case provisions of 3 V.S.A. chapter 25 shall govern any matter brought under this subsection. A person aggrieved by a final decision of the Secretary may appeal the decision to the Civil Division of the Superior Court. Nothing in this subsection shall be construed to interfere with the right of an

owner or lienholder to contest these issues in any enforcement action brought by the Secretary.

Sec. 12. 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:

* * *

(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

(29) 10 V.S.A. § 1420, relating to abandoned vessels.

* * *

* * * Railroads; Vegetation Control * * *

Sec. 13. 5 V.S.A. § 3672 is amended to read:

§ 3672. ~~SELECTBOARD MEMBERS' DUTIES; RECOVERY~~

~~In case of failure so to do in a town through which such road passes, the selectboard members shall send notice thereof by mail to the principal office of such person or corporation. In case such failure continues for ten days after notice, the selectboard members shall forthwith cause the thistles and weeds to be destroyed at the expense of the town. Such town shall thereupon be entitled to recover from such person or corporation its actual cost for destroying the thistles and weeds. In the event such person or corporation fails to pay to the town such cost for 60 days from the time the selectboard members sent notice thereof by mail to the principal office of such person or corporation, such town shall be entitled to recover such cost including a reasonable fee paid to an attorney for the recovery in an action on this statute.~~ [Repealed.]

Sec. 14. 5 V.S.A. § 3673 is amended to read as follows:

§ 3673. ~~CUTTING OF TREES~~ VEGETATION CONTROL

~~A person or corporation operating a railroad in this State shall cause all trees, shrubs, and bushes to be destroyed at reasonable times within the surveyed boundaries of their lands, for a distance of 80 rods in each direction from all public grade crossings.~~ A railroad shall take reasonable measures to control vegetation that is both on railroad property and on or immediately

adjacent to the roadbed, so that the vegetation does not obstruct a highway user's view of traffic control devices at a grade crossing or of a train approaching the crossing.

Sec. 15. 5 V.S.A. § 3674 is amended to read:

§ 3674. ~~SELECTBOARD MEMBERS' DUTIES; LIABILITY FOR DAMAGES~~ ENFORCEMENT

~~When such person or corporation neglects or refuses to destroy the trees, shrubs, and bushes, as required by section 3673 of this title, after 60 days' notice in writing, given by the selectboard members of the town in which such trees, shrubs, and bushes are located, the selectboard members shall immediately cause them to be destroyed at the expense of the town. The town shall thereafter be entitled to recover from such person or corporation its actual cost for the destruction. In the event such person or corporation fails to pay to the town such cost for 60 days from the time the selectboard members sent notice thereof by mail to the principal office of such person or corporation, such town shall be entitled to recover such cost including a reasonable fee.~~ If a railroad fails to control vegetation as required by section 3671 or 3673 of this title within 30 days after written notice is given by the selectboard of the town in which the vegetation is located or by the Agency in the case of violations involving a State highway grade crossing, the Transportation Board, upon application by the town or the Agency and after notice and hearing, may order the railroad to perform the work. Any such order shall specify a date by which the work must be completed. If the railroad fails to comply with the Board's order, the Board may impose a civil penalty of $100.00 against the railroad for each day that the railroad fails to comply with the Board's order.

* * * Penalties for Furnishing Alcoholic Beverages to Minors * * *

Sec. 16. 7 V.S.A. § 658 is amended to read:

§ 658. SALE OR FURNISHING TO MINORS; ENABLING CONSUMPTION BY MINORS; MINORS CAUSING DEATH OR SERIOUS BODILY INJURY

* * *

(d)(1) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle, snowmobile, vessel, or all-terrain vehicle on a public highway, public land, or public waters, or in a place where a Vermont Association of Snow Travelers (VAST) trail maintenance assessment or a Vermont ATV Sportsman's Association (VASA) Trail Access Decal is required, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than $10,000.00, or both.

(2) As used in this subsection:

(A) "All-terrain vehicle" shall have the same meaning as set forth in 23 V.S.A. § 3501.

(B) "Public land" means all land in Vermont that is either owned or controlled by a local, State, or federal governmental body.

(C) "Public waters" shall have the same meaning as in 10 V.S.A. § 1422.

(D) "Snowmobile" shall have the same meaning as set forth in 23 V.S.A. § 3201.

(E) "Vessel" shall have the same meaning as set forth in 23 V.S.A. § 3302.

* * * President Calvin Coolidge State Historic Site; Supplemental Guide Signs * * *

Sec. 17. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(6)(A) Official traffic control signs, including signs on limited access highways, consistent with the ~~manual on uniform traffic control devices,~~ Manual on Uniform Traffic Control Devices (MUTCD) adopted under 23 V.S.A. § 1025, directing people to:

(i) other towns~~,~~;

(ii) international airports~~,~~;

(iii) postsecondary educational institutions;

(iv) cultural and recreational destination areas;

(v) nonprofit ~~diploma granting~~ diploma-granting educational institutions for people with disabilities; and

(vi) ~~official traffic control signs, including signs on limited access highways, consistent with the manual on uniform traffic control devices, adopted under 23 V.S.A. § 1025, directing people to~~ official State visitor information centers.

(B) After having considered the six priority categories in ~~this~~ subdivision (A) of this subdivision (6), the Travel Information Council may

approve installation of a sign for any of the following provided the location is open a minimum of 120 days each year and is located within 15 miles of an interstate highway exit:

~~(A)~~(i) ~~Nonprofit~~ nonprofit museums;

~~(B)~~(ii) ~~Cultural~~ cultural and recreational attractions owned by the State or federal government;

~~(C)~~(iii) ~~Officially~~ officially designated scenic byways;

~~(D)~~(iv) ~~Park~~ park and ride or multimodal centers; and

~~(E)~~(v) ~~Fairgrounds~~ fairgrounds or exposition sites~~;~~

~~provided the designations in subdivisions (A) through (E) of this subdivision (6) are open a minimum of 120 days each year and are located within 15 miles of an interstate highway exit~~.

(C) Notwithstanding the limitations of this subdivision (6), supplemental guide signs consistent with the MUTCD for the President Calvin Coolidge State Historic Site may be installed at the following highway interchanges:

(i) Interstate 91, Exit 9 (Windsor); and

(ii) Interstate 89, Exit 1 (Quechee).

(D) Signs erected under this subdivision (6) ~~of this section~~ shall not exceed a maximum allowable size of 80 square feet.

* * *

* * * Central Garage * * *

Sec. 18. 19 V.S.A. § 13 is amended to read:

§ 13. CENTRAL GARAGE FUND

(a) There is created ~~a central garage fund~~ the Central Garage Fund which shall be used:

(1) to furnish equipment on a rental basis to the districts and other sections of the ~~agency~~ Agency for ~~use in~~ construction, maintenance, and operation of highways or other transportation activities; and

(2) to provide a general equipment repair and major overhaul service as well as to furnish necessary supplies for the operation of the equipment.

(b) To maintain a safe, reliable equipment fleet, new or replacement highway maintenance equipment shall be acquired using ~~central garage funds~~ Central Garage Fund monies. The ~~agency~~ Agency is authorized to acquire

replacement pieces for existing highway equipment~~,~~ or new, additional equipment equivalent to equipment already owned; however, the ~~agency~~ Agency shall not increase the total number of permanently assigned or authorized motorized or self-propelled vehicles without ~~legislative~~ approval by the General Assembly.

(c)(1) ~~There shall be established and maintained within the central garage fund a separate transportation equipment replacement account for the purposes stated in subsection (b) of this section. In fiscal year 2008, $1,120,000.00, and thereafter an amount equal to two-thirds of one percent of the prior year transportation fund appropriation, but not less than $1,120,000.00, shall be transferred prior to August 1 from the transportation fund to the central garage fund and allocated to the transportation equipment replacement account, and beginning in fiscal year 2001, and thereafter, an amount not less than the sum of equipment depreciation expense and net equipment sales from the prior fiscal year, shall be allocated prior to August 1 from within the central garage fund to the transportation equipment replacement account. All expenditures from this account shall be appropriated by the general assembly and used exclusively for the purchase of equipment as authorized in subsection (b) of this section.~~ For the purpose specified in subsection (b) of this section, the following amount shall be transferred from the Transportation Fund to the Central Garage Fund:

(A) in fiscal year 2019, $1,318,442.00; and

(B) in subsequent fiscal years, at a minimum, the amount specified in subdivision (A) of this subdivision (1) as adjusted annually by increasing the previous fiscal year's amount by the percentage increase in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) during the previous State fiscal year.

(2) Each fiscal year, the sum of the following shall be appropriated from the Central Garage Fund exclusively for the purpose specified in subsection (b) of this section:

(A) the amount transferred pursuant to subdivision (1) of this subsection;

(B) the amount of the equipment depreciation expense from the prior fiscal year; and

(C) the amount of the net equipment sales from the prior fiscal year.

(d) In each fiscal year, net income of the ~~fund~~ Fund earned during that fiscal year shall be retained in the ~~fund~~ Fund.

(e) ~~The fiscal year of the central garage for~~ For the purposes of computing net worth and net income, the fiscal year shall be the year ending June 30.

(f) ~~For purposes of~~ As used in this section, "equipment" means registered motor vehicles and highway maintenance equipment assigned to the ~~central garage~~ Central Garage.

(g) [Repealed.]

* * * Town Highway Aid * * *

Sec. 19. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General State aid to town highways.

(1) An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall increase ~~or decrease~~ over the previous fiscal year's appropriation by the same percentage as ~~any increase or decrease in~~ the following, whichever is less:

(A) the ~~Transportation~~ year-over-year increase in the Agency's total appropriations in the previous fiscal year funded by Transportation Fund revenues, excluding the ~~town highway appropriations~~ appropriation for town highways under this subsection for that year; or

(B) the year-over-year increase in the State's total appropriations in the previous fiscal year of General Fund, Education Fund, and State Health Care Resources Fund monies.

(2) If the year-over-year change in appropriations specified in either subdivision (1)(A) or (B) of this subsection is negative, then the appropriation to town highways under this subsection shall be equal to the previous fiscal year's appropriation.

(3) The funds appropriated shall be distributed to towns as follows:

~~(1)~~(A) Six percent of the State's annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the State.

~~(2)~~(B) Forty-four percent of the State's annual town highway appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the State.

~~(3)~~(C) Fifty percent of the State's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each

town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the State.

~~(4)~~(D) Monies apportioned under subdivisions (1), (2), and (3) of this subsection shall be distributed to each town in quarterly payments beginning July 15 in each year.

~~(5)~~(E) Each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the State, in a civil action brought by the Attorney General, for making any unauthorized expenditures from money apportioned to the town under this section.

* * *

* * * Transportation Public-Private Partnerships * * *

Sec. 20. 19 V.S.A. chapter 26 is amended to read:

CHAPTER 26. DESIGN-BUILD CONTRACTS AND PUBLIC-PRIVATE PARTNERSHIPS

Subchapter 1. Design-build Contracts

* * *

Subchapter 2. Public-Private Partnership Pilot

§ 2611. PILOT ESTABLISHED; INTENT

(a)(1) The General Assembly hereby establishes a pilot program to authorize the Agency, for a time-limited period, to receive solicited and unsolicited proposals and to enter into P3 agreements if certain conditions are met.

(2) Nothing in this subchapter is intended to modify any obligations or rights under any other law.

(b) Before the authority conferred under this subchapter terminates, the General Assembly intends to:

(1) review whether and how the Agency has exercised the authority and whether the P3 agreements it has entered into have served the public interest; and

(2) determine whether the authority should terminate, be extended, or be amended.

(c) If the Agency's authority under this subchapter terminates, the General Assembly intends that:

(1) the Agency not have authority to pursue any proposal that has not resulted in a P3 agreement prior to termination of the Agency's authority; and

(2) any P3 agreement lawfully entered into prior to termination of the Agency's authority shall continue in effect after termination of the authority.

§ 2612. DEFINITIONS

As used in this subchapter:

(1) "Facility" means transportation infrastructure that is, or if developed, would be, within the jurisdiction of the Agency or eligible for federal-aid funding managed through the Agency.

(2) "Project" means the capital development of a facility.

(3) "Proposal" means a conditional offer of a private entity that, after review, negotiation, and documentation, and after legislative approval if required under this subchapter, may lead to a P3 agreement as provided in this subchapter.

(4) "Public-private partnership" or "P3" means an alternative project delivery mechanism that may be used by the Agency to permit private sector participation in a project, including in its financing, development, operation, management, ownership, leasing, or maintenance.

(5) "P3 agreement" means a contract or other agreement between the Agency and a private entity to undertake a project as a public-private partnership and that sets forth rights and obligations of the Agency and the private entity in that partnership.

§ 2613. AUTHORITY

(a) The Agency is authorized to receive unsolicited proposals or to solicit proposals to undertake a project as a public-private partnership. The Agency shall develop, and have authority to amend, criteria to review and evaluate such proposals to determine if they are in the public interest and shall review and evaluate all proposals received in accordance with these criteria. In addition to other criteria that the Agency may develop, at minimum, the criteria shall require consideration of:

(1) the benefits of the proposal to the State transportation system and the potential impact to other projects currently prioritized in the most recently adopted Transportation Program;

(2) the extent to which a proposal would reduce the investment of State funds required to advance the project that the proposal addresses; and

(3) the extent to which a proposal would enable the State to receive additional federal funding that would not otherwise be available.

(b) If the Agency determines that a proposal is in the public interest:

(1) The Agency is authorized to enter into a P3 agreement with respect to the proposal without legislative approval if:

(A) the project has been approved in the most recently adopted Transportation Program; and

(B) total estimated State funding over the lifetime of the project will be less than $2,000,000.00.

(2) For the following projects, the Agency is authorized to enter into a P3 agreement with respect to the proposal only if the Agency receives specific legislative approval to enter into the P3 agreement:

(A) a project that has not been approved in the most recently adopted Transportation Program; or

(B) a project for which total estimated State funding over the lifetime of the project will be $2,000,000.00 or more.

§ 2614. LEGISLATIVE APPROVAL

If the Secretary determines that a proposal that requires legislative approval under section 2613 of this title is in the public interest and should be pursued, the Secretary shall submit to the General Assembly:

(1) a description of the proposal, including:

(A) a summary of the project scope and timeline;

(B) the rights and obligations of the State and private entity partner or partners, including the level of involvement of all partners in any ongoing operations, maintenance, and ownership of a facility;

(C) the nature and amount of State funding of the project and of any ongoing State financial responsibility for ongoing maintenance or operation costs; and

(D) its effect on any project in the most recent approved Transportation Program;

(2) a statement detailing how the proposal meets the Agency's criteria developed under this subchapter; and

(3) proposed legislation to confer authority to the Agency to enter into a P3 agreement with respect to the proposal.

§ 2615. REPORT

(a) Annually, on or before January 15, the Agency shall report to the House and Senate Committees on Transportation:

(1) for each P3 agreement entered into following legislative approval required under this subchapter, for as long as the agreement is in effect, a description of the current status of the project and of any substantive change to the P3 agreement since the prior year's report; and

(2) for each P3 agreement entered into since the prior year's report pursuant to section 2613 of this title that did not require legislative approval, a description of the P3 agreement and of the project.

(b) Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required unless the General Assembly takes specific action to repeal the report requirement.

* * * Sunset of Transportation Public-Private Partnership Authority * * *

Sec. 21. REPEAL OF TRANSPORTATION P3 AUTHORITY

19 V.S.A. §§ 2613 (Agency of Transportation's P3 authority) and 2614 (legislative approval of P3 proposals) shall be repealed on July 1, 2023.

* * * Gasoline Assessments; Calculations; Data Retention * * *

Sec. 22. 23 V.S.A. § 3106(a)(2) is amended to read:

(2) For the purposes of subdivision (1)(B) of this subsection~~, the~~:

(A) The tax-adjusted retail price applicable for a quarter shall be the average of the retail price for regular gasoline collected and determined to three decimal places and published by the Department of Public Service for each of the three months of the preceding quarter after all federal and State taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942, applicable in each month have been subtracted from that month's retail price. Calculations of the tax-adjusted retail price applicable for a quarter shall be permanently maintained on the website of the Department of Public Service.

(B) In calculating assessment amounts under subdivisions (a)(1)(B)(i)(II) and (a)(1)(B)(ii)(II) of this section, the Department of Motor Vehicles shall calculate the amounts to four decimal places. The Department of Motor Vehicles shall permanently retain the records of its calculations, any corrections thereto, and the data that are the basis for the calculations.

* * * Green Mountain Transit Authority; Name Update * * *

Sec. 23. 24 V.S.A. § 5084 is amended to read:

§ 5084. PUBLIC TRANSIT ADVISORY COUNCIL

(a) The Public Transit Advisory Council shall be created by the Secretary of Transportation under 19 V.S.A. § 7(f)(5), to consist of the following members:

* * *

(3) a representative of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority;

* * *

Sec. 24. 24 App. V.S.A. chapter 801 is amended to read:

CHAPTER 801. ~~CHITTENDEN COUNTY TRANSPORTATION~~ GREEN MOUNTAIN TRANSIT AUTHORITY

§ 1. CREATION OF AUTHORITY

There is hereby created a transit authority to be known as the "~~Chittenden County Transportation~~ Green Mountain Transit Authority."

* * *

§ 3. MEMBERSHIP IN THE AUTHORITY

Membership in the Authority shall consist of those municipalities which elect to join the Authority by majority vote of its voters present and voting on the question at an annual or special meeting duly warned for the purpose prior to July 1, 2010. Beginning on July 1, 2010, a municipality may hold an annual meeting or a special meeting for the purpose of determining through election by a majority vote of its voters present and voting on the question only if the municipality is specifically authorized to join the Authority either under section 12 of this chapter or by resolution duly passed by the ~~Chittenden County Transportation~~ Green Mountain Transit Authority Board of Commissioners. The initial meeting of a municipality called to determine whether or not to join the Authority shall be warned in the manner provided by law, except that for such meeting only, any warning need not be posted for a period in excess of 20 days, any other provision of law or municipal charter to the contrary notwithstanding. Membership may be terminated only in the manner provided in section 8 of this chapter.

* * *

§ 11. ASSESSMENTS OF NEW MEMBERS OUTSIDE CHITTENDEN COUNTY

Municipalities outside Chittenden County that vote to join the ~~Chittenden County Transportation~~ Green Mountain Transit Authority on or after July 1, 2010 shall negotiate with the Board of Commissioners of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority on the amount of the levy to be assessed upon the municipality and terms of payment of that assessment; and the municipality may not join prior to agreement with the Authority on terms of the levy and payment. Upon the addition of one municipality to the membership of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority from outside Chittenden County, the Authority shall immediately begin work on the formula for assessment that will be approved in accordance with this chapter.

§ 12. MUNICIPALITIES AUTHORIZED TO VOTE FOR MEMBERSHIP IN THE ~~CHITTENDEN COUNTY TRANSPORTATION~~ GREEN MOUNTAIN TRANSIT AUTHORITY

The following municipalities are authorized to hold an election for the purpose of determining membership in the ~~Chittenden County Transportation~~ Green Mountain Transit Authority: Barre City, Berlin, Colchester, Hinesburg, Montpelier, Morristown, Richmond, St. Albans City, Stowe, and Waterbury.

§ 13. OTHER REPRESENTATION

If Washington, Lamoille, Franklin, or Grand Isle County does not have a municipal member from its county on the Board of Commissioners of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority, the regional planning commission serving the ~~County~~ county may appoint a Board member to the ~~Chittenden County Transportation~~ Green Mountain Transit Authority from a member of its regional planning commission or regional planning commission staff to represent its interests on the ~~Chittenden County Transportation~~ Green Mountain Transit Authority Board.

* * * Electric Vehicles; Public Service * * *

Sec. 25. PUBLIC UTILITY COMMISSION; INVESTIGATION; ELECTRIC VEHICLE CHARGING

(a) After notice and opportunity for hearing, the Public Utility Commission (PUC or Commission) shall complete an investigation and issue a final order on or before July 1, 2019 concerning the charging of plug-in electric vehicles (EV).

(b) As used in this section, "electric distribution utility" means a company that delivers electric energy to retail customers over a pole-and-wire network.

(c) The Commission's final order shall include:

(1) its findings, determinations, or recommendations on each of the following issues related to the role of electric distribution utilities:

(A) removal or mitigation, as appropriate, of barriers to EV charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future EV users without shifting costs to ratepayers who do not own or operate EVs;

(B) strategies for managing the impact of EVs on and services provided by EVs to the electric transmission and distribution system;

(C) electric system benefits and costs of EV charging, electric utility planning for EV charging, and rate design for EV charging; and

(D) the appropriate role of electric distribution utilities with respect to the deployment and operation of EV charging stations;

(2) its findings or recommendations, or both, on each of the following issues related to EV charging stations owned or operated by persons other than electric distribution utilities:

(A) the recommended scope of the jurisdiction of the Commission, the Department of Public Service, and other State agencies over such stations;

(B) the appropriate oversight of the rates and prices charged by such stations, including the transparency to the consumer of those rates and prices; and

(C) the recommended billing and complaint procedures for such charging stations; and

(3) its findings or recommendations, or both, on each of the following issues:

(A) jointly with the Secretary of Transportation, recommended options to address how EV users pay toward the cost of maintaining the State's transportation infrastructure;

(B) the accuracy of electric metering and submetering technology for charging EVs;

(C) strategies to encourage EV usage at a pace necessary to achieve the goals of the State's Comprehensive Energy Plan and its greenhouse gas reduction goals, without shifting costs to electric ratepayers who do not own or operate EVs; and

(D) any other issues the Commission considers relevant to ensuring a fair, cost-effective, and accessible EV charging infrastructure that will be sufficient to meet increased deployment of EVs.

(d) During the course of the investigation and in its final order, the Commission shall identify recommendations on the issues identified in subsection (c) of this section that may require enabling legislation.

(e) The Commission shall submit copies of its final order to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

* * * All-terrain Vehicles; Enforcement * * *

Sec. 26. 23 V.S.A. § 3507 is amended to read:

§ 3507. ENFORCEMENT; PENALTIES AND REVOCATION OF REGISTRATION

* * *

(c) Law enforcement officers may conduct safety inspections on all-terrain vehicles stopped for other all-terrain vehicle law violations on the VASA Trail System. Safety inspections may also be conducted in a designated area by law enforcement officials. A designated area shall be warned solely by blue lights either on a stationary all-terrain vehicle parked on a trail or on a cruiser parked at a roadside trail crossing.

* * * All-terrain Vehicles; Operation Along Highways * * *

Sec. 27. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION

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

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

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

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

(B) the highway has been opened to all-terrain vehicle travel by the selectboard or trustees or local governing body and is so posted by the municipality ~~except an~~;

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

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

* * *

* * * All-terrain Vehicles; Allocation of Fees and Penalties * * *

Sec. 28. 23 V.S.A. § 3513 is amended to read:

§ 3513. LIABILITY INSURANCE; AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT SERVICES

(a) The amount of ~~85~~ 90 percent of the fees and penalties collected under this ~~subchapter~~ chapter, except interest, is ~~hereby~~ allocated to the Agency of Natural Resources for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services. ~~The Agency of Natural Resources may retain for its use up to $7,000.00 during each fiscal year to be used for administration of the State grant that supports this program.~~

(b) The ~~Office of the~~ Secretary of Administration shall assist VASA with the procurement of trail liability and other related insurance.

* * *

Sec. 29. 23 V.S.A. § 3513(a) is amended to read:

(a) The amount of ~~90~~ 85 percent of the fees and penalties collected under this chapter, except interest, is allocated to the Agency of Natural Resources for use by the Vermont ATV Sportsman's Association (VASA) for development and maintenance of a Statewide ATV Trail Program, for trail liability insurance, and to contract for law enforcement services with any constable, sheriff's department, municipal police department, the Department of Public Safety, and the Department of Fish and Wildlife for purposes of trail compliance pursuant to this chapter. The Departments of Public Safety and of

Fish and Wildlife are authorized to contract with VASA to provide these law enforcement services.

* * * Default Weight Limits on Town Highways * * *

Sec. 30. 23 V.S.A. § 1392 is amended to read:

§ 1392. GROSS WEIGHT LIMITS ON HIGHWAYS

Except as provided in section 1400 of this title, a person or corporation shall not operate or cause to be operated a motor vehicle in excess of the total weight, including vehicle, object, or contrivance and load, of:

(1) 16,000 pounds upon any bridge with a wood floor, wood subfloor, or wood stringers on a class 3 or 4 town highway or 20,000 pounds on a bridge with wood floor, wood subfloor, or wood stringers on a class 1 or 2 town highway unless otherwise posted by the selectboard of such town.

(2) 24,000 pounds, upon a class 2, 3, or 4 town highway or bridge with other than wood floor, in any town~~,~~ or incorporated village~~, or city~~.

* * *

Sec. 31. 23 V.S.A. § 1393 is amended to read:

§ 1393. WEIGHT LIMITS IN ~~INCORPORATED VILLAGES AND~~ CITIES; ADOPTION BY TOWNS OR INCORPORATED VILLAGES OF STATE LIMITS; LIMITS ON CLASS 1 TOWN HIGHWAYS

(a)(1) On all highways in ~~an incorporated village or~~ a city, the legal load shall be as prescribed for the State Highway System in section 1392 of this title, unless otherwise restricted and posted by the local authorities~~,~~ as provided in this subchapter.

(2) With the approval of the Secretary of Transportation, the ~~selectboard~~ legislative body of a town or incorporated village may designate any highway ~~in the town~~ under its jurisdiction to carry the same legal load as specified in section 1392 of this title for the State ~~highways~~ Highway System. When a certain highway has been so approved by the Secretary and the legislative body as to the legal load limit, then the Secretary shall have the highway posted for the legal load limit.

(3) ~~Notwithstanding the provisions of this chapter,~~ Except as provided in subdivision 1392(1) of this title, State ~~highway~~ Highway System weight limits as specified in section 1392 of this title shall apply to class 1 town highways.

* * *

* * * Signs Indicating Weight Limits * * *

Sec. 32. 23 V.S.A. § 1394 is amended to read:

§ 1394. DESIGNATION OF CLASS 1 TOWN HIGHWAYS; SIGNS INDICATING LEGAL LOAD OFF STATE HIGHWAYS OR CLASS 1 TOWN HIGHWAYS

(a) The class 1 town highways connecting the State highways through cities, villages, or ~~municipalities~~ towns shall be designated by the State Transportation Board and marked by the ~~State~~ Secretary of Transportation.

(b) The ~~State~~ Secretary of Transportation shall have signs erected on each ~~road which~~ town highway that leads off the State Highway System stating the legal load of the town highway ~~leading from~~, if the legal load of the town highway differs from the legal load on the State Highway System.

(c) If the legal load limit of a class 2, 3, or 4 town highway leading off a class 1 town highway differs from the legal load limit on the class 1 town highway, the Secretary of Transportation shall furnish a sign to the municipality where the class 1 town highway is located, as needed to indicate the legal load for each town highway leading from the class 1 town highway that has a different legal load. The Secretary shall furnish the sign, and any replacement sign as may be needed, at no cost to the municipality. The municipality shall be responsible for erecting each sign furnished to it under this subsection on each town highway leading off a class 1 town highway that has a legal load limit that differs from the limit on the class 1 town highway.

* * * Aircraft Fuel Tax * * *

Sec. 33. 23 V.S.A. chapter 28 is amended to read:

CHAPTER 28. GASOLINE TAX

Subchapter 1. General Gasoline Tax

§ 3101. DEFINITIONS; SCOPE

(a) As used in this chapter:

(1) The term "distributor" as used in this subchapter shall mean a person, firm, or corporation who imports or causes to be imported gasoline or other motor fuel for use, distribution, or sale within the State, or any person, firm, or corporation who produces, refines, manufactures, or compounds gasoline or other motor fuel within the State for use, distribution, or sale. When a person receives motor fuel in circumstances ~~which~~ that preclude the collection of the tax from the distributor by reason of the provisions of the Constitution and laws of the United States, and thereafter sells or uses the motor fuel in the State in a manner and under circumstances as may subject the

sale to the taxing power of the State, the person shall be considered a distributor and shall make the same reports, pay the same taxes, and be subject to all provisions of this subchapter relating to distributors of motor fuel.

(2) "Dealer" means any person who sells or delivers motor fuel into the fuel supply tanks of motor vehicles or aircraft owned or operated by others.

(3) "Motor vehicle" means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.

(b) As used in this subchapter~~,~~:

(1) ~~"gasoline~~ "Gasoline or other motor fuel" or "motor fuel" includes aviation gasoline and shall not include the following:

(A) kerosene~~,~~;

(B) clear or undyed diesel "fuel" as defined in section 3002 of this title~~,~~;

(C) "railroad fuel" as defined in section 3002 of this title~~,~~;

(D) aircraft jet fuel~~,~~; or

(E) natural gas in any form.

(c) Except for "railroad fuel" taxed under section 3003 of this title, the taxation or exemption from taxation of dyed diesel fuel is not addressed under this title.

~~(4) "Motor vehicle" means any self-propelled vehicle using motor fuel on the public highways and registered or required to be registered for operation on these highways.~~

* * *

§ 3105. RECORDS OF SALES AND IMPORTATIONS

(a)(1) A distributor shall keep a record of all sales of motor fuel~~, which~~ that shall include the number of gallons sold, the date of sale, and also the number of gallons used by the distributor. With every consignment of motor fuel to a purchaser within the State, each distributor shall also deliver a written statement containing the date and the number of gallons delivered and the names of the purchaser and the seller. The distributor shall also keep a record of all importations of motor fuel~~, which~~ that shall include the number of gallons imported and the date of importation.

(2) With respect to any sale, use, consignment, or importation of aviation gasoline, a distributor shall separately record the same information required under subdivision (1) of this subsection.

(3) The records and statements shall be preserved by distributors and purchasers, respectively, for a period of three years~~,~~ and shall be offered for inspection upon verbal or written demand of the Commissioner or his or her agent.

* * *

(d) A dealer shall keep a record of all purchases of motor fuel ~~which~~ that shall include the date of purchase, number of gallons, ~~and~~ the identity of the seller, and, if applicable, shall separately record this information with respect to the purchase of aviation gasoline. The records and statements shall be preserved for a period of three years. The record shall include daily motor fuel meter readings.

§ 3106. IMPOSITION, RATE, AND PAYMENT OF TAX

(a)(1) Except for sales of motor fuels between distributors licensed in this State, which sales shall be exempt from the taxes and assessments authorized under this section, unless exempt under the laws of the United States at the time of filing the report required by section 3108 of this title, each distributor shall pay to the Commissioner:

* * *

(4) The distributor shall also pay to the Commissioner the tax and assessments specified in this subsection upon each gallon of motor fuel used within the State by him or her.

(5) Monies collected on the sales and use of aviation gasoline pursuant to this subsection shall be used exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies.

* * *

(d) Since many nonresidents and residents drive to outdoor areas of Vermont in order to view our natural resources, to hunt and fish, and to use our natural resources for other healthful recreational purposes, it is the policy of this State that a portion of the gasoline tax shall be dedicated for the purpose of conserving and maintaining our natural resources. Therefore, beginning in fiscal year 1998, three-eighths of one cent of the tax collected under subsection (a) of this section, except for the tax collected on aviation gasoline, shall be transferred 76 percent to the Fish and Wildlife Fund and 24 percent to the Department of Forests, Parks and Recreation for natural resource management. Of the funds deposited in the Fish and Wildlife Fund, the interest earned by deposited funds and all funds remaining at the end of the fiscal year shall remain in the Fish and Wildlife Fund.

* * *

§ 3108. RETURNS

For the purpose of determining the amount of the tax levied and assessed, by the 25th day of each calendar month, each distributor shall send to the Commissioner upon a form prepared and furnished by him or her a statement or return under oath or affirmation, showing:

(1) both the number of gallons of motor fuel sold and the number of gallons of motor fuel used by the distributor during the preceding calendar month. The report shall contain;

(2) separately, both the number of gallons of aviation gasoline sold and the number of gallons of aviation gasoline used by the distributor during the preceding calendar month; and

(3) any further information which that the Commissioner prescribes.

* * *

Sec. 34. 23 V.S.A. § 1220a(b) is amended to read:

(b) The DUI Enforcement Special Fund shall consist of:

* * *

(3) beginning May 1, 2013 and thereafter, $0.0038 per gallon of the revenues raised by the motor fuel tax on gasoline imposed by chapter 28 of this title, except for the revenues raised by the tax on aviation gasoline; and

(4) any additional funds transferred or appropriated by the General Assembly.

Sec. 35. 5 V.S.A. § 211 is amended to read:

§ 211. APPROPRIATION FROM GASOLINE TAXES ON AIRCRAFT FUEL

Funds appropriated from the proceeds of the any tax on gasoline used in aircraft and capital development projects for aeronautical purposes are to aircraft fuel, including jet fuel and aviation gasoline, shall be expended under the direction of the Agency exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies, including to provide:

(1) navigational aids to airmen or;

(2) marking, lighting, removal, or elimination of obstructions or hazards to flight,; and to provide

(3) for the improvement of landing areas or facilities that are permanently established for the public use of aircraft ~~or in any other way that will promote aviation in the State~~.

Sec. 36. 24 V.S.A. § 138 is amended to read:

§ 138. LOCAL OPTION TAXES

* * *

(c) Any tax imposed under the authority of this section shall be collected and administered by the Department of Taxes, in accordance with State law governing such State tax or taxes; provided, however, that a sales tax imposed under this section shall be collected on each sale that is subject to the Vermont sales tax using a destination basis for taxation. ~~A~~ Except with respect to taxes collected on the sale of aviation jet fuel, a per-return fee of $5.96 shall be assessed to compensate the Department for the costs of administration and collection, 70 percent of which shall be borne by the municipality, and 30 percent of which shall be borne by the State to be paid from the PILOT Special Fund. The fee shall be subject to the provisions of 32 V.S.A. § 605.

(d)(1) ~~Of~~ Except as provided in subsection (c) and subdivision (2) of this section with respect to taxes collected on the sale of aviation jet fuel, of the taxes collected under this section, 70 percent of the taxes shall be paid on a quarterly basis to the municipality in which they were collected, after reduction for the costs of administration and collection under subsection (c) of this section. Revenues received by a municipality may be expended for municipal services only, and not for education expenditures. Any remaining revenue shall be deposited into the PILOT Special Fund established by 32 V.S.A. § 3709.

(2)(A) Of the taxes collected under this section on the sale of aviation jet fuel, on a quarterly basis, 70 percent of the taxes shall be paid to the municipality in which they were collected, and 30 percent shall be deposited in the Transportation Fund.

(B) All revenues referenced in subdivision (A) of this subdivision (2) shall be used exclusively for aviation purposes consistent with 49 U.S.C. § 47133 and Federal Aviation Administration regulations and policies.

Sec. 37. 19 V.S.A. § 11 is amended to read:

§ 11. TRANSPORTATION FUND

The Transportation Fund shall comprise the following:

* * *

(4) monies received from the sales and use tax on aviation jet fuel and on natural gas used to propel a motor vehicle under 32 V.S.A. chapter 233, and from the portion of a local option tax on the sale of aviation jet fuel specified in 24 V.S.A. § 138;

* * *

* * * Petroleum Cleanup Fund; Releases of Aircraft Fuel * * *

Sec. 38. 10 V.S.A. § 1941 is amended to read:

§ 1941. PETROLEUM CLEANUP FUND

* * *

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum, including aviation gasoline, from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other governmental purposes, nor shall any portion of the Fund ever be available to borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, 2019 and judged to be in conformance with prevailing industry rates. This includes:

* * *

Sec. 39. 5 V.S.A. § 693 is amended to read:

§ 693. CONDITIONS

A municipality receiving grants from the State of Vermont shall meet such conditions as the Secretary:

(1) may establish with respect to maintenance and continued use of the subject airport site for aeronautical purposes; and

(2) shall establish in order to require the municipality to assist the State in identifying vendors that distribute, sell, or use aircraft jet fuel in the State in connection with the airport.

* * * Passing Motor Vehicles and Vulnerable Users * * *

Sec. 40. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

(a) Passing motor vehicles generally. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, shall not pass to the left of the center of the highway except as authorized in section 1035 of this title, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) ~~Passing~~ Approaching or passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes reducing speed and increasing clearance to a recommended distance of at least four feet, to pass the vulnerable user safely, and shall cross the center of the highway only as provided in section 1035 of this title. A person who violates this subsection shall be subject to a civil penalty of not less than $200.00.

(c) Approaching or passing certain stationary vehicles. The operator of a motor vehicle approaching or passing a stationary sanitation, maintenance, utility, or delivery vehicle with flashing lights shall exercise due care, which includes reducing speed and increasing clearance to a recommended distance of at least four feet, to pass the vehicle safely, and shall cross the center of the highway only as provided in section 1035 of this title. A person who violates this subsection shall be subject to a civil penalty of not less than $200.00.

* * * Effective Dates * * *

Sec. 41. EFFECTIVE DATES

(a) This section and Secs. 2 (federal infrastructure funding), 16 (penalties for furnishing alcoholic beverages to minors), 20 (transportation public-private partnerships), 23–24 (Green Mountain Transit Authority name update), and 25 (PUC investigation; electric vehicle charging) shall take effect on passage.

(b) Secs. 30–32 (town highway weight limits; signs) and 33–37 (aircraft fuel taxes) shall take effect on January 1, 2019.

(c) Sec. 29, 23 V.S.A. § 3513(a) (sunset of change to ATV fee and penalty allocation) shall take effect on July 1, 2023.

(d) All other sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Transportation with the following amendments thereto:

First: By striking out Sec. 25 in its entirety and inserting in lieu thereof a new Sec. 25 to read:

Sec. 25. PUBLIC UTILITY COMMISSION; REPORT; ELECTRIC VEHICLE CHARGING

(a) After providing public notice and an opportunity for submission of written information and conducting one or more workshops, the Public Utility Commission (PUC or Commission) shall complete an evaluation and submit a written report on or before July 1, 2019 concerning the charging of plug-in electric vehicles (EV).

(b) As used in this section, "electric distribution utility" means a company that delivers electric energy to retail customers over a pole-and-wire network.

(c) The Commission shall provide direct notice of the opportunity and workshops described in subsection (a) of this section to the Agencies of Natural Resources and of Transportation, the Department of Public Service, each electric distribution utility, each efficiency entity appointed pursuant to 30 V.S.A. § 209(d) to deliver services to electric customers, and such other persons as the Commission may consider appropriate.

(d) The Commission's report shall include:

(1) its analysis and recommendations on each of the following issues related to the role of electric distribution utilities:

(A) removal or mitigation, as appropriate, of barriers to EV charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future EV users without shifting costs to ratepayers who do not own or operate EVs;

(B) strategies for managing the impact of EVs on and services provided by EVs to the electric transmission and distribution system;

(C) electric system benefits and costs of EV charging, electric utility planning for EV charging, and rate design for EV charging; and

(D) the appropriate role of electric distribution utilities with respect to the deployment and operation of EV charging stations;

(2) its analysis and recommendations on each of the following issues related to EV charging stations owned or operated by persons other than electric distribution utilities:

(A) how and on what terms, including quantity, pricing, and time of day, such charging stations will obtain electric energy to provide to EVs;

(B) what safety standards should apply to the charging of EVs;

(C) the recommended scope of the jurisdiction of the Commission, the Department of Public Service, and other State agencies over such stations;

(D) whether such stations will be free to set the rates or prices at which they provide electric energy to EVs, and any other issues relevant to the appropriate oversight of the rates and prices charged by such stations, including the transparency to the consumer of those rates and prices; and

(E) the recommended billing and complaint procedures for such charging stations; and

(3) its analysis and recommendations on each of the following issues:

(A) jointly with the Secretary of Transportation, recommended options to address how EV users pay toward the cost of maintaining the State's transportation infrastructure, including consideration of methods to assess the impact of EVs on that infrastructure and how to calculate a charge based on that impact, the potential assessment of a charge to EVs as a rate per kilowatt hour delivered to an EV; varying such a charge by size and type of EV; and phasing in such a charge;

(B) the accuracy of electric metering and submetering technology for charging EVs;

(C) strategies to encourage EV usage at a pace necessary to achieve the goals of the State's Comprehensive Energy Plan and its greenhouse gas reduction goals, without shifting costs to electric ratepayers who do not own or operate EVs; and

(D) any other issues the Commission considers relevant to ensuring a fair, cost-effective, and accessible EV charging infrastructure that will be sufficient to meet increased deployment of EVs.

(e) During the course of the evaluation and in its report, the Commission shall identify recommendations on the issues identified in subsection (c) of this section that may require enabling legislation.

(f) The Commission shall submit copies of its report to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

Second: In Sec. 33, 23 V.S.A. chapter 28, in section 3105, in subsection (d), in the third sentence, by striking out the words "The record shall include"

and inserting in lieu thereof the following: "~~The~~ Except for purchases of aviation gasoline, the record shall include"

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Transportation, as amended with the following amendments thereto:

First: By adding two new sections to be numbered Secs. 41 and 42 to read as follows:

* * * Motor Vehicle Inspections * * *

Sec. 41. 23 V.S.A. § 1222 is amended to read:

§ 1222. INSPECTION OF REGISTERED VEHICLES

(a) Except for school buses, which shall be inspected as prescribed in section 1282 of this title, and motor buses as defined in subdivision 4(17) of this title, which shall be inspected twice during the calendar year at six-month intervals, all motor vehicles registered in this State shall be inspected once each year. Any motor vehicle, trailer, or semi-trailer not currently inspected in this State shall be inspected within 15 days ~~from~~ following the date of its registration in the State of Vermont.

(b)(1) The inspections shall be made at garages or qualified service stations, designated by the Commissioner as inspection stations, for the purpose of determining whether those motor vehicles are properly equipped and maintained in good mechanical condition; provided, however, the scope of the safety inspection of a motor vehicle other than a school bus or a commercial motor vehicle shall be limited to parts or systems that are relevant to the vehicle's safe operation, and such vehicles shall not fail the safety portion of the inspection unless the condition of the part or system poses or may pose a danger to the operator or to other highway users.

(2) The charges for such inspections made by garages or qualified service stations designated to conduct periodic inspections shall be subject to the approval of the Commissioner. If a fee is charged for inspection, it shall be based upon the hourly rate charged by each official inspection station or it may be a flat rate fee and, in either instance, the fee shall be prominently posted and displayed beside the official inspection station certificate. In addition, the official inspection station may disclose the State inspection certificate charge on the repair order as a separate item and collect the charge from the consumer.

* * *

Sec. 42. RULEMAKING; TRANSITION

(a)(1) As soon as practicable after the effective date of this section, and not later than May 1, 2018, the Commissioner of Motor Vehicles (Commissioner) shall file with the Secretary of State a proposed amended rule governing motor vehicle inspections (C.V.R. 14-050-022) that:

(A) is consistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 41 of this act; and

(B) clarifies ambiguous language in the rule.

(2) The amended rule described in subdivision (1) of this subsection shall be adopted so as to take effect no later than July 1, 2019.

(3) As soon as practicable after the effective date of this section, the Commissioner shall update the content of inspections conducted through the Automated Vehicle Inspection Program to exclude any requirement of C.V.R. 14-050-022 that is inconsistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 41 of this act, with the result that no vehicle will fail inspection as a result of any such inconsistent requirement.

(b) In the proposed rule amendments, the Commissioner may direct inspection stations to identify advisory, recommended repairs that are not required for the vehicle to pass inspection.

(c) Except as provided in subdivision (a)(2) and subsection (d) of this section, nothing in this section or Sec. 41 of this act is intended to affect the emissions-related requirements of the rule governing motor vehicle inspections.

(d) Notwithstanding 10 V.S.A. § 567 and C.V.R. 14-050-022, the Commissioner may establish criteria to allow vehicles that would otherwise fail inspection as a result of the emissions component of the inspection to pass inspection and receive an inspection sticker, provided that the vehicle satisfies all inspection requirements that are relevant to the vehicle's safe operation. The authority conferred in this subsection shall expire on January 15, 2019.

(e) As soon as practicable after the effective date of this section, the Commissioner of Motor Vehicles, in consultation with the Commissioner of Environmental Conservation, shall develop a program of waivers related to the emissions component of the State's inspection program that is consistent with the requirements of the Clean Air Act and its implementing regulations.

(f) On November 30, 2018, the Commissioners of Motor Vehicles and of Environmental Conservation shall send a written update to the Joint Transportation Oversight Committee that includes:

(1) a copy of any criteria developed under the authority granted in subsection (d) of this section;

(2) if the authority granted in subsection (d) of this section is exercised:

(A) whether the authority is still being exercised; and

(B) the number of conditional passes issued since the effective date of this section;

(3) a summary of the status of efforts to amend the Department's rule as required under subsection (a) of this section, and an estimate of the likely effective date of the amended rule if not yet adopted; and

(4) a summary of the status of the requirement to develop a program of waivers related to the emissions component of the State's inspection program and any efforts to educate consumers and inspection stations about issues related to emissions inspections, including: the availability of any such waivers; manufacturer warrantees available for emissions components for certain vehicle models and model years; and vehicle readiness for emissions testing.

And by renumbering the remaining section to be numerically correct.

Second: In Sec. 43, EFFECTIVE DATES, by adding a new subsection (d) to read as follows:

(d) Secs. 41–42 (motor vehicle inspections) shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, in Sec. 42, subsection (d) shall take effect retroactively on January 1, 2017.

And by relettering the remaining subsection to be alphabetically correct.

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

Thereupon, the recommendation of proposal of amendment of the Committee on Transportation, as amended was amended as recommended by the Committee on Appropriations on a roll call, Yeas 29, Nays 0.

Senator Ashe 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, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Baruth.

Thereupon, the proposal of amendment recommended by the Committee on Transportation, as amended, was agreed to and third reading of the bill was ordered on a roll call, Yeas 29, Nays 0.

Senator Mazza 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, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Baruth.

Consideration Resumed; House Proposal of Amendment Concurred In

S. 111.

Consideration was resumed on Senate bill entitled:

An act relating to privatization contracts.

Thereupon, the pending question, Shall the Senate concur with the House proposal of amendment? was decided in the affirmative.

Proposals of Amendment; Third Reading Ordered

H. 571.

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 63, 7 V.S.A. § 278, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A manufacturer or rectifier of vinous beverages that is licensed in ~~state~~ the State or ~~out of state~~ outside the State and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the ~~Department~~ Division of Liquor Control an application in a form required by the Commissioner accompanied by a copy of its in-state or out-of-state license and the fee provided in section 204 of this title.

Second: In Sec. 90, 31 V.S.A. § 654a, redesignated § 652, in subdivision (2)(C), after the words "A procedure adopted pursuant to this section shall" by inserting the words have the force of law and

Third: In Sec. 94, 31 V.S.A. § 658, redesignated § 656, in subsection (b), in the second sentence before the second occurrence of the following: "percent of gross receipts," by striking out the number "1" and inserting in lieu thereof the following: ~~1~~ one

Fourth: After Sec. 111, by inserting three new Secs. 112, 113, and 114 to read as follows:

Sec. 112. 7 V.S.A. § 660 is amended to read:

§ 660. ADVERTISING

(a) ~~A person shall not display on~~ Any outside billboards or signs ~~erected on the highway any~~ that contain an advertisement ~~of any kind~~ relating to alcoholic beverages~~,~~ or indicate where alcoholic beverages may be procured shall comply with the requirements of 10 V.S.A. chapter 21. A person who violates any provision of this section shall be fined not more than $100.00 nor less than $10.00, for each offense, and a conviction for a violation shall be cause for revoking the person's license issued under this title.

* * *

Sec. 113. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a)(1) Notwithstanding the provisions of this chapter~~, a~~:

(A) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and an individual may participate in lotteries, raffles, or other games of chance for the purpose of raising funds to be used in charitable,

religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated.

(B) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and a member of that organization may participate in, lotteries, raffles, or other games of chance in which all of the proceeds are awarded as prizes to the members who participated. An individual who is not a member of the nonprofit organization shall not be allowed to participate in a lottery, raffle, or other game of chance organized under this subdivision (B).

(2) Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be ~~utilized~~ used under authority of this section.

* * *

(d) Casino events shall be limited as follows:

* * *

(4) As used in this subsection, "casino event" means an event held during any 24-hour period at which ~~any game of chance is~~ a card tournament or casino table games, such as baccarat, blackjack, craps, poker, or roulette, or both are conducted ~~except those~~. Games of chance prohibited by subdivision 2135(a)(1) or (2) of this title~~.~~ shall not be permitted at a "casino event." A "casino event" shall not include a fair, bazaar, field days, agricultural exposition, or similar event that ~~utilizes~~ uses a wheel of fortune, chuck-a-luck, or other ~~such~~ games commonly conducted at such events, or break-open tickets, bingo, a lottery, or a raffle. "Card tournament" means an event during which participants, as individual players or members of a team, pay a fixed entry fee to play a series of card games, with the tournament winners determined based on the cumulative results of the games and the winners' prizes determined as a portion of the proceeds from the entry fees.

(e) Games of chance shall be limited as follows:

(1) ~~All~~ Except as otherwise provided pursuant to subdivision (a)(1)(B) of this section, all proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

* * *

Sec. 114. EDUCATION AND OUTREACH

On or before November 15, 2018, the Attorney General shall update the gambling page on the Attorney General's website to include the amendments to 13 V.S.A. § 2143 made pursuant to this act.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Ashe, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In the *fourth* proposal of amendment by adding a new Sec. 115 to read as follows:

Sec. 115. LOTTERY AGENT SALES PRACTICES; INTEGRITY; REVIEW; REPORT

(a) The Commissioner of Liquor and Lottery shall conduct a review of:

(1) lottery prize winners by agency location to determine whether a disproportionate number of winning tickets sold by each lottery agent was purchased by the owner or of an employee of the agent, or by an immediate family member of the owner or of an employee of the agent; and

(2) the sales, fraud prevention, and security practices of each lottery agent to determine whether those practices are sufficient to preserve the integrity of the Lottery and to avoid the occurrence or appearance of illegitimate winnings by the owner or an employee of the agent, or by an immediate family member of the owner or of an employee of the agent.

(b) On or before October 1, 2018, the Commissioner shall submit a written report on the findings of the review conducted pursuant to subsection (a) of this section to the Joint Fiscal Committee.

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 the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the proposals of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, were collectively agreed to and third reading of the bill was ordered.

House Proposal of Amendment Concurred In with Amendment

S. 192.

House proposal of amendment to Senate bill entitled:

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

Was taken up.

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

Sec. 1. 20 V.S.A. § 2405 is amended to read:

§ 2405. COUNCIL HEARING AND SANCTION PROCEDURE

(a) Generally. Except as otherwise provided in this subchapter, ~~the Council~~ all proceedings under this subchapter shall ~~conduct its proceedings~~ be conducted in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

(b) Prosecutor.

(1) An Assistant Attorney General assigned by the Office of the Attorney General shall be responsible for prosecuting unprofessional conduct cases under this subchapter.

(2) The burden of proof shall be on the State to show by a preponderance of the evidence that a law enforcement officer has engaged in unprofessional conduct.

(c) Hearing officer.

(1) The Council shall appoint a hearing officer, who shall be an attorney admitted to practice law in this State, to conduct any unprofessional conduct hearing under this subchapter. The Council shall choose the hearing officer from a list of hearing officers provided by the Office of Professional Regulation.

(2) The hearing officer may administer oaths and exercise powers properly incidental to the conduct of the hearing.

(3) Any hearing officer sitting in an unprofessional conduct case shall do so impartially and without any ex parte knowledge of the case in controversy.

(4)(A) The hearing officer shall issue findings of fact and conclusions of law regarding the prosecutor's charges of unprofessional conduct.

(B) For the purposes of subdivision 2406(b)(1)(B) of this subchapter, the hearing officer shall determine at the hearing and shall include in his or her findings of fact whether there is a pending labor proceeding related to any

unprofessional conduct that the hearing officer concludes a law enforcement officer committed.

(5)(A) The hearing officer shall report the findings of fact and conclusions of law to the Council within 30 days after the conclusion of the hearing, unless the Council grants an extension. The provisions of 3 V.S.A. § 811 regarding proposals for decision shall not apply to the hearing officer's report.

(B) The hearing officer's findings and conclusions shall be binding on the Council; provided, however, that the Council may request that the hearing officer make clarifications or additional findings.

(d) Council.

(1) The Council shall hold a sanction hearing based on the hearing officer's findings of fact and conclusions of law. Unless the Council grants an extension, the Council shall hold its sanction hearing within 30 days after the date the hearing officer reports his or her findings of fact and conclusions of law to the Council or within 30 days after the date the hearing officer makes clarifications or additional findings under subdivision (c)(5)(B) of this section, whichever occurs later.

(2) Unless the Council grants an extension, the Council shall issue its sanction order within 10 days after its sanction hearing.

Sec. 2. 20 V.S.A. § 2406 is amended to read:

§ 2406. PERMITTED COUNCIL SANCTIONS

(a) Generally. The Council may impose any of the following sanctions on a law enforcement officer's certification upon ~~its finding~~ a hearing officer's conclusion that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after ~~an evidentiary~~ a sanction hearing, the Council intends to revoke a law enforcement officer's certification due to ~~its finding~~ a hearing officer's conclusion that the officer committed unprofessional conduct, the Council shall issue ~~a decision~~ an order to that effect.

(B) Within 10 business days ~~from~~ after the date of that ~~decision~~ order, such an officer may voluntarily surrender his or her certification if the hearing officer determined under subdivision 2405(c)(4)(B) of this subchapter that there is a pending labor proceeding related to the ~~Council's~~ unprofessional conduct ~~findings~~ the hearing officer concluded the law enforcement officer committed.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the Council's final sanction hearing on the matter. At that hearing, the Council may modify its ~~findings and decision~~ sanction order on the basis of additional evidence set forth in the labor proceeding decision, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the Council's original ~~findings and decision~~ sanction order shall take effect.

Sec. 3. 20 V.S.A. § 2410 is amended to read:

§ 2410. COUNCIL ADVISORY COMMITTEE

(a) Creation. There is created the Council Advisory Committee to provide advice to the Council regarding its duties under this subchapter.

(1) The Committee shall specifically:

(A) advise and assist the Council in developing procedures to ensure that allegations of unprofessional conduct by law enforcement officers are investigated fully and fairly~~,~~ and to ensure that appropriate action is taken in regard to those allegations; and

(B) recommend to the Council any appropriate sanctions to impose on a law enforcement officer's certification upon a hearing officer's concluding that the law enforcement officer committed unprofessional conduct.

(2) The Committee shall be advisory only and shall not have any decision-making authority.

(b) Membership. The Committee shall be composed of five individuals appointed by the Governor. The Governor may solicit recommendations for appointments from the Chair of the Council.

(1) Four of these members shall be public members who during incumbency shall not serve and shall have never served as a law enforcement officer or corrections officer and shall not have an immediate family member who is serving or has ever served as either of those officers.

(2) One of these members shall be a retired law enforcement officer.

(c) Assistance. The Executive Director of the Council or designee shall attend Committee meetings as a resource for the Committee.

(d) Reimbursement. Members of the Committee ~~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~~ as permitted under 32 V.S.A. § 1010 for not more than ~~five~~ eight meetings per year. Such payments shall be derived from the budget of the Council.

Sec. 4. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before ~~July 1, 2018~~ January 1, 2019, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

(2) Vermont Criminal Justice Training Council. On or before ~~April 1, 2018~~ July 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter.

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(d) Council rules. The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section.

(e) Council Advisory Committee. The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section.

(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year ~~2019~~ 2020 and ending in the year ~~2022~~ 2023, the Executive Director of the Vermont Criminal Justice Training Council shall report to the ~~General Assembly~~ House and Senate Committees on Government Operations regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action.

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Sec. 5. 2017 Acts and Resolves No. 56, Sec. 6 is amended to read:

Sec. 6. EFFECTIVE DATES

This act shall take effect on ~~July 1, 2018~~ January 1, 2019, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on ~~July 1, 2018~~ January 1, 2019;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Sec. 6. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(9) "Law enforcement officer" means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 7. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than $10,000.00, or both.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1, 20 V.S.A. § 2405 (Council hearing and sanction procedure); 2, 20 V.S.A. § 2406 (permitted Council sanctions); and 3, 20 V.S.A. § 2410 (Council Advisory Committee) shall take effect on January 1, 2019.

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

An act relating to the Vermont Criminal Justice Training Council's professional regulation of law enforcement officers.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Pearson moved that the Senate concur in the House proposal of amendment with an amendment as follows:

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

Sec. 1. 20 V.S.A. § 2405 is amended to read:

§ 2405. COUNCIL HEARING AND SANCTION PROCEDURE

(a) Generally. Except as otherwise provided in this subchapter, ~~the Council~~ all proceedings under this subchapter shall ~~conduct its proceedings~~ be conducted in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

(b) Prosecutor.

(1) An Assistant Attorney General assigned by the Office of the Attorney General shall be responsible for prosecuting unprofessional conduct cases under this subchapter.

(2) The burden of proof shall be on the State to show by a preponderance of the evidence that a law enforcement officer has engaged in unprofessional conduct.

(c) Hearing officer.

(1) The Council shall appoint a hearing officer, who shall be an attorney admitted to practice law in this State, to conduct any unprofessional conduct hearing under this subchapter. The Council shall choose the hearing officer from a list of hearing officers provided by the Office of Professional Regulation.

(2) The hearing officer may administer oaths and exercise powers properly incidental to the conduct of the hearing.

(3) Any hearing officer sitting in an unprofessional conduct case shall do so impartially and without any ex parte knowledge of the case in controversy.

(4)(A) The hearing officer shall issue findings of fact and conclusions of law regarding the prosecutor's charges of unprofessional conduct.

(B) For the purposes of subdivision 2406(b)(1)(B) of this subchapter, the hearing officer shall determine at the hearing and shall include in his or her findings of fact whether there is a pending labor proceeding related to any unprofessional conduct that the hearing officer concludes a law enforcement officer committed.

(5) The hearing officer shall report the findings of fact and conclusions of law to a Council Disciplinary Panel within 30 days after the conclusion of the hearing, unless the Council grants an extension. The provisions of 3 V.S.A. § 811 regarding proposals for decision shall not apply to the hearing officer's report.

(d) Council Disciplinary Panel.

(1) The Council shall appoint on a case-by-case basis a Council Disciplinary Panel to make sanction recommendations based on the hearing officer's findings of fact and conclusions of law. The Panel shall comprise six members of the Council, at least half of whom shall not be law enforcement officers, and all of whom shall be balanced in regard to labor and management positions to the greatest extent practicable.

(2)(A) Unless the Council grants an extension, the Panel shall meet and make sanction recommendations within 10 days after the date the hearing officer reports his or her findings of fact and conclusions of law to the Panel.

(B) Unless the Council grants an extension, the Panel shall issue its sanction recommendations to the hearing officer within 10 days after its meeting.

(3) The hearing officer shall not be bound by the Panel's sanction recommendations, which shall be advisory only.

Sec. 2. 20 V.S.A. § 2406 is amended to read:

§ 2406. PERMITTED ~~COUNCIL~~ HEARING OFFICER SANCTIONS

(a) Generally. ~~The Council~~ Within 10 days after receiving the Council Disciplinary Panel's sanction recommendations, the hearing officer may impose any of the following sanctions on a law enforcement officer's certification upon ~~its finding~~ his or her conclusion that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or

(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after ~~an evidentiary~~ a sanction hearing, the ~~Council~~ hearing officer intends to revoke a law enforcement officer's certification due to ~~its finding~~ his or her conclusion that the officer committed unprofessional conduct, the ~~Council~~ hearing officer shall issue ~~a decision~~ an order to that effect.

(B) Within 10 business days ~~from~~ after the date of that ~~decision~~ order, such an officer may voluntarily surrender his or her certification if the hearing officer determined under subdivision 2405(c)(4)(B) of this subchapter that there is a pending labor proceeding related to the ~~Council's~~ unprofessional conduct ~~findings~~ the hearing officer concluded the law enforcement officer committed.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the ~~Council's~~ hearing officer's final sanction hearing on the matter. At that hearing, the ~~Council~~ hearing officer may modify ~~its findings and decision~~ his or her sanction order on the basis of additional evidence set forth in the labor proceeding decision, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the ~~Council's~~ hearing officer's original ~~findings and decision~~ sanction order shall take effect.

Sec. 3. REPEAL

20 V.S.A. § 2410 (Council Advisory Committee) is repealed.

Sec. 4. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before ~~July 1, 2018~~ January 1, 2019, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

(2) Vermont Criminal Justice Training Council. On or before ~~April 1, 2018~~ July 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter.

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(d) Council rules. The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section.

(e) ~~Council Advisory Committee. The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section.~~ [Repealed.]

(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year ~~2019~~ 2020 and ending in the year ~~2022~~ 2023, the Executive Director of the Vermont Criminal Justice Training Council shall report to the ~~General Assembly~~ House and Senate Committees on Government Operations regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action.

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Sec. 5. 2017 Acts and Resolves No. 56, Sec. 6 is amended to read:

Sec. 6. EFFECTIVE DATES

This act shall take effect on ~~July 1, 2018~~ January 1, 2019, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);

(iv) § 2354 (Council meetings);

(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on ~~July 1, 2018~~ January 1, 2019;

(vi) § 2358 (minimum training standards; definitions); and

(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Sec. 6. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(9) "Law enforcement officer" means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 7. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than $10,000.00, or both.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 1, 20 V.S.A. § 2405 (Council hearing and sanction procedure) and 2, 20 V.S.A. § 2406 (permitted hearing officer sanctions) shall take effect on January 1, 2019; and

(2) Sec. 3 (repeal of 20 V.S.A. § 2410 (Council Advisory Committee)) shall take effect on July 1, 2018.

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

An act relating to the Vermont Criminal Justice Training Council's professional regulation of law enforcement officers.

Which was agreed to.

Bill Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 897. An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

H. 911. An act relating to changes in Vermont's personal income tax and education financing system.

Bill Passed in Concurrence

H. 927.

House bill of the following title was read the third time and passed in concurrence:

An act relating to approval of amendments to the charter of the City of Montpelier.

Third Reading Ordered

H. 916.

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority.

Reported that the bill ought to pass in concurrence.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, 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.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S.192, H. 897, H. 911, H. 927.

Recess

On motion of Senator Ashe the Senate recessed until 4:00 P.M.

Called to Order

The Senate was called to order by the President.

Rules Suspended; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged

H. 917.

Pending entry on the Calendar for action tomorrow, on motion of Senator Mazza, the rules were suspended and House bill entitled:

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

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Thereupon, on motion of Senator Ashe, the rules were suspended and the bill was ordered messaged to the House forthwith.

Proposal of Amendment; Third Reading Ordered

H. 663.

Senator Collamore, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to municipal land use regulation of accessory on-farm businesses.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 2, 24 V.S.A. § 4412, subdivision (11)(A)(i) (definition of accessory on-farm business), by striking out subdivision (II) and inserting in lieu thereof a new subdivision (II) to read:

(II) Educational, recreational, or social events that feature agricultural practices or qualifying products, or both. Such events may include tours of the farm, farm stays, tastings and meals featuring qualifying products, and classes or exhibits in the preparation, processing, or harvesting of qualifying products. As used in this subdivision (II), "farm stay" means a paid, overnight guest accommodation on a farm for the purpose of participating in educational, recreational, or social activities on the farm that feature agricultural practices or qualifying products, or both. A farm stay includes the option for guests to participate in such activities.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Bray, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture with the following amendments thereto:

First: In Sec. 1 (purpose), after the words "General Assembly adopts" by inserting the following: Sec. 2 of

Second: Following Sec. 2, 24 V.S.A. § 4412, by inserting a new Sec. 3 to read as follows:

Sec. 3. 6 V.S.A. § 1113 is added to read:

§ 1113. ACCESSORY ON-FARM BUSINESSES; PESTICIDES; POSTING

When an agricultural pesticide is applied on a farm in an area in which an accessory on-farm business operates or conducts activity, the accessory on-farm business shall post the same warning signs that would be posted for agricultural workers under the rules of the U.S. Environmental Protection Agency adopted pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. chapter 6, subchapter II (environmental pest control). The manner and duration of posting shall be the same as under those rules. As used in this section:

(1) "Accessory on-farm business" and "farm" shall have the same meaning as in 24 V.S.A. § 4412(11).

(2) "Agricultural pesticide" means any pesticide labeled for use in or on a farm, forest, nursery, or greenhouse.

And by renumbering the remaining section to be numerically correct.

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 the recommendation of proposal of amendment of the Committee on Agriculture was amended as recommended by the Committee on Natural Resources and Energy.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Agriculture?, as amended Senators Rodgers, Bray, Campion, MacDonald and Pearson moved to amend the proposal of amendment of the Committee on Agriculture, as amended, as follows:

By striking out Sec. 4 (effective date) in its entirety and inserting in lieu thereof the following:

Sec. 4. PURPOSE

The purpose of this section and Secs. 5–6 of this act is to amend the laws of Vermont regarding the cultivation of industrial hemp to conform with federal requirements for industrial hemp research set forth in section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79, codified at 7 U.S.C. § 5940.

Sec. 5. 6 V.S.A. chapter 34 is amended to read:

CHAPTER 34. HEMP

§ 561. FINDINGS; INTENT

(a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, ~~bio-fuel~~ biofuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(5) The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act, if certain criteria are satisfied.

(b) Purpose. The intent of this chapter is to establish policy and procedures for growing hemp in Vermont that comply with federal law so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity.

§ 562. DEFINITIONS

As used in this chapter:

(1) [Repealed.]

(2) "Hemp products" or "hemp-infused products" means all products made from hemp, including cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation.

(3) "Hemp" or "industrial hemp" means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(4) "Secretary" means the Secretary of Agriculture, Food and Markets.

§ 563. HEMP; AN AGRICULTURAL PRODUCT

~~Hemp~~ Industrial hemp is an agricultural product ~~which~~ that may be grown as a crop~~,~~ produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of industrial hemp shall be subject to and comply with ~~the requirements of~~ the required agricultural practices adopted under section 4810 of this title.

§ 564. REGISTRATION; ADMINISTRATION; PILOT PROJECT

(a) The Secretary shall establish a pilot program to research the growth, cultivation, and marketing of industrial hemp. Under the pilot program, the Secretary shall register persons who will participate in the pilot program through growing or cultivating industrial hemp. The Secretary shall certify the site where industrial hemp will be cultivated by each person registered under this chapter. A person who intends to participate in the pilot program and grow industrial hemp shall register with the Secretary and submit on a form provided by the Secretary the following:

(1) the name and address of the person;

(2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and

(3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.

(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that~~, until current federal law is amended to provide otherwise~~:

(1) cultivation and possession of industrial hemp in Vermont is a violation of the federal Controlled Substances Act unless the industrial hemp is grown, cultivated, or marketed under a pilot program authorized by section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79; ~~and~~

(2) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs; and

(3) registrants may purchase or import hemp genetics from any state that complies with federal requirements for the cultivation of industrial hemp.

(c) A person registered with the Secretary pursuant to this section shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Secretary or ~~his or her~~ designee. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(d) The Secretary may assess an annual registration fee of $25.00 for the performance of his or her duties under this chapter.

§ 566. RULEMAKING AUTHORITY

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the pilot project authorized under this chapter, which may include rules to require hemp to be tested during growth for tetrahydrocannabinol levels and to require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

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

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

Sec. 6. TRANSITION; IMPLEMENTATION

All persons registered prior to July 1, 2018 with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp shall be deemed to be registered with the Secretary of Agriculture, Food and Markets as participants in the industrial hemp pilot project established by this act under 6 V.S.A. § 564, and those previously registered persons shall not be required to reregister with the Secretary of Agriculture, Food and Markets.

Sec. 7. 6 V.S.A. §§ 567 and 568 are added to read:

§ 567. AGENCY OF AGRICULTURE, FOOD AND MARKETS; TESTING

The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for hemp and hemp-infused products;

(2) to verify cannabinoid label guarantees of hemp and hemp-infused products;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp and hemp-infused products; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this section.

§ 568. TEST RESULTS; ENFORCEMENT

(a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, the person registered with the Secretary as growing the hemp crop shall:

(1) enter into an agreement with a dispensary registered under 18 V.S.A. chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the hemp crop, return of the hemp crop to the person registered with the Secretary, and retention of the separated delta-9 tetrahydrocannabinol by the dispensary;

(2) sell the hemp crop to a dispensary registered under 18 V.S.A. chapter 86; or

(3) arrange for the Secretary to destroy or order the destruction of the hemp crop.

(b) A person registered with the Secretary as growing the hemp crop shall not be subject to civil, criminal, or administrative liability or penalty under 18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9 tetrahydrocannabinol concentration of one percent or less on a dry weight basis.

(c) A crop or product confirmed by the Secretary to meet the definition of hemp under State or federal law may be sold or transferred in interstate commerce to the extent authorized by federal law.

Sec. 8. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, process, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

* * *

(5) Acquire, possess, manufacture, process, transfer, transport, market, and test hemp provided by persons registered with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp.

* * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to municipal regulation of accessory on-farm businesses and to hemp cultivation.

Which was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Agriculture, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 707.

Senator Balint, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to the prevention of sexual harassment.

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:

Sec. 1. 21 V.S.A. § 495h is amended to read:

§ 495h. SEXUAL HARASSMENT

(a)(1) All employers, employment agencies, and labor organizations have an obligation to ensure a workplace free of sexual harassment.

(2) All persons who engage a person to perform work or services have an obligation to ensure a working relationship with that person that is free from sexual harassment.

* * *

(c)(1) Employers shall provide individual copies of their written policies ~~to current employees no later than November 1, 1993, and~~ to new employees upon their being hired. ~~Employers who have provided individual written notice to all employees within the 12 months prior to October 1, 1993, shall~~

~~be exempt from having to provide an additional notice during the 1993 calendar year.~~

(2) If an employer makes changes to its policy against sexual harassment, it shall provide to all employees a written copy of the updated policy.

* * *

(f)(1) Employers and labor organizations are encouraged to conduct an education and training program ~~within one year after September 30, 1993 for all current employees and members, and~~ for all new employees and members ~~thereafter within one year of commencement of employment,~~ that includes at a minimum all the information outlined in this section within one year after commencement of employment.

(2) Employers and labor organizations are encouraged to conduct an annual education and training program for all employees and members that includes at a minimum all the information outlined in this section.

(3) Employers are encouraged to conduct additional training ~~for current supervisory and managerial employees and members within one year of September 30, 1993, and~~ for new supervisory and managerial employees and members within one year ~~of~~ after commencement of employment or membership, which should include at a minimum the information outlined in ~~subsection (b) of~~ this section ~~and~~, the specific responsibilities of supervisory and managerial employees, and the ~~methods~~ actions that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

(4) Employers, labor organizations, and appropriate State agencies are encouraged to cooperate in making this training available.

(g)(1) An employer shall not require any employee or prospective employee, as a condition of employment, to sign an agreement or waiver that does either of the following:

(A) prohibits, prevents, or otherwise restricts the employee or prospective employee from opposing, disclosing, reporting, or participating in an investigation of sexual harassment; or

(B) except as otherwise permitted by State or federal law, purports to waive a substantive or procedural right or remedy available to the employee with respect to a claim of sexual harassment.

(2) Any provision of an agreement that violates subdivision (1) of this subsection shall be void and unenforceable.

(h)(1) An agreement to settle a claim of sexual harassment shall not prohibit, prevent, or otherwise restrict the employee from working for the employer or any parent company, subsidiary, division, or affiliate of the employer.

(2) An agreement to settle a sexual harassment claim shall expressly state that:

(A) it does not prohibit, prevent, or otherwise restrict the individual who made the claim from doing any of the following:

(i) lodging a complaint of sexual harassment committed by any person with the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency;

(ii) testifying, assisting, or participating in any manner with an investigation related to a claim of sexual harassment conducted by the Attorney General, a State's Attorney, the Human Rights Commission, the Equal Employment Opportunity Commission, or any other State or federal agency;

(iii) complying with a valid request for discovery in relation to civil litigation or testifying in a hearing or trial related to a claim of sexual harassment that is conducted by a court, pursuant to an arbitration agreement, or before another appropriate tribunal; or

(iv) exercising any right the individual may have pursuant to State or federal labor relations laws to engage in concerted activities with other employees for the purposes of collective bargaining or mutual aid and protection; and

(B) it does not waive any rights or claims that may arise after the date the settlement agreement is executed.

(3) Any provision of an agreement to settle a sexual harassment claim that violates subdivision (1) or (2) of this subsection shall be void and unenforceable with respect to the individual who made the claim.

(4) Nothing in subdivision (2) of this subsection shall be construed to prevent an agreement to settle a sexual harassment claim from waiving or releasing the claimant's right to seek or obtain any remedies relating to sexual harassment of the claimant by another party to the agreement that occurred before the date on which the agreement is executed.

(i)(1)(A)(i) For the purpose of assessing compliance with the provisions of this section, the Attorney General or designee, or, if the employer is the State, the Human Rights Commission or designee, may, with 48 hours' notice, at

reasonable times and without unduly disrupting business operations enter and inspect any place of business or employment, question any person who is authorized by the employer to receive or investigate complaints of sexual harassment, and examine an employer's records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section.

(ii) An employer may agree to waive or shorten the 48-hour notice period.

(iii) As used in this subsection (i), the term "records" includes de-identified data regarding the number of complaints of sexual harassment received and the resolution of each complaint.

(B) The employer shall at reasonable times and without unduly disrupting business operations make any persons who are authorized by the employer to receive or investigate complaints of sexual harassment and any records, policies, procedures, and training materials related to the prevention of sexual harassment and the requirements of this section available to the Attorney General or designee or, if the employer is the State, the Human Rights Commission or designee.

(2) Following an inspection and examination pursuant to subdivision (1) of this subsection (i), the Attorney General or the Human Rights Commission shall notify the employer of the results of the inspection and examination, including any issues or deficiencies identified, provide resources regarding practices and procedures for the prevention of sexual harassment that the employer may wish to adopt or utilize, and identify any technical assistance that the Attorney General or the Human Rights Commission may be able to provide to help the employer address any identified issues or deficiencies. If the Attorney General or the Human Rights Commission determines that it is necessary to ensure the employer's workplace is free from sexual harassment, the employer may be required, for a period of up to three years, to provide an annual education and training program that satisfies the provisions of subsection (f) of this section to all employees or to conduct an annual, anonymous working-climate survey, or both.

(3)(A) The Attorney General shall keep records, materials, and information related to or obtained through an inspection carried out pursuant to this subsection (i) confidential as provided pursuant to 9 V.S.A. § 2460(a)(4).

(B) The Human Rights Commission shall keep records, materials, and information related to or obtained through an inspection carried out pursuant to this subsection (i) confidential as provided pursuant to 9 V.S.A. § 4555.

(j) The Attorney General shall adopt rules as necessary to implement the provisions of this section.

Sec. 2. 21 V.S.A. § 495b is amended to read:

§ 495b. PENALTIES AND ENFORCEMENT

(a)(1) The Attorney General or a State's Attorney may enforce the provisions of this subchapter by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though an unlawful employment practice were an unfair act in commerce. Any employer, employment agency, or labor organization complained against shall have the same rights and remedies as specified therein. The Superior Courts are authorized to impose the same civil penalties and investigation costs and to order other relief to the State of Vermont or an aggrieved employee for violations of this subchapter as they are authorized to impose or order under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order restitution of wages or other benefits on behalf of an employee and may order reinstatement and other appropriate relief on behalf of an employee.

(2) Any charge or formal complaint filed by the Attorney General or a State's Attorney against a person for unlawful discrimination or sexual harassment in violation of the provisions of this chapter shall include a statement setting forth the prohibition against retaliation pursuant to subdivision 495(a)(8) of this title.

* * *

Sec. 3. 9 V.S.A. § 4552 is amended to read:

§ 4552. DUTIES; JURISDICTION

* * *

(b)(1) The Commission shall have jurisdiction to investigate and enforce complaints of unlawful discrimination in violation of chapter 139 of this title, discrimination in public accommodations and rental and sale of real estate. The Commission shall also have jurisdiction when the party complained against is a State agency in matters for which the Attorney General would otherwise have jurisdiction under subsection (c) of this section.

(2) In any case relating to unlawful discrimination or sexual harassment in violation of 21 V.S.A. § 495 et seq. that the Commission has jurisdiction over pursuant to this subsection, it shall include a statement setting forth the prohibition against retaliation pursuant to 21 V.S.A. § 495(a)(8) with any formal complaint that is sent to a respondent.

(c) All complaints of unlawful discrimination in violation of 21 V.S.A. §§ 495 et seq. and 710, the Fair Employment Practices Act and the provisions for workers' compensation discrimination, respectively, and of 21 V.S.A. § 471 et seq. shall be referred to the Attorney General's office~~,~~ for investigation and enforcement.

Sec. 4. ATTORNEY GENERAL; HUMAN RIGHTS COMMISSION; ENHANCED REPORTING OF DISCRIMINATION AND SEXUAL HARASSMENT

(a) On or before December 15, 2018, the Attorney General and the Human Rights Commission shall develop and implement enhanced mechanisms for employees and members of the public to submit complaints of discrimination and sexual harassment in employment or in the course of a working relationship.

(b) The methods shall include, at a minimum, an easy-to-use portal on the Attorney General's or Human Rights Commission's website and a telephone hotline. Each method shall provide a clear statement that information submitted may be referred to the Office of the Attorney General, a State's Attorney, the Vermont Human Rights Commission, the Equal Employment Opportunity Commission, or another State or federal agency that has jurisdiction over the complaint.

Sec. 5. PUBLIC EDUCATION AND OUTREACH; VERMONT COMMISSION ON WOMEN

(a) On or before December 15, 2018, the Vermont Commission on Women, in consultation with the Attorney General and the Human Rights Commission, shall develop a public education and outreach program that is designed to make Vermont employees, employers, businesses, and members of the public aware of:

(1) methods for reporting employment and work-related discrimination and sexual harassment;

(2) where to find information regarding:

(A) the laws related to employment and work-related discrimination and sexual harassment; and

(B) best practices for preventing employment and work-related discrimination and sexual harassment; and

(3) methods for preventing and addressing sexual harassment in the workplace.

(b) The sum of $125,000.00 is appropriated to the Vermont Commission on Women for the purpose of creating and implementing the public education and outreach program.

(c) The program may include:

(1) public service announcements;

(2) print and electronic advertisements;

(3) web-based and electronic training materials;

(4) printed informational and training materials;

(5) model educational programs and curricula; and

(6) in-person seminars and workshops.

Sec. 6. REPORT REGARDING ENHANCED REPORTING MECHANISMS

On or before January 15, 2020, the Attorney General, in consultation with the Human Rights Commission and the Vermont Commission on Women, shall submit to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs a report regarding the implementation of the enhanced reporting mechanisms for instances of employment and work-related discrimination and sexual harassment. The report shall include:

(1) a detailed description of how any existing reporting mechanisms were enhanced and any new reporting mechanisms that were implemented;

(2) a summary of changes, if any, in the annual number of complaints of employment and work-related discrimination and sexual harassment received and the number of complaints resulting in an investigation, settlement, or State court action during calendar years 2018 and 2019 in comparison to calendar years 2016 and 2017;

(3) the number of employees and other persons that reported employment or work-related discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint in comparison to the number that did not, and the reasons that employees and other persons gave for not reporting the discrimination or sexual harassment to their employer, supervisor, or the person for whom they were working prior to making a complaint; and

(4) any suggestion for legislative action to enhance further the reporting mechanisms or to reduce the amount of employment and work-related discrimination and sexual harassment.

Sec. 7. 21 V.S.A. § 495n is added to read:

§ 495n. SEXUAL HARASSMENT COMPLAINTS; NOTICE TO ATTORNEY GENERAL AND HUMAN RIGHTS COMMISSION

(a) A person that files a claim of sexual harassment pursuant to section 495b of this subchapter in which neither the Attorney General nor the Human Rights Commission is a party shall provide notice of the action to the Attorney General and the Human Rights Commission within 14 days after filing the complaint. The notice may be submitted electronically and shall include a copy of the filed complaint.

(b)(1) Upon receiving notice of a complaint in which the State is a party, the Human Rights Commission may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

(2) Upon receiving notice of a complaint in which the State is not a party, the Attorney General may elect to:

(A) intervene in the action to seek remedies pursuant to section 495b of this subchapter; or

(B) without becoming a party to the action, file a statement with the court addressing questions of law related to the provisions of this subchapter.

Sec. 8. COMMISSIONER OF LABOR; POSTER

On or before September 15, 2018, the Commissioner of Labor shall update the model policy and model poster created pursuant to 21 V.S.A. § 495h(d) to reflect the provisions of this act.

Sec. 9. 3 V.S.A. § 348 is added to read:

§ 348. PREVENTION OF SEXUAL HARASSMENT; TRAINING

The Secretary of Administration shall include in the terms and conditions of all contracts for services a requirement that the contractor shall:

(1) conduct an annual education and training program for all employees performing services pursuant to the contract that addresses, at a minimum, all of the information outlined in 21 V.S.A. § 495h;

(2) conduct an additional education and training program for all supervisory and managerial employees who are performing services pursuant to the contract or supervising or managing employees performing services pursuant to the contract that includes, at a minimum, the information outlined

in 21 V.S.A. § 495h, the specific responsibilities of the supervisory and managerial employees with respect to the prevention of sexual harassment, and the actions that the employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints; and

(3) provide to the Secretary of Administration annual written certification of compliance with the sexual harassment prevention training requirements of this section.

Sec. 10. PRIOR HARASSMENT CLAIMS; IDENTIFICATION; RELEASE FROM NONDISCLOSURE AGREEMENT; REPORT

(a) On or before January 15, 2019, the Office of Legislative Council shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs that examines mechanisms to:

(1) provide the Attorney General and the Human Rights Commission with notice of agreements to settle sexual harassment claims that contain a provision that prohibits or restricts the individual who made the claim from disclosing information related to the claim of sexual harassment; and

(2) render provisions of agreements to settle sexual harassment claims that prohibit or restrict the individual who made the claim from disclosing information related to the claim of sexual harassment void and unenforceable if, in relation to a separate claim, the alleged harasser is later adjudicated by a court or tribunal of competent jurisdiction to have engaged in sexual harassment or retaliation in relation to a claim of sexual harassment.

(b) In particular, the report shall:

(1) identify potential mechanism to accomplish the potential changes described in subdivisions (a)(1) and (2) of this section;

(2) review and examine laws and pending legislation in other states that are related to subdivisions (a)(1) and (2) of this section;

(3) identify and examine potential legal issues, advantages, disadvantages, and obstacles to the mechanisms identified; and

(4) identify and examine any alternative mechanisms that would accomplish substantially similar policy outcomes to the potential changes described in subdivisions (a)(1) and (2) of this section.

(c) The Office of Legislative Council shall consult with the Attorney General's Office and the Human Rights Commission when preparing this report.

(d) As used in this section, "information related to the claim of sexual

harassment" does not include the specific terms of the related settlement agreement or the amount of any monetary settlement.

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 5, public education and outreach, in subsection (b), after the words "Vermont Commission on Women" by inserting the following: from the General Fund in fiscal year 2018 to carry forward to fiscal year 2019

Second: By striking out Sec. 11, effective date, in its entirety and inserting in lieu thereof a new Sec. 11 to read as follows:

Sec. 11. EFFECTIVE DATES

(a) This section and, in Sec. 5, subsection (b) shall take effect on passage. The remaining provisions of Sec. 5 shall take effect on July 1, 2018.

(b) The remaining sections of this act shall take effect on July 1, 2018.

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 the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, as amended Senators Balint, Baruth, Clarkson, Sirotkin and Soucy moved to amend the proposal of amendment of the Committee on Economic Development, Housing and General Affairs, as amended, by striking out Sec. 9, 3 V.S.A. § 348, in its entirety and inserting in lieu thereof:

Sec. 9. [Deleted.]

Which was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 728.

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

An act relating to bail reform.

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:

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. IMPOSITION OF BAIL, SECURED APPEARANCE BONDS, AND APPEARANCE BONDS~~; GENERALLY~~

(a) Bonds; generally. A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the Criminal Division of the Superior Court where the prosecution is pending~~,~~ and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) Limitation on imposition of bail, secured appearance bonds, and appearance bonds.

(1) ~~No bond may be imposed~~ Except as provided in subdivision (2) of this subsection, no bail, secured appearance bond, or appearance bond may be imposed:

(A) at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure; or

(B) at the initial appearance or upon the temporary release pursuant to Rule 5(b) of the Vermont Rules of Criminal Procedure of a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant to subdivision 7601(4)(A) of this title.

(2) In the event the court finds that imposing bail is necessary to mitigate the risk of flight from prosecution for a person charged with a violation of a misdemeanor offense that is eligible for expungement pursuant

to subdivision 7601(4)(A) of this title, the court may impose bail in a maximum amount of $200.00.

(3) This subsection shall not be construed to restrict the court's ability to impose conditions on such persons to reasonably ~~ensure his or her appearance at future proceedings~~ mitigate the risk of flight from prosecution or to reasonably protect the public in accordance with section 7554 of this title.

Sec. 2. Rule 3(k) of the Vermont Rules of Criminal Procedure is amended to read:

(k) Temporary Release. ~~A~~ Either a law enforcement officer arresting a person or the prosecuting attorney shall contact a judicial officer for determination of temporary release pursuant to Rule 5(b) of these rules without unnecessary delay. The law enforcement officer or prosecuting attorney shall provide the judicial officer with the information and affidavit or sworn statement required by Rule 4(a) of these rules.

Sec. 3. 13 V.S.A. § 7554 is amended to read:

§ 7554. RELEASE PRIOR TO TRIAL

(a) Release; conditions of release. Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at his or her appearance before a judicial officer be ordered released pending trial in accordance with this section.

(1) The defendant shall be ordered released on personal recognizance or upon the execution of an unsecured appearance bond in an amount specified by the judicial officer unless the judicial officer determines that such a release will not reasonably ~~ensure the appearance of the person~~ mitigate the risk of flight from prosecution as required. In determining whether the defendant presents a risk of ~~nonappearance~~ flight from prosecution, the judicial officer shall consider, in addition to any other factors, the seriousness of the offense charged and the number of offenses with which the person is charged. If the officer determines that ~~such a release will not reasonably ensure the appearance of the defendant as required~~ the defendant presents a risk of flight from prosecution, the officer shall, either in lieu of or in addition to the methods of release in this section, impose the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ~~ensure the appearance~~ mitigate the risk of flight of the defendant as required:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel~~,~~ or association~~, or place of abode~~ of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) ~~Require~~ Upon consideration of the defendant's financial means, require the execution of a secured appearance bond in a specified amount and the deposit with the clerk of the ~~Court~~ court, in cash or other security as directed, of a sum not to exceed 10 percent of the amount of the bond, such deposit to be returned upon the appearance of the defendant as required.

(E) ~~Require~~ Upon consideration of the defendant's financial means, require the execution of a surety bond with sufficient solvent sureties, or the deposit of cash in lieu thereof.

(F) Impose any other condition found reasonably necessary to ~~ensure appearance~~ mitigate the risk of flight as required, including a condition requiring that the defendant return to custody after specified hours.

(G) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554d of this title.

(2) If the judicial officer determines that conditions of release imposed to ~~ensure appearance~~ mitigate the risk of flight will not reasonably protect the public, the judicial officer may impose in addition the least restrictive of the following conditions or the least restrictive combination of the following conditions that will reasonably ensure protection of the public:

(A) Place the defendant in the custody of a designated person or organization agreeing to supervise him or her if the defendant is charged with an offense that is not a nonviolent misdemeanor or nonviolent felony as defined in 28 V.S.A. § 301.

(B) Place restrictions on the travel, association, or place of abode of the defendant during the period of release.

(C) Require the defendant to participate in an alcohol or drug treatment program. The judicial officer shall take into consideration the defendant's ability to comply with an order of treatment and the availability of treatment resources.

(D) Impose any other condition found reasonably necessary to protect the public, except that a physically restrictive condition may only be imposed in extraordinary circumstances.

(E) ~~If the defendant is a State, county, or municipal officer charged with violating section 2537 of this title, the court may suspend~~ Suspend the officer's duties in whole or in part~~,~~ if the defendant is a State, county, or municipal officer charged with violating section 2537 of this title and the court finds that it is necessary to protect the public.

(F) Place the defendant in a program of community-based electronic monitoring in accordance with section 7554d of this title.

(3) A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order shall take effect immediately, regardless of whether the defendant is incarcerated or released.

(b) Judicial considerations in imposing conditions of release. In determining which conditions of release to impose ~~under subsection~~:

(1) In subdivision (a)(1) of this section, the judicial officer, on the basis of available information, shall take into account the nature and circumstances of the offense charged; the weight of the evidence against the accused; the accused's employment; financial resources, including the accused's ability to post bail; the accused's character and mental condition; the accused's length of residence in the community; and the accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

(2) In subdivision (a)(2) of this section, the judicial officer ~~shall~~, on the basis of available information, shall take into account the nature and circumstances of the offense charged, the weight of the evidence against the accused, the accused's family ties, employment, ~~financial resources,~~ character and mental condition, ~~the~~ length of residence in the community, record of convictions, and record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings. Recent history of actual violence or threats of violence may be considered by the judicial officer as bearing on the character and mental condition of the accused.

(c) Order. A judicial officer authorizing the release of a person under this section shall issue an appropriate order containing a statement of the conditions imposed, if any~~,~~; shall inform such person of the penalties applicable to violations of the conditions of release; and shall advise him or her that a warrant for his or her arrest will be issued immediately upon any such violation.

(d) Review of conditions.

(1) A person for whom conditions of release are imposed and who is detained as a result of his or her inability to meet the conditions of release or

who is ordered released on a condition that he or she return to custody after specified hours, or the State, following a material change in circumstances, shall, within 48 hours ~~of~~ following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A ~~person~~ party applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(2) A person for whom conditions of release are imposed shall, within five working days ~~of~~ following application, be entitled to have the conditions reviewed by a judge in the court having original jurisdiction over the offense charged. A person applying for review shall be given the opportunity for a hearing. Unless the conditions of release are amended as requested, the judge shall set forth in writing or orally on the record a reasonable basis for continuing the conditions imposed. In the event that a judge in the court having original jurisdiction over the offense charged is not available, any Superior judge may review such conditions.

(e) Amendment of order. A judicial officer ordering the release of a person on any condition specified in this section may at any time amend the order to impose additional or different conditions of release~~;~~, provided that the provisions of subsection (d) of this section shall apply.

(f) Definition. The term "judicial officer" as used in this section and section 7556 of this title shall mean a clerk of a Superior Court or a Superior Court judge.

(g) Admissibility of evidence. Information stated in, or offered in connection with, any order entered pursuant to this section need not conform to the rules pertaining to the admissibility of evidence in a court of law.

(h) Forfeiture. Nothing contained in this section shall be construed to prevent the disposition of any case or class of cases by forfeiture of collateral security ~~where~~ if such disposition is authorized by the court.

(i) Forms. The Court Administrator shall establish forms for appearance bonds, secured appearance bonds, surety bonds, and for use in the posting of bail. Each form shall include the following information:

(1) The bond or bail may be forfeited in the event that the defendant or witness fails to appear at any required court proceeding.

(2) The surety or person posting bond or bail has the right to be released from the obligations under the bond or bail agreement upon written application to the judicial officer and detention of the defendant or witness.

(3) The bond will continue through sentencing in the event that bail is continued after final adjudication.

(j) Juveniles. Any juvenile between 14 and 16 years of age who is charged with a listed crime as defined in subdivision 5301(7) of this title shall appear before a judicial officer and be ordered released pending trial in accordance with this section within 24 hours ~~of~~ following the juvenile's arrest.

Sec. 4. 13 V.S.A. § 7575 is amended to read:

§ 7575. REVOCATION OF THE RIGHT TO BAIL

The right to bail may be revoked entirely if the judicial officer finds that the accused has:

(1) intimidated or harassed a victim, potential witness, juror, or judicial officer in violation of a condition of release; or

(2) repeatedly violated conditions of release in a manner that impedes the prosecution of the accused; or

(3) violated a condition or conditions of release ~~which~~ that constitute a threat to the integrity of the judicial system; or

(4) without just cause, failed to appear at a specified time and place ordered by a judicial officer; or

(5) in violation of a condition of release, been charged with a felony or a crime against a person or an offense ~~like~~ similar to the underlying charge, for which, after hearing, probable cause is found.

Sec. 5. 13 V.S.A. § 7576 is amended to read:

§ 7576. DEFINITIONS

As used in this chapter:

* * *

(9) "Flight from prosecution" means any action or behavior undertaken by a person charged with a criminal offense to avoid court proceedings.

Sec. 6. INCARCERATION RATES OF PEOPLE OF COLOR; STUDY COMMITTEE; REPORT

(a) Study Committee. The Commissioner of the Department of Corrections, the Commissioner of the Department of Public Safety, the Attorney General, the Executive Director of the Department of State's

Attorneys and Sheriffs, and the Director of the Vermont State Police shall meet during the 2018 legislative interim to examine data regarding people of color who are incarcerated in Vermont. To the extent possible, the Committee shall also review data regarding people of color incarcerated in Maine and New Hampshire.

(b) On or before October 15, 2018, the committee shall report to the Joint Legislative Justice Oversight Committee on:

(1) data regarding all nonwhite offenders in the custody of the Department of Corrections, including:

(A) demographic information about the offender, including race and ethnicity and all known places of residence;

(B) the crime or crimes for which the offender is serving a sentence or being detained; and

(C) the length of the sentence being served by the offender or the length of his or her detainment;

(2) sentence length comparison data between white and nonwhite offenders who committed the same offense; and

(3) comparison data among Vermont, Maine, and New Hampshire regarding sentence lengths and incarceration rates of people of color.

Sec. 7. 13 V.S.A. § 7554b is amended to read:

§ 7554b. HOME DETENTION PROGRAM

(a) Definition. As used in this section, "home detention" means a program of confinement and supervision that restricts a defendant to a preapproved residence continuously, except for authorized absences, and is enforced by appropriate means of surveillance and electronic monitoring by the Department of Corrections. The court may authorize scheduled absences such as for work, school, or treatment. Any changes in the schedule shall be solely at the discretion of the Department of Corrections. A defendant who is on home detention shall remain in the custody of the Commissioner of Corrections with conditions set by the court.

(b) Procedure. At the request of the court, the Department of Corrections, or the defendant, the status of a defendant who is detained pretrial in a correctional facility for ~~lack of~~ inability to pay bail after bail has been set by the court may be reviewed by the court to determine whether the defendant is appropriate for home detention. The review shall be scheduled upon the court's receipt of a report from the Department determining that the proposed residence is suitable for the use of electronic monitoring. A defendant held

without bail pursuant to section 7553 or 7553a of this title shall not be eligible for release to the Home Detention Program on or after June 1, 2018. At arraignment or after a hearing, the court may order that the defendant be released to the Home Detention Program, ~~providing~~ provided that the court finds placing the defendant on home detention will reasonably assure his or her appearance in court when required and the proposed residence is appropriate for home detention. In making such a determination, the court shall consider:

(1) the nature of the offense with which the defendant is charged;

(2) the defendant's prior convictions, history of violence, medical and mental health needs, history of supervision, and risk of flight; and

(3) any risk or undue burden to other persons who reside at the proposed residence or risk to third parties or to public safety that may result from such placement.

* * *

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE; HOME DETENTION PROGRAM REVIEW

During the 2018 legislative interim, the Joint Legislative Justice Oversight Committee shall evaluate the Home Detention Program established under 13 V.S.A. § 7554b and recommend how to improve and expand the Program and what entity should manage the Program. Any resulting legislative recommendations shall be introduced as a bill in the 2019 legislative session.

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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.

Proposal of Amendment; Third Reading Ordered

H. 731.

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to miscellaneous workers' compensation and occupational safety amendments.

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:

* * * Workers' Compensation; Protection Against Retaliation * * *

Sec. 1. 21 V.S.A. § 710 is amended to read:

§ 710. UNLAWFUL DISCRIMINATION

(a) No person, firm, or corporation shall refuse to employ any applicant for employment because ~~such~~ the applicant asserted a claim for workers' compensation benefits under this chapter or under the law of any state or of the United States. Nothing in this section shall require a person to employ an applicant who does not meet the qualifications of the position sought.

(b) No person shall discharge or discriminate against an employee from employment because ~~such~~ the employee asserted or attempted to assert a claim for benefits under this chapter or under the law of any state or of the United States.

(c) The Department shall not include in any publication or public report the name or contact information of any individual who has alleged that an employer has made a false statement or misclassified any employees, unless it is required by law or necessary to enable enforcement of this chapter.

(d) An employer shall not retaliate or take any other negative action against an individual because the employer knows or suspects that the individual has filed a complaint ~~with the Department or other authority,~~ or reported a violation of this chapter, or has testified, assisted, or cooperated in any manner with the Department or other appropriate governmental agency or department in an investigation of misclassification, discrimination, or other violation of this chapter.

(e) The Attorney General or a State's Attorney may enforce the provisions of this section by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though ~~discrimination under~~ a violation of this section were an unfair act in commerce.

(f) The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this ~~subchapter~~ section.

* * * Workers' Compensation Administration Fund * * *

Sec. 2. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2019, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly has established that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall remain at the rate of 1.4 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

Sec. 3. POTENTIAL DELEGATION OF RATE SETTING AUTHORITY; REPORT

On or before January 15, 2019, the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the potential for delegating the authority to set the Workers' Compensation Administration Fund rate of contribution for the direct calendar year premium for workers' compensation insurance to the Commissioner of Labor. In particular, the report shall:

(1) describe how the Department calculates the rate of contribution that it annually proposes to the General Assembly pursuant to 21 V.S.A. § 711(b);

(2) identify any advantages and disadvantages of the General Assembly's delegating to the Commissioner of Labor authority to establish annually the rate of contribution for the direct calendar year premium for workers' compensation insurance; and

(3) identify any legislative, regulatory, and administrative changes that would need to be made in order to delegate to the Commissioner the authority to establish annually the rate of contribution for the direct calendar year premium for workers' compensation insurance.

* * * Discontinuance of Workers' Compensation Benefits * * *

Sec. 4. 2014 Acts and Resolves No. 199, Sec. 54a is amended to read:

Sec. 54a. REPEAL

21 V.S.A. § 643a shall be repealed on July 1, ~~2018~~ 2023.

Sec. 5. 2014 Acts and Resolves No. 199, Sec. 69 is amended to read:

Sec. 69. EFFECTIVE DATES

* * *

(b) Sec. 54b (reinstatement of current law governing discontinuance of workers' compensation insurance benefits) shall take effect on July 1, ~~2018~~ 2023.

* * *

* * * Vermont Occupational Safety and Health Act * * *

Sec. 6. 21 V.S.A. § 225 is amended to read:

§ 225. CITATIONS

(a)(1) If, upon inspection or investigation, the Commissioner or the Director~~,~~ or the agent of either of them~~,~~ finds that an employer has violated a requirement of the VOSHA Code, the Commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the Superior Court. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, or order alleged to have been violated, as well as the penalty, if any, proposed to be assessed pursuant to section 210 of this title. In addition, the citation shall fix a reasonable time for the abatement of the violation.

(2) By rule, the Commissioner shall ~~prescribe~~ adopt procedures for issuance of a notice in lieu of a citation with respect to de ~~minimus~~ minimis violations ~~which~~ that have no direct or immediate relationship to safety or health~~,~~ and for hearing interested parties before a civil penalty is assessed.

(b) Each citation issued under this section, or a copy or copies ~~thereof~~ of the citation, shall be prominently posted, as prescribed in rules ~~promulgated~~ adopted by the Commissioner, at or near each place a violation referred to in the citation occurred or existed.

* * *

Sec. 7. 21 V.S.A. § 226 is amended to read:

§ 226. ENFORCEMENT

(a)(1) ~~After issuing a citation under section 225 of this title, the Commissioner shall notify the employer by certified mail or by service by an agent, of the penalty, if any, proposed to be assessed under section 210 of this title. The~~ An employer shall ~~have~~, within 20 days after personal service or receipt of ~~the notice within which to~~ a citation issued under section 225 of this title, notify the Commissioner that he or she wishes to appeal the citation or proposed ~~assessment of~~ penalty~~, and if no notice is filed by~~.

(2) If an employer does not notify the Commissioner as provided in this subsection and an employee does not file a notice under subsection (c) of this

section, the citation and ~~assessment~~ penalty, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

(b)(1)(A) If the Commissioner on inspection or investigation finds that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction ~~(which period shall not begin to run until the entry of a final order by the Review Board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, or on the day the citation and assessment becomes final under subsection (a) of this section)~~, the Commissioner shall notify the employer by certified mail of ~~such~~ the failure and of the penalty proposed to be assessed under section 210 of this title by reason of ~~such~~ the failure.

(B) The period to correct a violation shall begin to run:

(i) when a final order is entered by the Review Board in relation to review proceedings under this section that are initiated by an employer in good faith and not solely for delay or avoidance of penalties; or

(ii) on the day the citation and penalty become final under subsection (a) of this section.

(2) The employer shall have 20 days after the receipt of the notice ~~within which~~ to notify the Commissioner that he or she wishes to appeal the Commissioner's ~~notification~~ citation or the proposed ~~assessment of~~ penalty. If within 20 days from the receipt of the notification issued by the Commissioner, the employer fails to notify the Commissioner that he or she intends to appeal ~~the notification or proposed assessment of penalty~~, the ~~notification~~ citation and assessment, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

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

(d) After hearing an appeal, the Review Board shall ~~thereafter~~ issue an order based on findings of fact ~~affirming, modifying, or vacating~~ that affirms, modifies, or vacates the Commissioner's citation or proposed penalty, or both, or ~~directing~~ provides other appropriate relief~~, and the~~. The order shall become final 30 days after its issuance unless judicial review is timely taken under section 227 of this title. The rules of procedure ~~prescribed~~ adopted by the Review Board shall provide affected employees or their representatives with an opportunity to participate as parties in ~~hearings~~ a hearing under this subsection.

* * * Report on Debarment * * *

Sec. 8. DEBARMENT; OFFICE OF LEGISLATIVE COUNCIL; REPORT

(a) On or before January 15, 2019, the Office of Legislative Council shall submit to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development a written report on the use of debarment in relation to the laws against employee misclassification. In particular, the report shall:

(1) summarize Vermont's laws, rules, and procedures related to debarment, including the violations that can trigger a debarment proceeding;

(2) describe the use of Vermont's debarment procedures and why they have not been used more frequently to date;

(3) identify any obstacles that prevent or hinder the use of Vermont's debarment procedures;

(4) summarize the actions taken by the Agencies of Administration and of Transportation and the Departments of Labor, of Financial Regulation, and of Buildings and General Services to utilize debarment to ensure that the State is not contracting with employers that misclassify employees in violation of Vermont law;

(5) identify other states that utilize debarment as a means of enforcing the laws against employee misclassification and summarize the manner and frequency of debarment proceedings in those states;

(6) summarize specific characteristics of other states' laws, rules, and procedures related to debarment that have been identified as either enhancing or limiting their effectiveness in enforcing those states' laws against employee misclassification; and

(7) summarize any legislative, regulatory, or administrative changes that are identified by the Agency of Administration, Agency of Transportation, Department of Labor, Department of Financial Regulation, or Department of Buildings and General Services as necessary to make debarment a more

effective tool for reducing the occurrence of and enforcing the laws against employee misclassification.

(b) In preparing the report, the Office of Legislative Council shall consult with the Agencies of Administration and of Transportation and the Departments of Labor, of Financial Regulation, and of Buildings and General Services.

(c) The Secretaries of Administration and of Transportation and the Commissioners of Labor, of Financial Regulation, and of Buildings and General Services shall, upon request, promptly provide the Office of Legislative Council with any pertinent information related to debarment procedures and the use of debarment as a means of enforcing Vermont's laws against employee misclassification.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 4, 5, 6, and 7 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

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.

Proposal of Amendment; Third Reading Ordered

H. 764.

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to data brokers and consumer protection.

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:

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds the following:

(1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out.

(A) While many different types of business collect data about consumers, a "data broker" is in the business of aggregating and selling data about consumers with whom the business does not have a direct relationship.

(B) A data broker collects many hundreds or thousands of data points about consumers from multiple sources, including: Internet browsing history; online purchases; public records; location data; loyalty programs; and subscription information. The data broker then scrubs the data to ensure accuracy; analyzes the data to assess content; and packages the data for sale to a third party.

(C) Data brokers provide information that is critical to services offered in the modern economy, including: targeted marketing and sales; credit reporting; background checks; government information; risk mitigation and fraud detection; people search; decisions by banks, insurers, or others whether to provide services; ancestry research; and voter targeting and strategy by political campaigns.

(D) While data brokers offer many benefits, there are also risks associated with the widespread aggregation and sale of data about consumers, including risks related to consumers' ability to know and control information held and sold about them and risks arising from the unauthorized or harmful acquisition and use of consumer information.

(E) There are important differences between "data brokers" and businesses with whom consumers have a direct relationship.

(i) Consumers who have a direct relationship with traditional and e-commerce businesses may have some level of knowledge about and control over the collection of data by those business, including: the choice to use the business's products or services; the ability to review and consider data collection policies; the ability to opt out of certain data collection practices; the ability to identify and contact customer representatives; the ability to pursue contractual remedies through litigation; and the knowledge necessary to complain to law enforcement.

(ii) By contrast, consumers may not be aware that data brokers exist, who the companies are, or what information they collect, and may not be aware of available recourse.

(F) The State of Vermont has the legal authority and duty to exercise its traditional "Police Powers" to ensure the public health, safety, and welfare, which includes both the right to regulate businesses that operate in the State and engage in activities that affect Vermont consumers as well as the right to

require disclosure of information to protect consumers from harm.

(G) To provide consumers with necessary information about data brokers, Vermont should adopt a narrowly tailored definition of "data broker" and require data brokers to register annually with the Secretary of State and provide information about their data collection activities, opt out policies, purchaser credentialing practices, and security breaches.

(2) Ensuring that data brokers have adequate security standards.

(A) News headlines in the past several years demonstrate that large and sophisticated businesses, governments, and other public and private institutions are constantly subject to cyberattacks, which have compromised sensitive personal information of literally billions of consumers worldwide.

(B) While neither government nor industry can prevent every security breach, the State of Vermont has the authority and the duty to enact legislation to protect its consumers where possible.

(C) One approach to protecting consumer data has been to require government agencies and certain regulated businesses to adopt an "information security program" that has "appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records" and "to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm." Federal Privacy Act; 5 U.S.C. § 552a.

(D) The requirement to adopt such an information security program currently applies to "financial institutions" subject to the Gramm-Leach-Blilely Act, 15 U.S.C. § 6801 et seq; to certain entities regulated by the Vermont Department of Financial Regulation pursuant to rules adopted by the Department; to persons who maintain or transmit health information regulated by the Health Insurance Portability and Accountability Act; and to various types of businesses under laws in at least 13 other states.

(E) Vermont can better protect its consumers from data broker security breaches and related harm by requiring data brokers to adopt an information security program with appropriate administrative, technical, and physical safeguards to protect sensitive personal information.

(3) Prohibiting the acquisition of personal information through fraudulent means or with the intent to commit wrongful acts.

(A) One of the dangers of the broad availability of sensitive personal information is that it can be used with malicious intent to commit wrongful acts, such as stalking, harassment, fraud, discrimination, and identity theft.

(B) While various criminal and civil statutes prohibit these wrongful acts, there is currently no prohibition on acquiring data for the purpose of committing such acts.

(C) Vermont should create new causes of action to prohibit the acquisition of personal information through fraudulent means, or for the purpose of committing a wrongful act, to enable authorities and consumers to take action.

(4) Removing financial barriers to protect consumer credit information.

(A) In one of several major security breaches that have occurred in recent years, the names, Social Security numbers, birth dates, addresses, driver's license numbers, and credit card numbers of over 145 million Americans were exposed, including over 247,000 Vermonters.

(B) In response to concerns about data security, identity theft, and consumer protection, the Vermont Attorney General and the Department of Financial Regulation have outlined steps a consumer should take to protect his or her identity and credit information. One important step a consumer can take is to place a security freeze on his or her credit file with each of the national credit reporting agencies.

(C) Under State law, when a consumer places a security freeze, a credit reporting agency issues a unique personal identification number or password to the consumer. The consumer must provide the PIN or password, and his or her express consent, to allow a potential creditor to access his or her credit information.

(D) Except in cases of identity theft, current Vermont law allows a credit reporting agency to charge a fee of up to $10.00 to place a security freeze, and up to $5.00 to lift temporarily or remove a security freeze.

(E) Vermont should exercise its authority to prohibit these fees to eliminate any financial barrier to placing or removing a security freeze.

(b) Intent.

(1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out. It is the intent of the General Assembly to provide Vermonters with access to more information about the data brokers that collect consumer data and their collection practices by:

(A) adopting a narrowly tailored definition of "data broker" that:

(i) includes only those businesses that aggregate and sell the personal information of consumers with whom they do not have a direct relationship; and

(ii) excludes businesses that collect information from their own customers, employees, users, or donors, including: banks and other financial institutions; utilities; insurers; retailers and grocers; restaurants and hospitality businesses; social media websites and mobile "apps"; search websites; and businesses that provide services for consumer-facing businesses and maintain a direct relationship with those consumers, such as website, "app," and e-commerce platforms; and

(B) requiring a data broker to register annually with the Secretary of State and make certain disclosures in order to provide consumers, policy makers, and regulators with relevant information.

(2) Ensuring that data brokers have adequate security standards. It is the intent of the General Assembly to protect against potential cyber threats by requiring data brokers to adopt an information security program with appropriate technical, physical, and administrative safeguards.

(3) Prohibiting the acquisition of personal information with the intent to commit wrongful acts. It is the intent of the General Assembly to protect Vermonters from potential harm by creating new causes of action that prohibit the acquisition or use of personal information for the purpose of stalking, harassment, fraud, identity theft, or discrimination.

(4) Removing financial barriers to protect consumer credit information. It is the intent of the General Assembly to remove any financial barrier for Vermonters who wish to place a security freeze on their credit report by prohibiting credit reporting agencies from charging a fee to place or remove a freeze.

Sec. 2. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

Subchapter 1. General Provisions

§ 2430. DEFINITIONS

~~The following definitions shall apply throughout this chapter unless otherwise required~~ As used in this chapter:

(1) "Biometric record" means an individual's psychological, biological, or behavioral characteristics that can be used, singly or in combination with each other or with other identifying data, to establish individual identity, including:

(A) imagery of the iris, retina, fingerprint, face, hand, palm, or vein patterns, and voice recordings, from which an identifier template, such as a face print or a minutiae template or voiceprint, can be extracted;

(B) keystroke patterns or rhythms;

(C) gait patterns or rhythms; and

(D) sleep health or exercise data that contain identifying information.

(2)(A) "Brokered personal information" means:

(i) one or more of the following computerized data elements about a consumer:

(I) name;

(II) address;

(III) a personal identifier, including a Social Security number, other government-issued identification number, or biometric record;

(IV) an indirect identifier, including date of birth, place of birth, or mother's maiden name; or

(V) other information that, alone or in combination, is linked or linkable to the consumer that would allow a reasonable person to identify the consumer with reasonable certainty; and

(ii) the computerized data element or elements are:

(I) categorized by characteristic for dissemination to third parties; or

(II) combined with nonpublic information.

(B) "Brokered personal information" does not include publicly available information that is solely related to a consumer's business or profession.

(3) "Business" means a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but ~~in no case shall it~~ does not include the State, a State agency, ~~or~~ any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

~~(2)~~(4) "Consumer" means an individual residing in this State.

(5)(A) "Data broker" means:

(i) A business that:

(I) provides people search services; or

(II) collects and sells or licenses to one or more third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(ii) "Data broker" includes each affiliated business that is under common ownership or control if one business collects brokered personal information and provides it to another to sell or license.

(B) "Data broker" does not include:

(i) a business that solely develops or maintains third-party e-commerce or application platforms; or

(ii) a business that solely provides publicly available information via real-time or near-real-time alert services for health or safety purposes.

(C) For purposes of subdivision (5)(A)(i)(II) of this subsection, examples of a direct relationship with a business include if the consumer is a past or present:

(i) customer, client, subscriber, or user of the business's goods or services;

(ii) employee, contractor, or agent of the business;

(iii) investor in the business; or

(iv) donor to the business.

(D) For purposes of subdivision (5)(A)(i)(II) of this subsection, a business does not sell or license brokered personal information within the meaning of the definition of "data broker" if the sale or license is merely incidental to one of its lines of business.

(6)(A) "Data broker security breach" means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by another method that renders the information unreadable or unusable by an unauthorized person.

(B) "Data broker security breach" does not include good faith but unauthorized acquisition of brokered personal information by an employee or agent of the data broker for a legitimate purpose of the data broker, provided that the brokered personal information is not used for a purpose unrelated to the data broker's business or subject to further unauthorized disclosure.

(C) In determining whether brokered personal information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data broker may consider the following factors, among others:

(i) indications that the brokered personal information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing brokered personal information;

(ii) indications that the brokered personal information has been downloaded or copied;

(iii) indications that the brokered personal information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the brokered personal information has been made public.

~~(3)~~(7) "Data collector" ~~may include the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, retail operators, and any other entity that,~~ means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with ~~nonpublic personal information~~ personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

~~(4)~~(8) "Encryption" means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

(9) "License" means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

(10)(A) "People search services" means an Internet-based service in which an individual can pay a fee to search for a specific consumer, and which provides information about the consumer such as the consumer's address, age, maiden name, alias, name or addresses of relatives, financial records, criminal records, background reports, or property details, where the consumer whose data is provided does not have a direct relationship with the business.

(B) "People search services" does not include a service that solely provides publicly available information related to a consumer's business or profession.

~~(5)~~(11)(A) "Personally identifiable information" means ~~an individual's~~ a consumer's first name or first initial and last name in combination with any one or more of the following digital data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) Social Security number;

(ii) motor vehicle operator's license number or nondriver identification card number;

(iii) financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords;

(iv) account passwords or personal identification numbers or other access codes for a financial account.

(B) "Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

~~(6)~~(12) "~~Records~~ Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(7)~~(13) "Redaction" means the rendering of data so that ~~it is~~ the data are unreadable or ~~is~~ are truncated so that no more than the last four digits of the identification number are accessible as part of the data.

~~(8)~~(14)(A) "Security breach" means unauthorized acquisition of, ~~electronic data~~ or a reasonable belief of an unauthorized acquisition of, ~~electronic data that compromises the security, confidentiality, or integrity of a consumer's~~ personally identifiable information maintained by ~~the~~ a data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition of personally identifiable information by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information is not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information has been acquired or is reasonably believed to have been acquired by a person

without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

§ 2433. ACQUISITION OF BROKERED PERSONAL INFORMATION; PROHIBITIONS

(a) Prohibited acquisition and use.

(1) A person shall not acquire brokered personal information through fraudulent means.

(2) A person shall not acquire or use brokered personal information for the purpose of:

(A) stalking or harassing another person;

(B) committing a fraud, including identity theft, financial fraud, or e-mail fraud; or

(C) engaging in unlawful discrimination, including employment discrimination and housing discrimination.

(b) For purposes of this section, brokered personal information includes information acquired from people search services.

(c) Enforcement.

(1) A person who violates a provision of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) The Attorney General has the same authority to adopt rules to implement the provisions of this section and to conduct civil investigations, enter into assurances of discontinuance, bring civil actions, and take other enforcement actions as provided under chapter 63, subchapter 1 of this title.

* * *

Subchapter 5. Data Brokers

§ 2446. ANNUAL REGISTRATION

(a) Annually, on or before January 31 following a year in which a person meets the definition of data broker as provided in section 2430 of this title, a data broker shall:

(1) register with the Secretary of State;

(2) pay a registration fee of $100.00; and

(3) provide the following information:

(A) the name and primary physical, e-mail, and Internet addresses of the data broker;

(B) the nature and type of sources used to compile data;

(C) if the data broker permits a consumer to opt out of the data broker's collection of brokered personal information, opt out of its databases, or opt out of certain sales of data:

(i) the method for requesting an opt out;

(ii) if the opt out applies to only certain activities or sales, which ones; and

(iii) whether the data broker permits a consumer to authorize a third party to perform the opt out on the consumer's behalf;

(D) a statement specifying the data collection, databases, or sales activities from which a consumer may not opt out;

(E) a statement whether the data broker implements a purchaser credentialing process;

(F) the number of data broker security breaches that the data broker has experienced during the prior year, and if known, the total number of consumers affected by the breaches;

(G) where the data broker has actual knowledge that it possesses the brokered personal information of minors, a separate statement detailing the data collection practices, databases, sales activities, and opt out policies that are applicable to the brokered personal information of minors; and

(H) any additional information or explanation the data broker chooses to provide concerning its data collection practices.

(b) A data broker that fails to register pursuant to subsection (a) of this section is liable to the State for:

(1) a civil penalty of $50.00 for each day, not to exceed a total of $10,000.00 for each year, it fails to register pursuant to this section;

(2) an amount equal to the fees due under this section during the period it failed to register pursuant to this section; and

(3) other penalties imposed by law.

(c) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to seek appropriate injunctive relief.

§ 2447. DATA BROKER DUTY TO PROTECT INFORMATION; STANDARDS; TECHNICAL REQUIREMENTS

(a) Duty to protect personally identifiable information.

(1) A data broker shall develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to:

(A) the size, scope, and type of business of the data broker obligated to safeguard the personally identifiable information under such comprehensive information security program;

(B) the amount of resources available to the data broker;

(C) the amount of stored data; and

(D) the need for security and confidentiality of personally identifiable information.

(2) A data broker subject to this subsection shall adopt safeguards in the comprehensive security program that are consistent with the safeguards for protection of personally identifiable information and information of a similar character set forth in other State rules or federal regulations applicable to the data broker.

(b) Information security program; minimum features. A comprehensive information security program shall at minimum have the following features:

(1) designation of one or more employees to maintain the program;

(2) identification and assessment of reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of any electronic, paper, or other records containing personally identifiable information, and a process for evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks, including:

(A) ongoing employee training, including training for temporary and contract employees;

(B) employee compliance with policies and procedures; and

(C) means for detecting and preventing security system failures;

(3) security policies for employees relating to the storage, access, and transportation of records containing personally identifiable information outside business premises;

(4) disciplinary measures for violations of the comprehensive information security program rules;

(5) measures that prevent terminated employees from accessing records containing personally identifiable information;

(6) supervision of service providers, by:

(A) taking reasonable steps to select and retain third-party service providers that are capable of maintaining appropriate security measures to protect personally identifiable information consistent with applicable law; and

(B) requiring third-party service providers by contract to implement and maintain appropriate security measures for personally identifiable information;

(7) reasonable restrictions upon physical access to records containing personally identifiable information and storage of the records and data in locked facilities, storage areas, or containers;

(8)(A) regular monitoring to ensure that the comprehensive information security program is operating in a manner reasonably calculated to prevent unauthorized access to or unauthorized use of personally identifiable information; and

(B) upgrading information safeguards as necessary to limit risks;

(9) regular review of the scope of the security measures:

(A) at least annually; or

(B) whenever there is a material change in business practices that may reasonably implicate the security or integrity of records containing personally identifiable information; and

(10)(A) documentation of responsive actions taken in connection with any incident involving a breach of security; and

(B) mandatory post-incident review of events and actions taken, if any, to make changes in business practices relating to protection of personally identifiable information.

(c) Information security program; computer system security requirements. A comprehensive information security program required by this section shall at minimum, and to the extent technically feasible, have the following elements:

(1) secure user authentication protocols, as follows:

(A) an authentication protocol that has the following features:

(i) control of user IDs and other identifiers;

(ii) a reasonably secure method of assigning and selecting passwords or use of unique identifier technologies, such as biometrics or token devices;

(iii) control of data security passwords to ensure that such passwords are kept in a location and format that do not compromise the security of the data they protect;

(iv) restricting access to only active users and active user accounts; and

(v) blocking access to user identification after multiple unsuccessful attempts to gain access; or

(B) an authentication protocol that provides a higher level of security than the features specified in subdivision (A) of this subdivision (c)(1).

(2) secure access control measures that:

(A) restrict access to records and files containing personally identifiable information to those who need such information to perform their job duties; and

(B) assign to each person with computer access unique identifications plus passwords, which are not vendor-supplied default passwords, that are reasonably designed to maintain the integrity of the security of the access controls or a protocol that provides a higher degree of security;

(3) encryption of all transmitted records and files containing personally identifiable information that will travel across public networks and encryption of all data containing personally identifiable information to be transmitted wirelessly or a protocol that provides a higher degree of security;

(4) reasonable monitoring of systems for unauthorized use of or access to personally identifiable information;

(5) encryption of all personally identifiable information stored on laptops or other portable devices or a protocol that provides a higher degree of security;

(6) for files containing personally identifiable information on a system that is connected to the Internet, reasonably up-to-date firewall protection and operating system security patches that are reasonably designed to maintain the integrity of the personally identifiable information or a protocol that provides a higher degree of security;

(7) reasonably up-to-date versions of system security agent software that must include malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions and is set to receive the most current security updates on a regular basis or a protocol that provides a higher degree of security; and

(8) education and training of employees on the proper use of the computer security system and the importance of personally identifiable information security.

(d) Enforcement.

(1) A person who violates a provision of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) The Attorney General has the same authority to adopt rules to implement the provisions of this chapter and to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under chapter 63, subchapter 1 of this title.

Sec. 3. 9 V.S.A. § 2480b is amended to read:

§ 2480b. DISCLOSURES TO CONSUMERS

(a) A credit reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer all information available to users at the time of the request pertaining to the consumer, including:

(1) any credit score or predictor relating to the consumer, in a form and manner that complies with such comments or guidelines as may be issued by the Federal Trade Commission;

(2) the names of users requesting information pertaining to the consumer during the prior 12-month period and the date of each request; and

(3) a clear and concise explanation of the information.

(b) As frequently as new telephone directories are published, the credit reporting agency shall cause to be listed its name and number in each telephone directory published to serve communities of this State. In accordance with rules adopted by the Attorney General, the credit reporting agency shall make provision for consumers to request by telephone the information required to be disclosed pursuant to subsection (a) of this section at no cost to the consumer.

(c) Any time a credit reporting agency is required to make a written disclosure to consumers pursuant to 15 U.S.C. § 1681g, it shall disclose, in at least 12 point type, and in bold type as indicated, the following notice:

"NOTICE TO VERMONT CONSUMERS

(1) Under Vermont law, you are allowed to receive one free copy of your credit report every 12 months from each credit reporting agency. If you would like to obtain your free credit report from [INSERT NAME OF COMPANY], you should contact us by [[writing to the following address: [INSERT ADDRESS FOR OBTAINING FREE CREDIT REPORT]] or [calling the following number: [INSERT TELEPHONE NUMBER FOR OBTAINING FREE CREDIT REPORT]], or both].

(2) Under Vermont law, no one may access your credit report without your permission except under the following limited circumstances:

(A) in response to a court order;

(B) for direct mail offers of credit;

(C) if you have given ongoing permission and you have an existing relationship with the person requesting a copy of your credit report;

(D) where the request for a credit report is related to an education loan made, guaranteed, or serviced by the Vermont Student Assistance Corporation;

(E) where the request for a credit report is by the Office of Child Support ~~Services~~ when investigating a child support case;

(F) where the request for a credit report is related to a credit transaction entered into prior to January 1, 1993; ~~and~~ or

(G) where the request for a credit report is by the Vermont ~~State Tax~~ Department of Taxes and is used for the purpose of collecting or investigating delinquent taxes.

(3) If you believe a law regulating consumer credit reporting has been violated, you may file a complaint with the Vermont Attorney General's Consumer Assistance Program, 104 Morrill Hall, University of Vermont, Burlington, Vermont 05405.

Vermont Consumers Have the Right to Obtain a Security Freeze

You have a right to place a "security freeze" on your credit report pursuant to 9 V.S.A. § 2480h at no charge ~~if you are a victim of identity theft. All other Vermont consumers will pay a fee to the credit reporting agency of up to $10.00 to place the freeze on their credit report~~. The security freeze will prohibit a credit reporting agency from releasing any information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail.

The security freeze is designed to help prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gains access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding new loans, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, ~~internet~~ Internet credit card transaction, or other services, including an extension of credit at point of sale.

When you place a security freeze on your credit report, within ten business days you will be provided a personal identification number ~~or~~, password, or other equally or more secure method of authentication to use if you choose to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. To provide that authorization, you must contact the credit reporting agency and provide all of the following:

(1) The unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency.

(2) Proper identification to verify your identity.

(3) The proper information regarding the third party or parties who are to receive the credit report or the period of time for which the report shall be available to users of the credit report.

A credit reporting agency may not charge a fee ~~of up to $5.00 to a consumer who is not a victim of identity theft~~ to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. ~~For a victim of identity theft, there is no charge when the victim submits a copy of a police report, investigative report, or complaint filed with a law enforcement agency about unlawful use of the victim's personal information by another person.~~

A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later than three business days after receiving the request.

A security freeze will not apply to "preauthorized approvals of credit." If you want to stop receiving preauthorized approvals of credit, you should call [INSERT PHONE NUMBERS] [ALSO INSERT ALL OTHER CONTACT INFORMATION FOR PRESCREENED OFFER ~~OPT-OUT~~ OPT-OUT.]

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account, provided you have previously given your consent to this use of your credit reports. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have a right to bring a civil action against someone who violates your rights under the credit reporting laws. The action can be brought against a credit reporting agency or a user of your credit report."

(d) The information required to be disclosed by this section shall be disclosed in writing. The information required to be disclosed pursuant to subsection (c) of this section shall be disclosed on one side of a separate document, with text no smaller than that prescribed by the Federal Trade Commission for the notice required under 15 U.S.C. ~~§ 1681q~~ § 1681g. The information required to be disclosed pursuant to subsection (c) of this section may accurately reflect changes in numerical items that change over time (such as the ~~phone~~ telephone number or address of Vermont State agencies), and remain in compliance.

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

Sec. 4. 9 V.S.A. § 2480h is amended to read:

§ 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME IN EFFECT

(a)(1) ~~Any~~ A Vermont consumer may place a security freeze on his or her credit report. A credit reporting agency shall not charge a fee to ~~victims of identity theft but may charge a fee of up to $10.00 to all other~~ Vermont consumers for placing ~~and $5.00 for~~ or removing, removing for a specific party or parties, or removing for a specific period of time after the freeze is in place, a security freeze on a credit report.

(2) A consumer ~~who has been the victim of identity theft~~ may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency ~~with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of his or her personal information by another person. All other Vermont consumers may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency~~.

(3) A security freeze shall prohibit, subject to the exceptions in subsection (l) of this section, the credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. ~~When a security freeze is in place, information from a consumer's credit report shall not be released to a third party without prior express authorization from the consumer.~~

(4) This subsection does not prevent a credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(b) A credit reporting agency shall place a security freeze on a consumer's credit report ~~no~~ not later than five business days after receiving a written request from the consumer.

(c) The credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days and shall provide the consumer with a unique personal identification number or password, other than the customer's Social Security number, or another method of authentication that is equally or more secure than a PIN or password, to be used by the consumer when providing authorization for the release of his or her credit for a specific party, parties, or period of time.

(d) If the consumer wishes to allow his or her credit report to be accessed for a specific party, parties, or period of time while a freeze is in place, he or she shall contact the credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) ~~Proper~~ proper identification~~.~~;

(2) ~~The~~ the unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section~~.~~; and

(3) ~~The~~ the proper information regarding the third party, parties, or time period for which the report shall be available to users of the credit report.

(e) A credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to lift temporarily ~~lift~~ a freeze on a credit report pursuant to subsection (d) of this section in an expedited manner.

(f) A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section shall comply with the request ~~no~~ not later than three business days after receiving the request.

(g) A credit reporting agency shall remove or lift temporarily ~~lift~~ a freeze placed on a consumer's credit report only in the following cases:

(1) Upon consumer request, pursuant to subsection (d) or (j) of this section.

(2) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a credit reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this subdivision, the credit reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

(h) If a third party requests access to a credit report on which a security freeze is in effect and this request is in connection with an application for credit or any other use and the consumer does not allow his or her credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(i) If a consumer requests a security freeze pursuant to this section, the credit reporting agency shall disclose to the consumer the process of placing and lifting temporarily ~~lifting~~ a security freeze and the process for allowing access to information from the consumer's credit report for a specific party, parties, or period of time while the security freeze is in place.

(j) A security freeze shall remain in place until the consumer requests that the security freeze be removed. A credit reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer who provides both of the following:

(1) ~~Proper~~ proper identification~~.~~; and

(2) ~~The~~ the unique personal identification number, ~~or~~ password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section.

(k) A credit reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

(l) The provisions of this section, including the security freeze, do not apply to the use of a consumer report by the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. For purposes of this subdivision, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (d) of this section for purposes of facilitating the extension of credit or other permissible use.

(3) Any person acting pursuant to a court order, warrant, or subpoena.

(4) The Office of Child Support when investigating a child support case pursuant to Title IV-D of the Social Security Act (42 U.S.C. et seq.) and 33 V.S.A. § 4102.

(5) The Economic Services Division of the Department for Children and Families or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare or Medicaid fraud.

(6) The Department of Taxes, municipal taxing authorities, or the Department of Motor Vehicles, or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties, unpaid court orders, or acting to fulfill any of their other statutory or charter responsibilities.

(7) A person's use of credit information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act.

(8) Any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

(9) A credit reporting agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

(10) Any property and casualty insurance company for use in setting or adjusting a rate or underwriting for property and casualty insurance purposes.

Sec. 5. REPORTS

(a) On or before March 1, 2019, the Attorney General and Secretary of State shall submit a preliminary report concerning the implementation of this

act to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(b) On or before January 15, 2020, the Attorney General and Secretary of State shall update its preliminary report and provide additional information concerning the implementation of this act to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(c) On or before January 15, 2019, the Attorney General shall:

(1) review and consider additional legislative and regulatory approaches to protecting the data security and privacy of Vermont consumers, including:

(A) whether to create or designate a Chief Privacy Officer and if so, the appropriate duties for, and the resources necessary to support, that position; and

(B) whether to expand the scope of regulation to businesses with direct relationships to consumers; and

(2) report its findings and recommendations to the House Committees on Commerce and Economic Development and on Energy and Technology and to the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 6. ONE-STOP FREEZE NOTIFICATION

(a) The Attorney General, in consultation with industry stakeholders, shall consider one or more methods to ease the burden on consumers when placing or lifting a credit security freeze, including the right to place a freeze with a single nationwide credit reporting agency and require that agency to initiate a freeze with other agencies.

(b) On or before January 15, 2019, the Attorney General shall report his or her findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 7. EFFECTIVE DATES

(a) This section, Secs. 1 (findings and intent), 3–4 (eliminating fees for placing or removing a credit freeze), and 5–6 (reports) shall take effect on passage.

(b) Sec. 2 (data brokers) shall take effect on January 1, 2019.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Economic Development, Housing and General Affairs.

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.

Proposal of Amendment; Third Reading Ordered

H. 777.

Senator Rodgers, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to the Clean Water State Revolving Loan Fund.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, Declaration of Policy, in the last sentence, after the word "promote" by striking out the following: public-private partnerships and expenditures by private entities for

Second: In Sec.5, 24 V.S.A. § 4755(a), by striking out subdivision (C) and inserting in lieu thereof the following:

(C) without voter approval for a natural resources project under the sponsorship program, as defined in 24 V.S.A. § 4752, provided that:

(i) the amount of the debt incurred does not exceed an amount to be forgiven or cancelled upon the completion of the project; and

(ii) the municipality obtains voter approval for the paired water pollution abatement and control facilities project under the sponsorship program, pursuant to the requirements set forth in 24 V.S.A. chapter 53.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Institutions.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence

with proposal of amendment as recommended by the Committee on Institutions.

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

Proposal of Amendment; Third Reading Ordered

H. 907.

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to improving rental housing safety.

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:

Sec. 1. 3 V.S.A. § 2477 is added to read:

§ 2477. RENTAL HOUSING ADVISORY BOARD

(a)(1) The Department of Housing and Community Development shall create the Rental Housing Advisory Board consisting of 11 members, each of whom shall be a resident of Vermont and shall be appointed by the Commissioner of the Department, as follows:

(A) three members representing landlords, one of whom is a for-profit landlord and one of whom represents a nonprofit housing provider;

(B) three members representing tenants;

(C) three members representing municipalities; and

(D) two members of the public.

(2) A member shall serve a term of three years.

(3) The Board shall annually elect a chair from among its members.

(4) A majority of the Board shall constitute a quorum for transacting business.

(5) The Board shall take action by a majority vote of the members present and voting.

(b) The Board shall be staffed by the Department, which, along with the Departments of Health and of Public Safety, shall provide support to the Board as required.

(c) The Board shall have the following powers and duties:

(1) to act as an advisory group to the Governor, General Assembly, and appropriate State agencies on issues related to rental housing statutes, policies, and regulations;

(2) to report regularly to the Vermont Housing Council on its deliberations and recommendations;

(3) to work with appropriate State agencies on developing adequate data on the location and condition of Vermont's rental housing stock;

(4) to provide guidance to the State on the implementation of programs, policies, and regulations better to support decent, safe, and sanitary housing, including recommendations for incentives and programs to assist landlords with building repairs;

(5) to provide information to community partners, municipalities, landlords, and tenants, including educational materials on applicable rental housing statutes, regulations, and ordinances; and

(6) in preparation for a natural disaster, to collect information regarding available resources, disaster-related information, and community needs, and, in the event of a natural disaster, work with government authorities in charge of disaster response and communication.

Sec. 2. TASKS OF RENTAL HOUSING ADVISORY BOARD

(a) On or before January 15, 2019, the Rental Housing Advisory Board created in 3 V.S.A. § 2477 shall submit to the General Assembly potential legislation or policy changes to better support decent, safe, and sanitary rental housing that address the following issues:

(1) recommendations for one State agency to be responsible for overseeing all aspects of rental housing code enforcement; and

(2) whether to retain or modify the current system of rental housing code enforcement, including current statutory provisions for issuance of health orders for violations of a rental housing health code.

(b) In formulating the potential legislation or policy changes identified pursuant to subsection (a) of this section, the Board shall consider the following proposals:

(1) professionalize or otherwise improve the current system of town health officers;

(2) regionalize rental housing code enforcement;

(3) create a public-private system of rental housing code inspections and enforcement;

(4) allow self-certification by property owners of compliance with applicable rental housing codes;

(5) require inspection reports to utilize a hazard index rating system similar to that used by the Department of Public Safety's Division of Fire Safety to standardize timelines for repair and amounts of fines;

(6) require landlords and tenants, as applicable, to submit an action plan for correcting violations within the time limit for correction;

(7) enable a landlord or tenant to appeal an inspection report to address habitability issues;

(8) make inspection reports available to the public online; and

(9) enable a local health officer to file a report of violation in the land records as a lien on the property if a landlord does not comply with the inspection report.

(c) Not later than September 1, 2018 and November 15, 2018, the Board shall report on its progress on formulating the potential legislation or policy changes identified pursuant to subsection (a) of this section to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs.

Sec. 3. IMPROVING EFFECTIVENESS OF LOCAL HEALTH OFFICERS; REPORT

(a) The Department of Health, shall provide the Rental Housing Advisory Board with information on the current system for local health officers and the enforcement of Vermont rental housing and habitability statutes and regulations, as well as any recommendation it has for how the system could be improved or substantially modified, including recommendations for regional approaches to housing code enforcement.

(b) The Department shall develop a system for keeping data about the type and number of complaints concerning violations of the rental safety codes.

(c) The Department shall assign a person to be in charge of providing assistance to local health officers in their duties and make the name and contact information of that person available on request.

Sec. 4. 18 V.S.A. § 602a is amended to read:

§ 602a. DUTIES OF LOCAL HEALTH OFFICERS

(a) A local health officer, within his or her jurisdiction, shall:

(1) upon request of a landlord or tenant, or upon receipt of information regarding a condition that may be a public health hazard, conduct an investigation;

* * *

Sec. 5. 18 V.S.A. § 603 is added to read:

§ 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

(a)(1) When conducting an investigation of rental housing, a local health officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department or the municipality, in the case of a municipality that has established a code enforcement office.

(2)(A) A written inspection report shall:

(i) contain findings of fact that serve as the basis of one or more violations;

(ii) specify the requirements and timelines necessary to correct a violation;

(iii) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(iv) provide notice in plain language that, consistent with the access provisions in 9 V.S.A. § 4460, the tenant must allow the landlord and agents of the landlord access to the rental unit to make repairs as ordered by the health officer.

(B) For purposes of subdivision (2)(A)(iv) of this subsection, the notice concerning access may read: "Notice - The landlord of this property may enter the unit either with the tenant's consent, which shall not be unreasonably withheld, or between 9:00 a.m. and 9:00 p.m. on not less than 48 hours' notice. If the health officer has identified an imminent danger, the landlord shall have access immediately."

(3) A local health officer shall provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency.

(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized by the local health officer.

(b) A local health officer may impose a fine of not more than $100.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.

(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.

Sec. 6. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

* * *

(f) Annually, on or before October 31, the Department shall prepare and make available to a member of the public upon request a database in the form of a sortable spreadsheet that contains the following information for each rental unit for which the Department received a certificate pursuant to this section:

(1) name of owner or landlord;

(2) mailing address of landlord;

(3) location of rental unit;

(4) type of rental unit;

(5) number of units in building; and

(6) School Property Account Number.

Sec. 7. ACCELERATED WEATHERIZATION PROGRAM; HOUSING IMPROVEMENT PROGRAM; STATE TREASURER; FUNDING

(a) The General Assembly finds that, in addition to the weatherization efforts provided under the Home Weatherization Assistance Program established in 33 V.S.A. chapter 25, an increased pace of weatherization would result in both environmental and economic benefits to the State. Accelerated weatherization efforts will:

(1) decrease the emission of greenhouse gases; and

(2) increase job opportunities in the field of weatherization.

(b) The General Assembly further finds that the State of Vermont has one of the oldest housing stocks in the United States, with many owned and rented homes in need of basic health and safety repairs and having high levels of lead paint and mold. Increased housing improvement initiatives will:

(1) enable Vermonters to live in safer, healthier housing; and

(2) reduce health care costs by reducing the incidence of respiratory illnesses, allergies, and other health problems.

(c) In fiscal years 2019 and 2020, the State Treasurer is authorized to invest up to $5,000,000.00 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization and housing improvement program, provided that:

(1) for owner-occupied homes, the funds shall be used to support weatherization efforts and housing improvement efforts for homeowners with a family income that is not more than 120 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available; and

(2) for multi-family rental homes, the funds shall be used in conjunction with other State programs, and that not less than 50 percent of the tenant households residing in properties to be rehabilitated shall have an annual household income that is not more than 80 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available.

Sec. 8. EFFECTIVE DATES

(a) This section and Sec. 1 (advisory board) shall take effect on passage.

(b) Sec. 6 (rental housing database) shall take effect on July 1, 2019.

(c) The remaining sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

By striking out Sec. 7, accelerated weatherization program; housing improvement program; State Treasurer; funding, and inserting in lieu thereof the following:

Sec. 7. ACCELERATED WEATHERIZATION PROGRAM; HOUSING IMPROVEMENT PROGRAM; STATE TREASURER; FUNDING

(a) The General Assembly finds that, in addition to the weatherization efforts provided under the Home Weatherization Assistance Program established in 33 V.S.A. chapter 25, an increased pace of weatherization and housing improvements would result in both environmental and economic

benefits to the State. Accelerated weatherization efforts and housing improvements will:

(1) decrease the emission of greenhouse gases;

(2) increase job opportunities in the field of weatherization;

(3) enable Vermonters to live in safer, healthier housing; and

(4) reduce health care costs by reducing the incidence of respiratory illnesses, allergies, and other health problems.

(c) In fiscal years 2019 and 2020, the State Treasurer is authorized to invest up to $5,000,000.00 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization and housing improvement program, provided that:

(1) for owner-occupied homes, the funds shall be used to support weatherization efforts and housing improvement efforts for homeowners with a family income that is not more than 120 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available;

(2) for multi-family rental homes, the funds shall be used in conjunction with other State programs, and that not less than 50 percent of the tenant households residing in properties to be rehabilitated shall have an annual household income that is not more than 80 percent of the area or statewide median family income, whichever is higher, as reported by the U.S. Department of Housing and Urban Development for the most recent year for which data are available; and

(3) weatherization efforts are included in the improvements to any housing unit funded from the credit facility.

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, and the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, was agreed to and third reading of the bill was ordered.

House Proposal of Amendment Concurred In

S. 175.

House proposal of amendment to Senate bill entitled:

An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

Was taken up.

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

Sec. 1. 18 V.S.A. chapter 91, subchapter 4 is added to read:

Subchapter 4. Wholesale Prescription Drug Importation Program

§ 4651. WHOLESALE IMPORTATION PROGRAM FOR PRESCRIPTION DRUGS; DESIGN

(a) The Agency of Human Services, in consultation with interested stakeholders and appropriate federal officials, shall design a wholesale prescription drug importation program that complies with the applicable requirements of 21 U.S.C. § 384, including the requirements regarding safety and cost savings. The program design shall:

(1) designate a State agency that shall either become a licensed drug wholesaler or contract with a licensed drug wholesaler in order to seek federal certification and approval to import safe prescription drugs and provide significant prescription drug cost savings to Vermont consumers;

(2) use Canadian prescription drug suppliers regulated under the laws of Canada or of one or more Canadian provinces, or both;

(3) ensure that only prescription drugs meeting the U.S. Food and Drug Administration's safety, effectiveness, and other standards shall be imported by or on behalf of the State;

(4) import only those prescription drugs expected to generate substantial savings for Vermont consumers;

(5) ensure that the program complies with the tracking and tracing requirements of 21 U.S.C. §§ 360eee and 360eee-1 to the extent feasible and practical prior to imported drugs coming into the possession of the State wholesaler and that it complies fully after imported drugs are in the possession of the State wholesaler;

(6) prohibit the distribution, dispensing, or sale of imported products outside Vermont's borders;

(7) recommend a charge per prescription or another method of support to ensure that the program is funded adequately in a manner that does not jeopardize significant consumer savings; and

(8) include a robust audit function.

(b) On or before January 1, 2019, the Secretary of Human Services shall submit the proposed design for a wholesale prescription drug importation program to the House Committee on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance.

§ 4652. MONITORING FOR ANTICOMPETITIVE BEHAVIOR

The Agency of Human Services shall consult with the Office of the Attorney General to identify the potential, and to monitor, for anticompetitive behavior in industries that would be affected by a wholesale prescription drug importation program.

§ 4653. FEDERAL COMPLIANCE

(a) On or before July 1, 2019, the Agency of Human Services shall submit a formal request to the Secretary of the U.S. Department of Health and Human Services for certification of the State's wholesale prescription drug importation program.

(b) The Agency of Human Services shall seek the appropriate federal approvals, waivers, exemptions, or agreements, or a combination thereof, as needed to enable all covered entities enrolled in or eligible for the federal 340B Drug Pricing Program to participate in the State's wholesale prescription drug importation program to the fullest extent possible without jeopardizing their eligibility for the 340B Program.

§ 4654. PROGRAM FINANCING

The Agency of Human Services shall not implement the wholesale prescription drug importation program until the General Assembly enacts legislation establishing a charge per prescription or another method of financial support for the program.

§ 4655. IMPLEMENTATION PROVISIONS

Upon the last to occur of the General Assembly enacting a method of financial support pursuant to section 4654 of this chapter and receipt of certification and approval by the Secretary of the U.S. Department of Health and Human Services, the Agency of Human Services shall begin implementation of the wholesale prescription drug importation program and shall begin operating the program within six months. As part of the implementation process, the Agency of Human Services shall, in accordance

with State procurement and contract laws, rules, and procedures as appropriate:

(1) become licensed as a wholesaler or enter into a contract with a Vermont-licensed wholesaler;

(2) contract with one or more Vermont-licensed distributors;

(3) contract with one or more licensed and regulated Canadian suppliers;

(4) engage with health insurance plans, employers, pharmacies, health care providers, and consumers;

(5) develop a registration process for health insurance plans, pharmacies, and prescription drug-administering health care providers who are willing to participate in the program;

(6) create a publicly available source for listing the prices of imported prescription drug products that shall be made available to all participating entities and consumers;

(7) create an outreach and marketing plan to generate program awareness;

(8) starting in the weeks before the program becomes operational, create and staff a hotline to answer questions and address the needs of consumers, employers, health insurance plans, pharmacies, health care providers, and other affected sectors;

(9) establish the audit function and a two-year audit work-plan cycle; and

(10) conduct any other activities that the Agency determines to be important for successful implementation of the program.

§ 4656. ANNUAL REPORTING

(a) Annually on or before January 15, the Agency of Human Services shall report to the House Committees on Health Care and Ways and Means and the Senate Committees on Health and Welfare and on Finance regarding the operation of the wholesale prescription drug importation program during the previous calendar year, including:

(1) which prescription drugs were included in the wholesale importation program;

(2) the number of participating pharmacies, health care providers, and health insurance plans;

(3) the number of prescriptions dispensed through the program;

(4) the estimated savings to consumers, health plans, employers, and the State during the previous calendar year and to date;

(5) information regarding implementation of the audit plan and audit findings; and

(6) any other information the Secretary of Human Services deems relevant.

(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

Sec. 2. WHOLESALE IMPORTATION PROGRAM; DESIGN CONTINGENT ON FUNDING

The Agency of Human Services shall be required to design the wholesale prescription drug importation program described in Sec. 1 of this act only to the extent that funds are appropriated for this purpose in the budget bill enacted by the General Assembly for fiscal year 2019 or are otherwise made available.

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

An act relating to the wholesale importation of prescription drugs into Vermont.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative on a roll call, Yeas 29, Nays 0.

Senator Ashe 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, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Baruth.

House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment Concurred In

S. 203.

House proposal of amendment to Senate proposal of amendment to House Proposal of Amendment to Senate bill entitled:

An act relating to systemic improvements of the mental health system.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment to the House proposal of amendment as follows:

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

Sec. 4. WAIVER OF CERTIFICATE OF NEED REQUIREMENTS

Notwithstanding any provisions of 18 V.S.A. chapter 221, subchapter 5 to the contrary:

(1) the implementation of renovations at the Brattleboro Retreat as authorized in the fiscal year 2019 capital budget adjustment bill shall not be considered a "new heath care project" for which a certificate of need is required; and

(2) the proposal by the University of Vermont Health Network to expand psychiatric inpatient capacity at the Central Vermont Medical Center campus shall be exempt from the requirement to secure a conceptual development phase certificate of need pursuant to 18 V.S.A. § 9434(c) if the University of Vermont Health Network:

(A) consults with the Secretary of Human Services in identifying the appropriate number and type of additional inpatient beds needed in the State;

(B) ensures that the planning process for designing its proposed expansion of inpatient psychiatric bed capacity at the Central Vermont Medical Center campus includes broad stakeholder input, including from patients and providers; and

(C) works with the Green Mountain Care Board for ongoing oversight of expenditures.

Second: In Sec. 9, amending 2017 Acts and Resolves No. 82, Sec. 3(c), by striking out the third sentence and inserting in lieu thereof the following: The evaluation process shall include such stakeholder involvement in working toward an articulation of a common, long-term vision of full integration of mental health services within a comprehensive and holistic health care system.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; Bills Committed

Pending entry on the Calendar for notice, on motion of Senator Ashe the rules were suspended and House bill entitled:

H. 904. An act relating to miscellaneous agricultural subjects.

was committed to the Committee on Appropriations pursuant to Rule 31 with the reports of the Committee on Agriculture, Committee on Natural Resources and Energy and Committee on Finance *intact*.

Pending entry on the Calendar for notice, on motion of Senator Ashe the rules were suspended and House bill entitled:

H. 922. An act relating to making numerous revenue changes.

was committed to the Committee on Appropriations pursuant to Rule 31 with the report of the Committee on Finance *intact*.

Committee of Conference Appointed

H. 910.

An act relating to the Open Meeting Law and the Public Records Act.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Collamore
Senator Pearson
Senator White

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Adjournment

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

TUESDAY, MAY 8, 2018

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. 63

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second 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. 928. An act relating to compensation for certain State employees (Pay Act).

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

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

S. 94. An act relating to promoting remote work.

S. 224. An act relating to co-payment limits for visits to chiropractors.

S. 234. An act relating to adjudicating all teenagers in the Family Division, except those charged with a serious violent felony.

S. 260. An act relating to funding the cleanup of State waters.

S. 280. An act relating to the Advisory Council for Strengthening Families.

S. 285. An act relating to universal recycling requirements.

S. 287. An act relating to aquatic nuisance control.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 29. An act relating to decedents' estates.

And has adopted the same on its part.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate proposal of amendment on a bill entitled:

H. 143. An act relating to automobile insurance requirements and transportation network companies.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. O'Sullivan of Burlington
Rep. Marcotte of Coventry
Rep. Kimbell of Woodstock.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 132. An act relating to limiting landowner liability for posting the dangers of swimming holes.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Bill Referred

House bill of the following title was read the first time:

H. 928. An act relating to compensation for certain State employees (Pay Act).

and pursuant to Temporary Rule 44A was referred to the Committee on Rules.

House Proposal of Amendment Concurred In with Amendment

S. 281.

House proposal of amendment to Senate bill entitled:

An act relating to the mitigation of systemic racism.

Was taken up.

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to promote racial justice reform throughout the State by mitigating systemic racism in all systems of State government and creating a culture of inclusiveness.

Sec. 2. 3 V.S.A. § 2102 is amended to read:

§ 2102. POWERS AND DUTIES

(a) The Governor's Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

(b) The Cabinet shall work collaboratively with the Executive Director of Racial Equity and may provide the Director with access to all relevant records and information as permitted by law.

Sec. 3. 3 V.S.A. chapter 68 is added to read:

CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

§ 5001. POSITION

(a) There is created within the Executive Branch the position of Executive Director of Racial Equity to identify and work to eradicate systemic racism within State government.

(b) The Executive Director of Racial Equity shall have the powers and duties enumerated within section 2102 of this title and shall work collaboratively with and act as a liaison between the Governor's Workforce Equity and Diversity Council, the Vermont Human Rights Commission, and the Governor's Cabinet.

§ 5002. RACIAL EQUITY ADVISORY PANEL

(a) The Racial Equity Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall have administrative, legal, and technical support of the Agency of Administration.

(b)(1) The Panel shall consist of five members, as follows:

(A) one member appointed by the Senate Committee on Committees who shall not be a current legislator;

(B) one member appointed by the Speaker of the House who shall not be a current legislator;

(C) one member appointed by the Chief Justice of the Supreme Court who shall not be a current legislator;

(D) one member appointed by the Governor who shall not be a current legislator; and

(E) one member appointed by the Human Rights Commission who shall not be a current legislator.

(2) Members shall be drawn from diverse backgrounds to represent the interests of communities of color throughout the State, have experience working to implement racial justice reform and, to the extent possible, represent geographically diverse areas of the State.

(3) The term of each member shall be three years, except that of the members first appointed, one each shall serve a term of one year, to be appointed by the Human Rights Commission; two years, to be appointed by the Governor; three years, to be appointed by the Speaker of the House; four years, to be appointed by the Senate Committee on Committees; and five

years, to be appointed by the Chief Justice of the Supreme Court, so that the term of one regular member expires in each ensuing year. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this subsection. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are elected or appointed. Members shall serve not more than three consecutive terms in any capacity.

(4) Members of the Panel shall elect by majority vote the Chair of the Panel, who shall serve for a term of three years after the implementation period. Members of the Panel shall be appointed on or before September 1, 2018 in order to prepare as they deem necessary for the establishment of the Panel, including the election of the Chair of the Panel. Terms of members shall officially begin on January 1, 2019.

(c) The Panel shall have the following duties and responsibilities:

(1) work with the Executive Director of Racial Equity to implement the reforms identified as necessary in the comprehensive organizational review as required by subsection 5003(a) of this title; and

(2) advise the Director to ensure ongoing compliance with the purpose of this chapter, and advise the Governor on strategies for remediating systemic racial disparities in statewide systems of government.

(d) Each member of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

(a) The Executive Director of Racial Equity shall work with the agencies and departments to implement a program of continuing coordination and improvement of activities in State government in order to combat systemic racial disparities and measure progress toward fair and impartial governance, including:

(1) oversee a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities;

(2) create a strategy for implementing a centralized platform for race-based data collection and manage the aggregation, correlation, and public dissemination of the data; and

(3) develop a model fairness and diversity policy and review and make recommendations regarding the fairness and diversity policies held by all State government systems.

(b) Pursuant to section 2102 of this title, work collaboratively with State agencies and departments to gather relevant existing data and records necessary to carry out the purpose of this chapter and to develop best practices for remediating systemic racial disparities throughout State government.

(c) The Director shall work with the agencies and departments and with the Chief Performance Officer to develop performance targets and performance measures for the General Assembly, the Judiciary, and the agencies and departments to evaluate respective results in improving systems. These performance measures shall be included in the agency's or department's quarterly reports to the Director, and the Director shall include each agency's or department's performance targets and performance measures in his or her annual reports to the General Assembly.

(d) The Director shall, in consultation with the Department of Human Resources and the agencies and departments, develop and conduct trainings for agencies and departments regarding the nature and scope of systemic racism and the institutionalized nature of race-based bias. Nothing in this subsection shall be construed to discharge the existing duty of the Department of Human Resources to conduct trainings.

(e) On or before January 15, 2020, and annually thereafter, report to the House and Senate Committees on Government Operations demonstrating the State's progress in identifying and remediating systemic racial bias within State government.

§ 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

(a) Confidentiality of records. Except as provided in subsection (b) of this section, the records of the Racial Equity Director and the Racial Equity Advisory Panel shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(b) Exceptions.

(1) The Director and Panel members may make records available to each other, the Governor, and the Governor's Cabinet as necessary to fulfill their duties as set forth in this chapter. They may also make records pertaining to any alleged violations of antidiscrimination statutes available to any State or federal law enforcement agency authorized to enforce such statutes. The Director or Panel may refuse to disclose records or information the release of which may be prohibited under State or federal law absent court order.

(2) Any records or information described in subdivision (1) of this subsection made available to a party or entity pursuant to a confidentiality agreement or court order requiring confidentiality shall be kept confidential in accordance with the agreement or order, unless disclosure is otherwise

authorized by law or court order.

§ 5005. NOMINATION AND APPOINTMENT PROCESS

(a) The Racial Equity Advisory Panel shall select for consideration by the Panel, by majority vote, provided that a quorum is present, from the applications for the position of Executive Director of Racial Equity as many candidates as it deems qualified for the position.

(b) The Panel shall submit to the Governor the names of the three candidates it deems most qualified to be appointed to fill the position.

(c) The Governor shall make the appointment to the Executive Director position from the list of qualified candidates submitted pursuant to subsection (b) of this section. The names of candidates submitted and not selected shall remain confidential.

Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL EQUITY POSITION

One new permanent, exempt position of Executive Director of Racial Equity is created within the Agency of Administration.

Sec. 5. FISCAL YEAR 2019 APPROPRIATION

There is appropriated to the Agency of Administration from the General Fund for fiscal year 2019 the amount of $75,000.00 for the Racial Equity Advisory Panel and the position of Executive Director of Racial Equity.

Sec. 6. SECRETARY OF ADMINISTRATION; RACIAL EQUITY ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL EQUITY; REPORT

(a) On or before September 1, 2018, the Racial Equity Advisory Panel shall be appointed.

(b) On or before November 1, 2018, the Racial Equity Advisory Panel shall, in consultation with the Secretary of Administration and the Department of Human Resources, have developed and posted a job description for the Executive Director of Racial Equity.

(c) On or before January 1, 2019, the Racial Equity Advisory Panel shall submit to the Governor the names of the three candidates for the Executive Director of Racial Equity position.

(d) On or before February 1, 2019, the Governor shall appoint the Executive Director of Racial Equity.

(e) On or before May 1, 2019, the Executive Director of Racial Equity shall update the House and Senate Committees on Government Operations

regarding how best to complete a comprehensive organizational review to identify systemic racism pursuant to 3 V.S.A. § 5003, and potential private and public sources of funding to achieve the review.

Sec. 7. REPEAL

On June 30, 2023:

(1) Sec. 3 of this act (creating the Executive Director of Racial Equity and Racial Equity Advisory Panel in 3 V.S.A. chapter 68) is repealed and the Officer position and Panel shall cease to exist; and

(2) Sec. 4 of this act (authorization for the Executive Director of Racial Equity position) is repealed.

Sec. 8. 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 racial equity in State government.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Collamore moved that the Senate concur in the House proposal of amendment with further proposal of amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to promote racial justice reform throughout the State by mitigating systemic racism in all systems of State government and creating a culture of inclusiveness.

Sec. 2. 3 V.S.A. § 2102 is amended to read:

§ 2102. POWERS AND DUTIES

(a) The Governor's Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

(b) The Cabinet shall work collaboratively with the Executive Director of Racial Equity and shall provide the Director with access to all relevant records and information as permitted by law.

Sec. 3. 3 V.S.A. chapter 68 is added to read:

CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

§ 5001. POSITION

(a) There is created within the Executive Branch the position of Executive

Director of Racial Equity to identify and work to eradicate systemic racism within State government.

(b) The Executive Director of Racial Equity shall have the powers and duties enumerated within section 2102 of this title and shall work collaboratively with and act as a liaison between the Governor's Workforce Equity and Diversity Council, the Vermont Human Rights Commission, and the Governor's Cabinet.

(c) The Director shall be housed within and have the administrative, legal, and technical support of the Agency of Administration.

§ 5002. RACIAL EQUITY ADVISORY PANEL

(a) The Racial Equity Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall have the administrative, legal, and technical support of the Agency of Administration.

(b)(1) The Panel shall consist of five members, as follows:

(A) one member appointed by the Senate Committee on Committees who shall not be a current legislator;

(B) one member appointed by the Speaker of the House who shall not be a current legislator;

(C) one member appointed by the Chief Justice of the Supreme Court who shall not be a current legislator;

(D) one member appointed by the Governor who shall not be a current legislator; and

(E) one member appointed by the Human Rights Commission who shall not be a current legislator.

(2) Members shall be drawn from diverse backgrounds to represent the interests of communities of color throughout the State, have experience working to implement racial justice reform and, to the extent possible, represent geographically diverse areas of the State.

(3) The term of each member shall be three years, except, so that the term of one regular member expires in each ensuing year of the members first appointed, one shall serve a term of: one year, to be appointed by the Human Rights Commission; two years, to be appointed by the Governor; three years, to be appointed by the Speaker of the House; four years, to be appointed by the Senate Committee on Committees; and five years, to be appointed by the Chief Justice of the Supreme Court. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this

subsection. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are elected or appointed. Members shall serve not more than three consecutive terms in any capacity.

(4) Members of the Panel shall elect by majority vote the Chair of the Panel, who shall serve for a term of three years after the implementation period. Members of the Panel shall be appointed on or before September 1, 2018 in order to prepare as they deem necessary for the establishment of the Panel, including the election of the Chair of the Panel. Terms of members shall officially begin on January 1, 2019.

(c) The Panel shall have the following duties and responsibilities:

(1) work with the Executive Director of Racial Equity to implement the reforms identified as necessary in the comprehensive organizational review as required by subsection 5003(a) of this title; and

(2) oversee and advise the Executive Director to ensure ongoing compliance with the purpose of this chapter, and advise the Governor on strategies for remediating systemic racial disparities in statewide systems of government.

(d) Only the Panel may remove the Executive Director of Racial Equity. The Panel shall adopt rules pursuant to chapter 25 of this title to define the basis and process for removal.

(e) Each member of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

(a) The Executive Director of Racial Equity (Director) shall work with the agencies and departments to implement a program of continuing coordination and improvement of activities in State government in order to combat systemic racial disparities and measure progress toward fair and impartial governance, including:

(1) overseeing a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities;

(2) managing and overseeing the statewide collection of race-based data to determine the nature and scope of racial discrimination within all systems of State government; and

(3) developing a model fairness and diversity policy and review and make recommendations regarding the fairness and diversity policies held by all State government systems.

(b) Pursuant to section 2102 of this title, work collaboratively with State agencies and departments to gather relevant existing data and records necessary to carry out the purpose of this chapter and to develop best practices for remediating systemic racial disparities throughout State government.

(c) The Director shall work with the agencies and departments and with the Chief Performance Officer to develop performance targets and performance measures for the General Assembly, the Judiciary, and the agencies and departments to evaluate respective results in improving systems. These performance measures shall be included in the agency's or department's quarterly reports to the Director, and the Director shall include each agency's or department's performance targets and performance measures in his or her annual reports to the General Assembly.

(d) The Director shall, in consultation with the Department of Human Resources and the agencies and departments, develop and conduct trainings for agencies and departments regarding the nature and scope of systemic racism and the institutionalized nature of race-based bias. Nothing in this subsection shall be construed to discharge the existing duty of the Department of Human Resources to conduct trainings.

(e) On or before January 15, 2020, and annually thereafter, the Director shall report to the House and Senate Committees on Government Operations demonstrating the State's progress in identifying and remediating systemic racial bias within State government.

§ 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

(a) Confidentiality of records.

(1) Any records transmitted to or obtained by the Executive Director of Racial Equity and the Racial Equity Advisory Panel that are exempt from public inspection and copying under the Public Records Act shall remain exempt and shall be kept confidential to the extent required by law.

(2) Draft reports, working papers, and internal correspondence between the Director and the Panel shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. The completed reports shall be public records.

(b) Exceptions.

(1) The Director and Panel members may make records available to each other, the Governor, and the Governor's Cabinet as necessary to fulfill

their duties as set forth in this chapter. They may also make records pertaining to any alleged violations of antidiscrimination statutes available to any State or federal law enforcement agency authorized to enforce such statutes.

(2) Absent a court order for good cause shown or the prior written consent of an individual providing information or lawfully-obtained records to the Director or the Panel, the Director and Panel Members may decline to disclose:

(A) the identity of the individual if good cause exists to protect his or her confidentiality; and

(B) materials pertaining to the individual, including written communications among the individual, the Director and the Panel, and recordings, notes, or summaries reflecting interviews or discussions among the individual, the Director and the Panel.

§ 5005. NOMINATION AND APPOINTMENT PROCESS

(a) The Racial Equity Advisory Panel shall select for consideration by the Panel, by majority vote, provided that a quorum is present, from the applications for the position of Executive Director of Racial Equity as many candidates as it deems qualified for the position.

(b) The Panel shall submit to the Governor the names of the candidates deemed most qualified to be appointed to fill the position.

(c) The Governor shall make the appointment to the Executive Director position from the list of qualified candidates submitted pursuant to subsection (b) of this section. The names of candidates submitted and not selected shall remain confidential.

Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL EQUITY POSITION

One new permanent, exempt position of Executive Director of Racial Equity is created within the Agency of Administration.

Sec. 5. EXECUTIVE DIRECTOR OF RACIAL EQUITY; RACIAL EQUITY ADVISORY PANEL; FUNDING SOURCE; SURCHARGE; REPEAL

(a) Surcharge.

(1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth the purpose and rate of charges collected in the Human Resource Services Internal Service Fund, in fiscal year 2019, a surcharge of up to 1.65 percent, and in fiscal year 2020 and thereafter, a surcharge of up to 3.3 percent, but not greater than the cost of both the Racial Equity Advisory Panel and the position

of Executive Director of Racial Equity set forth in Sec. 3 of this act, on the per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the Racial Equity Advisory Panel and the position of the Executive Director of Racial Equity set forth in Sec. 3 of this act.

(b) Repeal. This section shall be repealed on June 30, 2024.

Sec. 6. FISCAL YEAR 2019 APPROPRIATION

There is appropriated to the Agency of Administration from the Human Resource Services Internal Service Fund for fiscal year 2019 the amount of $75,000.00 for the Racial Equity Advisory Panel and the position of Executive Director of Racial Equity.

Sec. 7. SECRETARY OF ADMINISTRATION; RACIAL EQUITY ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL EQUITY; REPORT

(a) On or before September 1, 2018, the Racial Equity Advisory Panel shall be appointed.

(b) On or before November 1, 2018, the Racial Equity Advisory Panel shall, in consultation with the Secretary of Administration and with the assistance and advice of the Department of Human Resources, have developed and posted a job description for the Executive Director of Racial Equity.

(c) On or before January 1, 2019, the Racial Equity Advisory Panel shall submit to the Governor the names of the candidates for the Executive Director of Racial Equity position.

(d) On or before February 1, 2019, the Governor shall appoint the Executive Director of Racial Equity.

(e) On or before May 1, 2019, the Executive Director of Racial Equity shall update the House and Senate Committees on Government Operations regarding how best to complete a comprehensive organizational review to identify systemic racism pursuant to 3 V.S.A. § 5003, and potential private and public sources of funding to achieve the review.

Sec. 8. REPEAL

On June 30, 2024:

(1) Sec. 3 of this act (creating the Executive Director of Racial Equity and Racial Equity Advisory Panel in 3 V.S.A. chapter 68) is repealed and the Executive Director position and Panel shall cease to exist; and

(2) Sec. 4 of this act (authorization for the Executive Director of Racial Equity position) is repealed.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

House Proposal of Amendment Concurred In

H. 806.

House proposal of amendment to Senate bill entitled:

An act relating to the Southeast State Correctional Facility.

Was taken up.

The House proposes to the Senate to amend the bill in Sec. 1, Southeast State Correctional Facility; Report, in subsection (b), by striking out the following: , if any,

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Proposal of Amendment; Third Reading Ordered

H. 554.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to the regulation of dams.

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:

* * * Regulation of Dams * * *

Sec. 1. 10 V.S.A. chapter 43 is amended to read:

CHAPTER 43. DAMS

§ 1079. PURPOSE

It is the purpose of this chapter to protect public safety and provide for the public good through the inventory, inspection, and evaluation of dams in the State.

§ 1080. DEFINITIONS

As used in this chapter:

(1) "Department" means the ~~department of environmental conservation~~ Department of Environmental Conservation.

(2) "Person" means any individual; partnership; company; corporation; association; joint venture; trust; municipality; the ~~state~~ State of Vermont or any agency, department, or subdivision of the ~~state,~~ State; any federal agency~~,~~; or any other legal or commercial entity.

(3) ~~"Person in interest"~~ "Interested person" means, in relation to any dam, a person: who has riparian rights affected by that dam~~,~~; who has a substantial interest in economic or recreational activity affected by the dam~~,~~; or whose safety would be endangered by a failure of the dam.

(4) "Engineer" means a professional engineer ~~registered~~ licensed under Title 26 who has experience in the design and investigation of dams.

(5) "Time" shall be reckoned in the manner prescribed by 1 V.S.A. § 138.

(6)(A) "Dam" means any artificial barrier, including its appurtenant works, that is capable of impounding water, other liquids, or accumulated sediments.

(B) "Dam" includes an artificial barrier that meets all of the following:

(i) previously was capable of impounding water, other liquids, or accumulated sediments;

(ii) was partially breached; and

(iii) has not been properly removed or mitigated.

(C) "Dam" shall not mean:

(i) barriers or structures created by beaver or any other wild animal as that term is defined in section 4001 of this title;

(ii) transportation infrastructure that has no normal water storage capacity and that impounds water only during storm events;

(iii) an artificial barrier at a stormwater management structure that is regulated by the Agency of Natural Resources under chapter 47 of this title;

(iv) an underground or elevated tank to store water otherwise regulated by the Agency of Natural Resources;

(v) an agricultural waste storage facility regulated by the Agency of Agriculture, Food and Markets under 6 V.S.A. chapter 215; or

(vi) any other structure identified by the Department by rule.

(7) "Federal dam" means:

(A) a dam owned by the United States; or

(B) a dam subject to a Federal Energy Regulatory Commission license or exemption.

(8) "Intake structure" means a dam that is constructed and operated for the primary purposes of minimally impounding water for the measurement and withdrawal of streamflow to ensure use of the withdrawn water for snowmaking, potable water, irrigation, or other purposes approved by the Department.

(9) "Nonfederal dam" means a dam that is not a federal dam.

§ 1081. JURISDICTION OF DEPARTMENT AND PUBLIC UTILITY COMMISSION

(a) Powers and duties. Unless otherwise provided, the powers and duties authorized by this chapter shall be exercised by the Department, except that the Public Utility Commission shall exercise those powers and duties over nonfederal dams and projects that relate to or are incident to the generation of electric energy for public use or as a part of a public utility system.

(b) Transfer of jurisdiction. Jurisdiction over a nonfederal dam is transferred from the Department to the Public Utility Commission ~~whenever the Federal Energy Regulatory Commission grants a license to generate electricity at the dam or whenever~~ when the Public Utility Commission receives an application for a certificate of public good for electricity generation at that dam. Jurisdiction is transferred ~~from the Public Utility Commission~~ to the Department ~~whenever such a federal license~~ when the license or exemption for a federal dam expires or is otherwise lost~~, whenever such~~; when a certificate of public good is revoked or otherwise lost~~,~~; or ~~whenever~~ when the Public Utility Commission denies an application for a certificate of public good.

(c) Transfer of records. Upon transfer of jurisdiction as set forth in subsection (b) of this section and upon written request, the State agency having former jurisdiction over a dam shall transfer copies of all records pertaining to the dam to the agency acquiring jurisdiction.

§ 1082. AUTHORIZATION

(a) No person shall construct, enlarge, raise, lower, remodel, reconstruct, or otherwise alter any nonfederal dam, pond, or impoundment or other structure ~~which~~ that is or will be capable of impounding more than 500,000 cubic feet of water or other liquid after construction or alteration, or remove, breach, or otherwise lessen the capacity of an existing nonfederal dam that is or was capable of impounding more than 500,000 cubic feet within or along the borders of this ~~state~~ State where land in this ~~state~~ State is proposed to be overflowed, or at the outlet of any body of water within this ~~state~~ State, unless authorized by the ~~state~~ State agency having jurisdiction so to do. However, in the matter of flood control projects where cooperation with the federal government is provided for by the provisions of section 1100 of this title, that section shall control.

(b) For the purposes of this chapter, the volume a dam or other structure is capable of impounding is the volume of water or other liquid, including any accumulated sediments, controlled by the structure with the water or liquid level at the top of the lowest nonoverflow part of the structure.

(c) An intake structure in existence on July 1, 2018 that continues to operate in accordance with a valid Department permit or approval that contains requirements for inspection and maintenance subject to section 1105 of this title shall have a rebuttable presumption of compliance with the requirements of this chapter and rules adopted under this chapter, provided that no presumption of compliance shall apply if one or both of the following occur on or after July 1, 2018:

(1) the owner or operator of the intake takes an action that requires authorization under this section; or

(2) the Department issues an order under section 1095 of this title directing reconstruction, repair, removal, breaching, draining, or other action it considers necessary to improve the safety of the dam.

§ 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 agency having jurisdiction. The application shall set forth:

(1) the location~~,~~; the height, length, and other dimensions~~,~~; and any proposed changes to any existing dam;

(2) the approximate area to be overflowed and the approximate number of~~,~~ or any change in the number of cubic feet of water to be impounded;

(3) the plans and specifications to be followed in the construction, remodeling, reconstruction, altering, lowering, raising, removal, breaching, or adding to;

(4) any change in operation and maintenance procedures; and

(5) other information that the ~~state~~ State agency having jurisdiction considers necessary to ~~properly~~ review the application.

(b) The plans and specifications shall be prepared under the supervision of an engineer.

§ 1083a. ~~AGRICULTURAL DAMS~~

~~(a) Notwithstanding the provisions of sections 1082, 1083, 1084, and 1086 of this title, the owners of an agricultural enterprise who propose, as an integral and exclusive part of the enterprise, to construct or alter any dam, pond or impoundment or other structure requiring a permit under section 1083 shall apply to the natural resources conservation district in which his land is located. The natural resources conservation districts created under the provisions of chapter 31 of this title shall be the state agency having jurisdiction and shall review and approve the applications in the same manner as would the department. The districts may request the assistance of the department for any investigatory work necessary for a determination of public good and for any review of plans and specifications as provided in section 1086.~~

~~(b) As used in this section, "agricultural enterprise" means any farm, including stock, dairy, poultry, forage crop and truck farms, plantations, ranches and orchards, which does not fall within the definition of "activities not engaged in for a profit" as defined in Section 183 of the Internal Revenue Code and regulations relating thereto. The growing of timber does not in itself constitute farming.~~

~~(c) Notwithstanding the provisions of this section, jurisdiction shall revert to the department when there is a change in use or when there is a change in ownership which affects use. In those cases the department may, on its own motion, hold meetings in order to determine the effect on the public good and public safety. The department may issue an order modifying the terms and conditions of approval.~~

~~(d) The natural resources conservation districts may adopt any rules necessary to administer this chapter. The districts shall adhere to the requirements of chapter 25 of Title 3 in the adoption of those rules.~~

~~(e) Notwithstanding the provisions of chapter 7 of Title 3, the attorney general shall counsel the districts in any case where a suit has been instituted~~

~~against the districts for any decision made under the provisions of this chapter.~~ [Repealed.]

§ 1084. DEPARTMENT OF FISH AND WILDLIFE; INVESTIGATION

The ~~commissioner of fish and wildlife~~ Commissioner of Fish and Wildlife shall investigate the potential effects on fish and wildlife habitats of any proposal subject to section 1082 of this title and shall certify the results to the ~~state~~ State agency having jurisdiction prior to any hearing or meeting relating to the determination of public good and public safety.

§ 1085. NOTICE OF APPLICATION

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

(1) 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 ~~Utilities~~ Utility Commission 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.

§ 1086. DETERMINATION OF PUBLIC GOOD; CERTIFICATES

(a) "Public good" means the greatest benefit of the people of the State. In determining whether the public good is served, the State agency having jurisdiction shall give due consideration to, among other things, ~~to~~ the effect the proposed project will have on:

(1) the quantity, kind, and extent of cultivated agricultural land that may be rendered unfit for use by or enhanced by the project, including both the immediate and long-range agricultural land use impacts;

(2) scenic and recreational values;

(3) fish and wildlife;

(4) forests and forest programs;

(5) ~~the need for a minimum water discharge flow rate schedule to protect the natural rate of flow and the water quality of the affected waters;~~ [Repealed.]

(6) the existing uses of the waters by the public for boating, fishing, swimming, and other recreational uses;

(7) the creation of any hazard to navigation, fishing, swimming, or other public uses;

(8) the need for cutting clean and removal of all timber or tree growth from all or part of the flowage area;

(9) the creation of any public benefits;

(10) ~~the classification, if any, of the affected waters under chapter 47 of this title~~ attainment of the Vermont water quality standards;

(11) any applicable State, regional, or municipal plans;

(12) municipal grand lists and revenues;

(13) public safety; and

(14) in the case of the proposed removal of a dam that formerly related to or was incident to the generation of electric energy, but ~~which~~ that was not subject to a memorandum of understanding dated prior to January 1, 2006 relating to its removal, the potential for and value of future power production.

(b) If the State agency having jurisdiction finds that the ~~proposed~~ project proposed under section 1082 of this title will serve the public good, and, in case of any waters designated by the Secretary as outstanding resource waters, will preserve or enhance the values and activities sought to be protected by designation, the agency shall issue its order approving the application. The order shall include conditions for ~~minimum stream flow to protect fish and instream aquatic life~~ attainment of water quality standards, as determined by the Agency of Natural Resources, and such other conditions as the agency having jurisdiction considers necessary to protect any element of the public good listed in subsection (a) of this section. Otherwise it shall issue its order disapproving the application.

(c) The ~~Agency~~ State agency having jurisdiction shall provide the applicant and interested ~~parties~~ persons with copies of its order.

(d) In the case of a proposed removal of a dam that is under the jurisdiction of the Department and that formerly related to or was incident to the generation of electric energy but that was not subject to a memorandum of understanding dated before January 1, 2006 relating to its removal, the Department shall consult with the Department of Public Service regarding the potential for and value of future power production at the site.

§ 1087. REVIEW OF PLANS AND SPECIFICATIONS

~~Upon receipt of an application, the state~~ For any proposal subject to authorization under section 1082, the State agency having jurisdiction shall employ ~~a registered~~ an engineer ~~experienced in the design and investigation of dams~~ to investigate the property, review the plans and specifications, and make additional investigations as ~~it~~ the State agency having jurisdiction considers necessary to ensure that the project adequately provides for the public safety. The engineer shall report his or her findings to the ~~agency~~ State agency having jurisdiction.

§ 1089. EMPLOYMENT OF ~~HYDRAULIC~~ ENGINEER

With the approval of the ~~governor~~ Governor, the ~~state~~ State agency having jurisdiction may employ ~~a competent hydraulic~~ an engineer to investigate the property, review the plans and specifications, and make such additional investigation as ~~such~~ the State agency shall deem necessary, and such engineer shall report to the State agency his or her findings in respect thereto.

§ 1090. CONSTRUCTION SUPERVISION

The construction, alteration, or other action authorized in section 1086 of this title shall be supervised by ~~a registered~~ an engineer employed by the applicant. Upon completion of the authorized project, the engineer shall certify to the agency having jurisdiction that the project has been completed in conformance with the approved plans and specifications.

§ 1095. UNSAFE DAM; PETITION; HEARING; EMERGENCY

(a) On receipt of a petition signed by ~~not less~~ no fewer than ten ~~persons in interest~~ interested persons or the legislative body of a municipality, the State agency having jurisdiction shall, or upon its own motion it may, institute investigations by an engineer as described in section 1087 of this title regarding the safety of any existing nonfederal dam or portion of ~~a~~ the dam~~,~~ of any size. The agency may fix a time and place for hearing and shall give notice in the manner it directs to all ~~parties~~ interested persons. The engineer shall present his or her findings and recommendations at the hearing. After the hearing, if the agency finds that the nonfederal dam or portion of the dam as maintained or operated is unsafe or is a menace to people or property above or below the dam, it shall issue an order directing reconstruction, repair, removal, breaching, draining, or other action it considers necessary to ~~make the dam safe~~ improve the safety of the dam sufficiently to protect life and property as required by the State agency having jurisdiction.

(b) If, upon the expiration of such date as may be ordered, the ~~owner of~~ person owning legal title to such dam or the owner of the land on which the dam is located has not complied with the order directing the reconstruction,

repair, breaching, removal, draining, or other action of such unsafe dam, the ~~state~~ State agency having jurisdiction may petition the ~~superior court~~ Superior Court in the county in which the dam is located to enforce its order or exercise the right of eminent domain to acquire ~~such~~ the rights ~~as~~ that may be necessary to effectuate a remedy as the public safety or public good may require. If the order has been appealed, the court may prohibit the exercise of eminent domain by the State agency having jurisdiction pending disposition of the appeal.

(c) If, upon completion of the investigation described in subsection (a) of this section, the ~~state~~ State agency having jurisdiction considers the dam to present an imminent threat to human life or property, it shall take whatever action it considers necessary to protect life and property and subsequently shall conduct the hearing described in subsection (a) of this section.

§ 1097. ~~SURVEY OF EXISTING DAMS; ORDERS FOR PROTECTION OF SALMON~~

~~The Fish and Wildlife Board shall forthwith make a survey of all dams within the state which impound more than three hundred thousand cubic feet of water and determine if the operation of such dams adversely affects the propagation and preservation of salmon, or materially diminishes the amount of flow in portions of a stream likely to be used for such preservation and propagation of salmon. If the Board determines that the operation of an existing dam does adversely affect the propagation and preservation of salmon or materially diminishes the flow of water over portions of stream likely to be used therefor, it shall order such changes in operation for such length of time or times as are reasonably necessary in its judgment to fully protect such preservation and propagation of salmon. Any order of the board made under this section shall be based upon facts found and stated. Appeal from an order of the board may be taken in the manner prescribed for appeals from the Public Utility Commission as provided in 30 V.S.A. chapter 1.~~ [Repealed.]

§ 1098. ~~REMOVAL OF OBSTRUCTIONS; APPROPRIATION~~

~~The department may contract for the removal of sandbars, debris, or other obstructions from streams which the department finds that while so obstructed may be a menace in time of flood, or endanger property or life below, or the property of riparian owners. The expense of investigation and removal of the obstruction shall be paid by the state from funds provided for that purpose.~~ [Repealed.]

* * *

§ 1105. INSPECTION OF DAMS

(a) Inspection; schedule. All nonfederal dams in the State shall be inspected according to a schedule adopted by rule by the State agency having jurisdiction over the dam.

(b) Dam inspection. A nonfederal dam in the State shall be inspected under one or both of the following methods:

(1) The State agency having jurisdiction ~~shall~~ over a dam may employ an engineer to make periodic inspections of nonfederal dams in the State to determine their condition and the extent, if any, to which they pose a ~~potential~~ possible or ~~actual~~ probable threat to life and property~~, or~~.

(2) The State agency having jurisdiction shall adopt rules pursuant to 3 V.S.A. chapter 25 to require an adequate level of inspection by an independent ~~registered~~ engineer ~~experienced in the design and investigation of dams. The agency shall provide the owner with the findings of the inspection and any recommendations~~.

(c) Dam safety reports. If a dam inspection report is completed by the State agency having jurisdiction, the agency shall provide the person owning legal title to the dam or the owner of the land on which the dam is located with a copy of the inspection report.

* * *

§ 1107. HAZARD POTENTIAL CLASSIFICATIONS

(a) The State agency having jurisdiction over a nonfederal dam listed in the Vermont Dam Inventory shall assess the hazard potential classification of the dam based on the potential loss of human life, property damage, and economic loss that would occur in the event of the failure of the dam. There shall be four hazard potential classifications: high, significant, low, and minimal.

(b) The State agency having jurisdiction over a nonfederal dam on the Vermont Dam Inventory may assess or reassess the hazard potential classification of the dam at any time.

§ 1108. DAM INVENTORY; REGISTRATION

(a) Dam inventory. The Department of Environmental Conservation shall maintain a current inventory of all known dams in the State of Vermont. The Department of Environmental Conservation shall update and publish the Vermont Dam Inventory annually and shall include information collected in the Inventory as part of the Agency of Natural Resources' Natural Resources Atlas.

(b) Dam registration. If a dam is listed on the Vermont Dam Inventory and is under the jurisdiction of the Department, the person owning legal title to a dam or the person owning the land on which the dam is located shall, upon request of the Department, submit information to the Department regarding the dam, including the condition of the dam, whether and when the dam has been inspected, and any other information that the Department may require to ensure public safety. A person who fails to comply with the request of the Department under this section shall be subject to a civil penalty under chapter 201 of this title.

§ 1109. MARKETABILITY OF TITLE

The failure of the person owning legal title to a dam or the owner of the land on which the dam is located to record a dam registration or a dam inspection report when required under this chapter or rules adopted under this chapter shall not create an encumbrance on record title or an effect on marketability of title for the real estate property or properties on which the dam is located.

§ 1110. RULEMAKING

The Commissioner of Environmental Conservation shall adopt rules to implement the requirements of this chapter for dams under the jurisdiction of the Department. The rules shall include:

(1) a standard or regulatory threshold under which a dam is exempt from the registration or inspection requirements of this chapter;

(2) standards for:

(A) the siting, design, construction, reconstruction, enlargement, modification, or alteration of a dam;

(B) operation and maintenance of a dam;

(C) inspection, monitoring, record keeping, and reporting;

(D) repair, breach, or removal of a dam;

(E) application for authorization under section 1082 of this title; and

(F) for the development of an emergency action plan for a dam, including guidance on how to develop an emergency action plan, the content of a plan, and when and how an emergency action plan should be updated;

(3) criteria for the hazard potential classification of dams in the State;

(4) a process by which a person owning legal title to a dam or a person owning the land on which the dam is located shall register a dam and record the existence of the dam in the lands records; and

(5) requirements for the person owning legal title to a dam or the person owning the land on which the dam is located to conduct inspections of the dam; and

§ 1111. NATURAL RESOURCES ATLAS; DAM STATUS

Annually on or before January 1, the Public Utility Commission shall submit to the Department updated inventory information from the previous calendar year for dams under the jurisdiction of the Public Utility Commission.

Sec. 2. DAM REGISTRATION PROGRAM REPORT

On or before January 1, 2023, the Department of Environmental Conservation shall submit a report to the House Committees on Natural Resources, Fish, and Wildlife and on Ways and Means and the Senate Committees on Natural Resources and Energy and on Finance. The report shall contain:

(1) an evaluation of the dam registration program under 10 V.S.A. chapter 43;

(2) a recommendation on whether to modify the fee structure of the dam registration program;

(3) a summary of the dams registered under the program, organized by amount of water impounded and hazard potential classification; and

(4) an evaluation of any other dam safety concerns related to dam registration.

Sec. 3. ADOPTION OF RULES

The Secretary of Natural Resources shall adopt the rules required under 10 V.S.A. § 1110 as follows:

(1) the rules required under 10 V.S.A. § 1110(1) (exemptions), § 1110(3) (emergency action plan), § 1110(4) (hazard potential classification), § 1110(5) (dam registration), and § 1110(6) (dam inspection) shall be adopted on or before July 1, 2020; and

(2) the rules required under 10 V.S.A. § 1110(2) (dam design standards) shall be adopted on or before July 1, 2022.

* * * Groundwater Source Testing * * *

Sec. 4. 10 V.S.A. § 1982 is added to read:

§ 1982. TESTING OF GROUNDWATER SOURCES

(a) Definition. As used in this section, "groundwater source" means that portion of a potable water supply that draws water from the ground, including a drilled well, shallow well, driven well point, or spring.

(b) Testing prior to new use. Prior to use of a new groundwater source as a potable water supply, the person who owns or controls the groundwater source shall test the groundwater source for the parameters set forth in subsection (c) of this section.

(c) Parameters of testing. A water sample collected under this section shall be analyzed for, at a minimum: arsenic, lead, uranium, gross alpha radiation, total coliform bacteria, total nitrate and nitrite, fluoride, manganese, and any other parameters required by the Agency by rule. The Agency by rule may require testing for a parameter by region or specific geographic area of concern.

(d) Submission of test results. Results of the testing required under subsection (b) shall be submitted, in a form provided by the Department of Health, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Secretary.

(e) Rulemaking. The Secretary, after consultation with the Department of Health, the Wastewater and Potable Water Supply Technical Advisory Committee, private laboratories, and other interested parties, shall adopt by rule requirements regarding:

(1) when, prior to use of a new groundwater source, the test required under subsection (b) of this section shall be conducted;

(2) who shall be authorized to sample the source for the test required under subsections (b) and (c) of this section, provided that the rule shall include the person who owns or controls the groundwater source and licensed well drillers among those authorized to sample the source;

(3) how a water sample shall be collected in order to comply with the requirements of the analyses to be performed; and

(4) any other requirements necessary to implement this section.

(f) Marketability of title. Noncompliance with the requirements of this section shall not affect the marketability of title or create a defect in title of a property, provided water test results required under this section are forwarded, prior to the conveyance of the property, to the Department of Health and, when required by the Secretary pursuant to a permit, to the Agency.

Sec. 5. AGENCY OF NATURAL RESOURCES; GROUNDWATER SOURCE TESTING; RULEMAKING

The Secretary of Natural Resources shall commence rulemaking under 10 V.S.A. § 1982 on or before July 1, 2018. The Secretary shall adopt rules under 10 V.S.A. § 1982 on or before January 1, 2019.

Sec. 6. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

(a) The ~~commissioner~~ Commissioner may certify a laboratory that meets the standards currently in effect of the National Environmental Laboratory Accreditation Conference and is accredited by an approved National Environmental Laboratory Accreditation Program accrediting authority or its equivalent to perform the testing and monitoring:

(1) required under 10 V.S.A. chapter 56 and the federal Safe Drinking Water Act; and

(2) of water from a potable water supply, as that term is defined in 10 V.S.A. § 1972(6).

(b)(1) The ~~commissioner~~ Commissioner may by order suspend or revoke a certificate granted under this section, after notice and opportunity to be heard, if the ~~commissioner~~ Commissioner finds that the certificate holder has:

(A) submitted materially false or materially inaccurate information; or

(B) violated any material requirement, restriction, or condition of the certificate; or

(C) violated any statute, rule, or order relating to this title.

(2) The order shall set forth what steps, if any, may be taken by the certificate holder to relieve the holder of the suspension or enable the certificate holder to reapply for certification if a previous certificate has been revoked.

(c) A person may appeal the suspension or revocation of the certificate to the ~~board~~ Board under section 128 of this title.

* * *

(f) A laboratory certified to conduct testing of groundwater sources or water supplies ~~from~~ for use by a potable water supply, as that term is defined in 10 V.S.A. § 1972(6), including under the requirements of 10 V.S.A. § 1982, shall submit the results of groundwater analyses to the ~~department of health and the agency of natural resources~~ Department of Health in a format required by the ~~department of health~~ Department of Health.

Sec. 7. 10 V.S.A. § 1974 is amended to read:

§ 1974. EXEMPTIONS

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

* * *

(8) From the permit required for operation of failed supply under subdivision 1973(a)(4) of this tittle for the use or operation of a failed supply that consists of only one groundwater source that provides water to only one single family residence.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) This section and Sec 5 (groundwater testing rulemaking) shall take effect on passage.

(b) Sec. 4 (groundwater source testing) shall take effect on July 1, 2019, except that 10 V.S.A. § 1982(e) shall take effect on passage.

(c) All other sections shall take effect on July 1, 2018.

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

An act relating to the regulation of dams and the testing of groundwater sources.

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.

Proposal of Amendment; Third Reading Ordered

H. 639.

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

An act relating to banning cost-sharing for all breast imaging services.

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:

Sec. 1. 8 V.S.A. § 4100a is amended to read:

§ 4100a. MAMMOGRAMS; COVERAGE REQUIRED

(a) Insurers shall provide coverage for screening by mammography for the presence of ~~occult~~ breast cancer~~, as provided by this subchapter~~. In addition, insurers shall provide coverage for screening by ultrasound for a patient for whom the results of a screening mammogram were inconclusive or who has

dense breast tissue, or both. Benefits provided shall cover the full cost of the mammography service or ultrasound, as applicable, and shall not be subject to any co-payment, deductible, coinsurance, or other cost-sharing requirement or additional charge.

(b) ~~For females 40 years or older, coverage shall be provided for an annual screening. For females less than 40 years of age, coverage for screening shall be provided upon recommendation of a health care provider.~~ [Repealed.]

(c) ~~After January 1, 1994, this~~ This section shall apply only to screening procedures conducted by test facilities accredited by the American College of Radiologists.

(d) As used in this subchapter:

(1) "Insurer" means any insurance company ~~which~~ that provides health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical service corporations, and health maintenance organizations. The term does not apply to coverage for specified ~~disease~~ diseases or other limited benefit coverage.

(2) "Mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, ~~screens, films, and cassettes~~ and digital detector. The term includes breast tomosynthesis.

(3) "Screening" includes the mammography or ultrasound test procedure and a qualified physician's interpretation of the results of the procedure, including additional views and interpretation as needed.

Sec. 2. MAMMOGRAPHY COVERAGE; DEPARTMENT OF FINANCIAL REGULATION

On or before October 1, 2018, the Department of Financial Regulation shall issue a bulletin to provide clarification to health insurers regarding the coding structure for screening mammograms and ultrasounds and for call-back screenings, including clarifying that call-back mammograms and ultrasounds for patients for whom the results of a screening mammogram were inconclusive or who have dense breast tissue, or both, shall be covered without cost-sharing.

Sec. 3. EFFECTIVE DATE

(a) Sec. 1 (8 V.S.A. § 4100a) shall take effect on January 1, 2019 and shall apply to all health insurance plans issued on and after January 1, 2019 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2020.

(b) Sec. 2 (mammography coverage; Department of Financial Regulation) and this section shall take effect on passage.

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

An act relating to eliminating cost-sharing for certain breast imaging services.

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.

Proposal of Amendment; Third Reading Ordered

H. 684.

Senator Pearson, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to professions and occupations regulated by the Office of Professional Regulation.

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:

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

(a) The Office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The services provided by the Office shall include:

* * *

(9) Standardizing, to the extent feasible and with the advice of the boards, all applications, licenses, and other related forms and procedures, and adopting uniform procedural rules governing the investigatory and disciplinary process for all boards set forth in section 122 of this chapter.

* * *

(11) Assisting the boards in ~~adopting, amending, and repealing~~ developing rules consistent with the principles set forth in 26 V.S.A. chapter 57. Notwithstanding any provision of law to the contrary, the Secretary of State shall serve as the adopting authority for those rules.

* * *

(g) The Office of Professional Regulation shall ~~create a process~~ establish uniform procedures applicable to all of the professions and boards set forth in section 122 of this chapter, providing for:

(1) ~~accepting~~ appropriate recognition of education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of professional licensure ~~or certification~~; and

(2) ~~creating a process for educational institutions under the supervision of a licensing board to award educational credits to a member of the U.S. Armed Forces for courses taken as part of the member's military training or service that meet the standards of the American Council on Education; and~~

~~(3) expediting the~~ expedited issuance of a professional license to a person who is licensed in good standing in another regulatory jurisdiction and:

(A) ~~who is certified or licensed in another state;~~

~~(B)~~ whose spouse is a member of the U.S. Armed Forces and who has been subject to a military transfer to Vermont; and

~~(C)~~(B) who left employment to accompany his or her spouse to Vermont.

* * *

Sec. 2. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

* * *

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

(1) Application for registration, $75.00.

(2) Application for licensure or certification, $100.00, except application for:

(A) Barbering or cosmetology schools and shops, $300.00.

(B) Funeral directors, embalmers, crematory personnel, removal personnel, funeral establishments, crematory establishments, and limited services establishments, $70.00.

(3) Optician trainee registration, $50.00.

(4) Biennial renewal, $200.00, except biennial renewal for:

(A) ~~Biennial renewal for~~ Independent clinical social workers and master's social workers, $150.00.

(B) ~~Biennial renewal for occupational~~ Occupational therapists and assistants, $150.00.

(C) ~~Biennial renewal for physical~~ Physical therapists and assistants, $100.00.

(D) ~~Biennial renewal for optician~~ Optician trainees, $100.00.

(E) Barbers, cosmetologists, nail technicians, and estheticians, $130.00.

(F) Schools of barbering or cosmetology, $300.00.

(G) Funeral directors and embalmers, $280.00.

(H) Crematory personnel and removal personnel, $100.00.

(I) Funeral establishments, crematory establishments, and limited services establishments, $640.00.

(5) Limited temporary license or work permit, $50.00.

* * *

Sec. 3. 3 V.S.A. § 127 is amended to read:

§ 127. UNAUTHORIZED PRACTICE

(a) When the Office receives a complaint of unauthorized practice, the Director shall refer the complaint to ~~the appropriate board for investigation~~ Office investigators and prosecutors.

(b)(1) A person practicing a regulated profession without authority or an employer permitting such practice may, upon the complaint of the Attorney General or a State's Attorney or an attorney assigned by the Office of Professional Regulation, be enjoined ~~there from~~ therefrom by the Superior Court where the violation occurred or the Washington County Superior Court and may be assessed a civil penalty of not more than $1,000.00.

(2)(A) The Attorney General or an attorney assigned by the Office of Professional Regulation may elect to bring an action seeking only a civil penalty of not more than $1,000.00 for practicing or permitting the practice of a regulated profession without authority before the board having regulatory authority over the profession or before an administrative law officer.

(B) Hearings shall be conducted in the same manner as disciplinary hearings.

(3)(A) A civil penalty imposed by a board or administrative law officer under this subsection (b) shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this ~~title~~ chapter for the purpose of providing education and training for board members and advisor appointees.

(B) The Director shall detail in the annual report receipts and expenses from these civil penalties.

* * *

(d)(1) A person whose license has expired for not more than one biennial period may reinstate the license by meeting renewal requirements for the profession, paying the profession's renewal fee, and paying the following nondisciplinary reinstatement penalty:

(A) if reinstatement occurs within 30 days after the expiration date, $100.00; or

(B) if reinstatement occurs more than 30 days after the expiration date, an amount equal to the renewal fee increased by $40.00 for every additional month or fraction of a month, provided the total penalty shall not exceed $1,500.00.

(2) Fees assessed under this subsection shall be deposited into the Regulatory Fee Fund and credited to the appropriate fund for the profession of the reinstating licensee.

(3) A licensee seeking reinstatement may submit a petition for relief from the reinstatement penalty, which a board may grant only upon a finding of exceptional circumstances or extreme hardship to the licensee; provided, however, that fees under this subsection shall not be assessed for any period during which a licensee was a member of the U.S. Armed Forces on active duty.

* * *

Sec. 4. 3 V.S.A. § 128 is amended to read:

§ 128. DISCIPLINARY ACTION TO BE REPORTED TO THE OFFICE

* * *

(c) Information provided to the Office under this section shall be confidential unless the ~~board~~ Office decides to treat the report as a complaint, in which case the provisions of section 131 of this title shall apply.

* * *

Sec. 5. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board may exercise the following powers:

(1) ~~Adopt procedural~~ Consistent with other law and State policy, develop administrative rules ~~governing the investigatory and disciplinary process~~ establishing evidence-based standards of practice appropriate to secure and promote the public health, safety, and welfare; open and fair competition within the marketplace for professional services; interstate mobility of professionals; and public confidence in the integrity of professional services.

* * *

Sec. 6. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items~~,~~ or any combination of items, whether ~~or not~~ the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(25) For providers of clinical care to patients, failing to have in place a plan for responsible disposition of patient health records in the event the licensee should become incapacitated or unexpectedly discontinue practice.

* * *

Sec. 7. 3 V.S.A. § 134 is added to read:

§ 134. LICENSE RENEWAL

(a) A license expires if not renewed biennially on a schedule assigned by the Office, or in the case of a provisional or temporary license, on the date assigned by the Office.

(b) Practice with an expired license is unlawful and exposes a practitioner to the penalties set forth in section 127 of this chapter.

Sec. 8. 3 V.S.A. § 135 is added to read:

§ 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING EXTENDED ABSENCE

(a) Notwithstanding any provision of law to the contrary, when an applicant seeks to renew an expired or lapsed license after fewer than five

years of absence from practice, readiness to practice shall be inferred from completion of any continuing education that would have been required if the applicant had maintained continuous licensure or by any less burdensome showing set forth in administrative rules specific to the profession.

(b) When an applicant seeks to renew an expired or lapsed license after five or more years of absence from practice, the Director may, notwithstanding any provision of law to the contrary and as appropriate to ensure the continued competence of the applicant, determine that the applicant has either:

(1) demonstrated retention of required professional competencies and may obtain an unencumbered license; or

(2) not demonstrated retention of all required professional competencies and should be reexamined or required to reapply in like manner to a new applicant.

(c) The Director may consult with a relevant board or advisor appointees for guidance in assessing continued competence under this section.

Sec. 9. 3 V.S.A. § 136 is added to read:

§ 136. UNIFORM CONTINUING EDUCATION EVALUATION

If continuing education is required by law or rule, the Office shall apply uniform standards and processes that apply to all professions regulated by the Office for the assessment and approval or rejection of continuing education offerings, informed by profession-specific policies developed in consultation with relevant boards and advisor appointees.

Sec. 10. LICENSING FOR IMMIGRANTS SETTLING IN VERMONT; REPORT

The Director of the Office of Professional Regulation, in consultation with the State Refugee Coordinator, shall examine means of reducing unnecessary barriers to professional licensure for qualified immigrants to Vermont from foreign countries. On or before January 15, 2019, the Director shall submit to the House and Senate Committees on Government Operations a report of his or her findings and any recommendations for legislative action.

* * * Pollution Abatement Facility Operators * * *

Sec. 11. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

* * *

(d) A discharge permit shall:

* * *

(2) Require proper operation and maintenance of any pollution abatement facility necessary in the treatment or processing of the waste by qualified personnel in accordance with standards established by the Secretary and the Director of the Office of Professional Regulation. The Secretary may require that a pollution abatement facility be operated by persons licensed under 26 V.S.A. chapter ~~97~~ 99 and may prescribe the class of license required. The Secretary may require a laboratory quality assurance sample program to ensure qualifications of laboratory analysts.

* * *

* * * Barbers and Cosmetologists * * *

Sec. 12. 26 V.S.A. chapter 6 is amended to read:

CHAPTER 6. BARBERS AND COSMETOLOGISTS

Subchapter 1. General Provisions

§ 271. DEFINITIONS

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

(1) "Barbering" means engaging in the continuing performance, for compensation, of any of the following activities: cutting, shampooing, or styling hair; shaving the face, shaving around the vicinity of the ears and neckline, or trimming facial hair; facials, skin care, or scalp massages, and bleaching, coloring, straightening, ~~permanent waving~~ or permanent-waving hair, or similar work by any means, with hands or mechanical or electrical apparatus or appliances. Barbering also includes esthetics.

(2) ~~"Board" means the board of barbers and cosmetologists.~~

~~(3)~~ "Cosmetology" means engaging in the continuing performance, for compensation, of any of the following activities:

(A) Work on the hair of any person, including dressing, curling, waving, cleansing, cutting, bleaching, coloring, or similar work by any means, with hands or mechanical or electrical apparatus or appliances.

(B) Esthetics.

(C) Manicuring.

(3) "Director" means the Director of the Office of Professional Regulation.

(4) ~~"Disciplinary action" or "disciplinary cases" includes any action taken by the board against a licensee, registrant, or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, excluding obtaining injunctions, but including issuing warnings, other similar sanctions and ordering restitution.~~

~~(5)~~ "Esthetics" means massaging, cleansing, stimulating, manipulating, beautifying, or otherwise working on the scalp, face, or neck~~,~~ by using cosmetic preparations, antiseptics, tonics, lotions, or creams. "Esthetics" does not include the sale or application of cosmetics to customers in retail stores or customers' homes.

~~(6) "Financial interest" means being:~~

~~(A) a licensed barber;~~

~~(B) a licensed cosmetologist: or~~

~~(C) a person who has invested anything of value in a business that provides barbering or cosmetology services.~~

~~(7)~~(5) "Manicuring" or "nail technician practice" means the nonmedical treatment of a person's fingernails or toenails or the skin in the vicinity of the nails~~,~~ and includes the use of cosmetic preparations or appliances.

~~(8)~~(6) "School of barbering or cosmetology" means a facility or facilities regularly used to train or instruct persons in the practice of barbering or cosmetology.

~~(9)~~(7) "Shop" means a facility or facilities regularly used to offer or provide barbering or cosmetology.

§ 272. PROHIBITIONS; OFFENSES

(a) ~~No~~ A person shall not practice or attempt to practice barbering or cosmetology or use in connection with the person's name any letters, words, title, or insignia indicating or implying that the person is a barber or cosmetologist unless the person is licensed in accordance with this chapter.

(b) ~~No~~ A person who owns or controls a shop or school of barbering or cosmetology shall not permit the practice of barbering or cosmetology unless the shop or school is registered in accordance with this chapter.

(c) A person who violates a provision of this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 273. EXEMPTIONS

The provisions of this chapter regulating barbers and cosmetologists shall not:

(1) affect or prevent the practice of barbering or cosmetology by a student at a school recognized by the ~~board~~ Director;

* * *

(3) prohibit a licensee from providing barbering or cosmetology services outside a licensed shop so long as those services are limited to only:

(A) patients or residents within a hospital, nursing home, community care home, or any similar facility;

(B) persons who are homebound, disabled, or in a hospice or similar program, or to deceased persons in a funeral home;

(C) persons as part of a special ~~occasion~~ event ~~so long as those services are limited to hair styling and makeup and~~, provided the sanitation standards expected of licensees in licensed shops are followed;

* * *

(5) affect or prevent the practice of barbering or cosmetology outside a registered shop or school by licensees in accordance with rules adopted by the ~~board~~ Director;

(6) affect or prevent the practice of barbering or cosmetology within the confines of a State correctional facility by a person incarcerated therein, who has completed training acceptable to the Commissioner of Corrections; or

(7) affect or prevent the practice of natural hair braiding or styling, provided such practice does not involve cutting; the application of chemicals, dyes, or heat; or other changes to the structure of hair.

§ 274. ~~PENALTY~~

~~A person who violates any provision of section 272 of this title shall be subject to the penalties provided in 3 V.S.A. § 127(c).~~ [Repealed.]

Subchapter 2. Administration

§ 275. ~~CREATION OF BOARD~~

~~(a) A board of barbers and cosmetologists is created, consisting of five members. Members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. Members shall be residents of this state.~~

~~(b) One member of the board shall be a member of the public who has no financial interest in barbering or cosmetology other than as a consumer or possible consumer of its services. He or she shall have no financial interest personally or through a spouse, parent, child, brother or sister.~~

~~(c) Two members of the board shall be licensed cosmetologists.~~

~~(d) One member of the board shall be a licensed barber.~~

~~(e) The remaining member shall be a person licensed under this chapter or a public member.~~

~~(f) A majority of the members of the board shall constitute a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting.~~ [Repealed.]

§ 276. GENERAL POWERS AND DUTIES OF THE ~~BOARD~~ DIRECTOR

(a) The ~~board~~ Director shall:

(1) ~~Adopt~~ adopt rules that:

(A) ~~Prescribe~~ prescribe sanitary and safety standards for shops, schools, and other facilities used for the practice of barbering and cosmetology~~.~~;

(B) ~~Prescribe~~ prescribe safe and sanitary practices for the performance of activities related to the practice of barbering and cosmetology~~.~~;

(C) ~~Establish~~ establish standards for apprenticeships, courses, and examinations to be completed by an applicant for licensure under this chapter~~.~~;

(D) establish qualifications for licensure under this chapter as:

(i) a barber, provided mandated formal training shall be 750 hours;

(ii) a cosmetologist, provided mandated formal training shall be 1,000 hours;

(iii) an esthetician, provided mandated formal training shall be 500 hours; and

(iv) a nail technician, provided mandated formal training shall be 200 hours; and

(E)(i) establish criteria for apprenticeships that would enable a person seeking licensure under this chapter to train under an appropriately qualified Vermont licensee in order to attain licensure without mandated formal training; and

(ii) limit the duration of a required apprenticeship to not more than 150 percent of the duration of the corresponding formal training.

(b)(1) The ~~board~~ Director may inspect shops and schools and other places used for the practice of barbering and cosmetology.

(2) ~~No~~ A fee shall not be charged for initial inspections under this subsection; however, if the ~~board~~ Director determines that it is necessary to inspect the same premises in the same ownership more than once in any two-year period, the ~~board~~ Director shall charge a reinspection fee.

(3) The ~~board~~ Director may waive all or a part of the reinspection fee in accordance with criteria established by rule.

§ 276a. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint one barber, one cosmetologist, one esthetician, and one nail technician for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to barbering and cosmetology. At least one of the initial appointments shall be for less than a five-year term.

(2) An appointee shall have not less than three years' experience as a barber or cosmetologist immediately preceding appointment; shall be licensed as a barber or cosmetologist in Vermont; and shall be actively engaged in the practice of barbering or cosmetology in this State during incumbency.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 277. ~~QUALIFICATIONS; BARBER~~

~~(a) A person shall be eligible for licensure as a barber if the person is at least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed an accredited barber school program; or has satisfactorily completed an apprenticeship of not less than 12 months and not more than 36 months consisting of a minimum of 2,000 hours and a maximum of 3,000 hours in a manner prescribed by the board in addition to areas of study, prescribed by the board, by rule, has a high school or general educational development diploma, and has passed the examination described in section 283 of this title.~~

~~(b) The board shall issue a limited barbering license, with an endorsement for cutting, shampooing, and styling hair and for mustache and beard trimming, to any person incarcerated in a state correctional facility who completes, while under the direct personal supervision of a barber licensed by the board, a course of training of not less than 10 hours in cutting, shampooing, and styling hair and trimming of mustache and beard. Such limited license shall be valid only within a state correctional facility. No fees shall be charged for a limited license issued under this subsection.~~ [Repealed.]

§ 278. ~~QUALIFICATIONS; COSMETOLOGIST~~

~~A person shall be eligible for licensure as a cosmetologist if the person is at least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed the following:~~

~~(1) a course of study of at least 1,500 hours at a school of cosmetology approved by an accrediting body recognized by the United States Department of Education or approved by the board under standards that the board has adopted by rule and passage of the examination described in section 283 of this title; or~~

~~(2) an apprenticeship of not less than 12 months and not more than 36 months consisting of not less than 2,000 hours and a maximum of 3,000 hours in a manner prescribed by the board in addition to courses, as prescribed by the board by rule, and passage of the examination described in section 283 of this title.~~ [Repealed.]

§ 279. ~~QUALIFICATIONS; ESTHETICIAN~~

~~A person shall be eligible for licensure as an esthetician if the person is at least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed the following:~~

~~(1) a course of study in esthetics of at least 600 hours at a school of cosmetology approved by an accrediting body recognized by the United States Department of Education or approved by the board under standards that the board has adopted by rule; or~~

~~(2) an apprenticeship of not less than 12 months and not more than 18 months, consisting of a minimum of 800 hours and a maximum of 1,200 hours, as prescribed by the board by rule; and has passed the examination described in section 283 of this title.~~ [Repealed.]

§ 280. ~~QUALIFICATIONS; NAIL TECHNICIAN~~

~~A person shall be eligible for licensure as a nail technician if the person is at least 18 years of age, has a high school or general educational development diploma, and has satisfactorily completed:~~

~~(1) a course of study in manicuring of at least 400 hours at a school of cosmetology approved by an accrediting body recognized by the United States Department of Education or approved by the board under standards that the board has adopted by rule; or~~

~~(2) an apprenticeship of not less than six months and not more than 12 months consisting of a minimum of 600 hours and a maximum of 900 hours, as prescribed by the board by rule, and has passed the examination described in section 283 of this title.~~ [Repealed.]

§ 280a. ELIGIBILITY FOR LICENSURE

An applicant for licensure as a barber, cosmetologist, esthetician, or nail technician shall meet the qualifications for licensure established by the Director under the provisions of subchapter 2 of this chapter.

§ 281. POSTSECONDARY SCHOOL OF BARBERING AND COSMETOLOGY; CERTIFICATE OF APPROVAL

(a) ~~No~~ A school of barbering or cosmetology shall not be granted a certificate of approval unless the school:

* * *

(4) Requires a school term of training~~:~~

~~(A) in the case of a school of barbering, of not less than 1,000 hours for a complete course that includes all or the majority of the practices of barbering, and includes practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, and electrical appliances, consistent with the practical and theoretical requirements applicable to barbering or any practice of barbering; and~~

~~(B) in the case of a school of cosmetology, requires a school term of training of not less than 1,500 hours for a complete course that includes all or the majority of the practices of cosmetology, and includes practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, cosmetics, and electrical appliances, consistent with the practical and theoretical requirements applicable to cosmetology or any practice of cosmetology~~ consistent with formal training requirements established by rule, which shall include practical demonstrations and theoretical studies in sanitation, sterilization, the use of antiseptics, and the use of appliances, devices, treatments, and preparations relevant to the field of licensure.

(b) Regional vocational centers may offer courses of instruction in barbering or cosmetology without a certificate of approval from the ~~Board~~ Director, and State correctional facilities may offer courses of instruction in barbering without a certificate of approval from the ~~Board~~ Director; however, ~~credits~~ hours for licensing ~~will~~ shall only be given for courses that meet the ~~Board's~~ Director's standards for courses offered in postsecondary schools of barbering or cosmetology certified by the ~~Board~~ Director.

* * *

§ 282. SHOP; LICENSE

(a) ~~No~~ A shop shall not be granted a license unless the shop complies with the rules of the ~~board~~ Director and has a designated licensee responsible for overall cleanliness, sanitation, and safety of the shop.

(b) The practices of barbering and cosmetology shall be permitted only in shops licensed by the ~~board~~ Director, except as provided in sections 273 and 281 of this ~~title~~ chapter and the rules of the ~~board~~ Director.

§ 283. EXAMINATION

(a) An applicant who is otherwise eligible for licensure and has paid the required fees shall be examined.

(b)(1) The examination for a license shall include both practical demonstrations and written or oral tests in the area of practices for which a license is applied and other related studies or subjects as the ~~board~~ Director may determine necessary.

(2) The examination shall not be confined to any specific system or method and shall be consistent with a prescribed curriculum as provided by this chapter.

(c) The ~~board~~ Director may limit~~,~~ by rule~~,~~ the number of times a person may take an examination.

§ 284. ISSUANCE OF LICENSE

(a) The ~~board~~ Director shall issue a license to an applicant who has passed the examination as determined by the ~~board~~ Director, has paid the required fee, and has completed all the requirements for the particular license.

(b) The ~~board~~ Director shall issue a license to the person who owns or controls a shop or school of barbering or cosmetology who has paid the required fee and is in compliance with the rules of the ~~board~~ Director and the provisions of this chapter.

(c) The license shall be conspicuously displayed for the customer in the licensee's principal office, place of business, or place of employment.

§ 285. LICENSES FROM OTHER JURISDICTIONS

Without requiring an examination, the ~~board~~ Director shall issue an appropriate license to a person who is licensed or certified in good standing under the laws of another jurisdiction with requirements ~~that the board considers to be~~:

(1) substantially equal to those of this ~~state~~ State; or

(2) materially less rigorous than those of this State, if the person has had 1,500 documented hours of practice in not less than one year.

§ 286. ~~RENEWAL AND REINSTATEMENT~~

~~The holder of a license issued by the board pursuant to this chapter may biennially renew the license upon payment of the renewal fee. A license that has not been renewed by the renewal date shall expire. Within three years of the date of expiration, the holder of the expired license may apply for reinstatement upon the payment of the renewal fee and a renewal penalty. If a~~

~~license is not reinstated within three years of expiration, the applicant shall meet the requirements of section 284 or 285 of this title before the license may be reinstated.~~ [Repealed.]

§ 287. ~~FEES~~

~~Applicants and persons regulated under this chapter shall pay the following fees:~~

~~(1) Application:~~

~~(A) Barber~~	~~$110.00~~
~~(B) Cosmetologist~~	~~$110.00~~
~~(C) Nail technician~~	~~$110.00~~
~~(D) Esthetician~~	~~$110.00~~
~~(E) Shop~~	~~$330.00~~
~~(F) School~~	~~$330.00~~

~~(2) Biennial renewal:~~

~~(A) Barber~~	~~$130.00~~
~~(B) Cosmetologist~~	~~$130.00~~
~~(C) Nail technician~~	~~$130.00~~
~~(D) Esthetician~~	~~$130.00~~
~~(E) Shop~~	~~$225.00~~
~~(F) School~~	~~$330.00~~
~~(3) Reinspection~~	~~$100.00~~ [Repealed.]

§ 288. ~~UNPROFESSIONAL CONDUCT~~

~~The conduct listed in this section and in 3 V.S.A. § 129a constitutes unprofessional conduct when committed by a licensee. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action:~~

~~(1) Practicing or offering to practice beyond the scope permitted by law.~~

~~(2) Willfully materially misrepresenting the qualifications or experience of an applicant in the practice of the occupation, whether by commission or omission.~~

~~(3) Failing to adequately supervise employees who are engaged in any of the practices of barbering or cosmetology and nail technician practice.~~

~~(4) Harassing, intimidating, or abusing a client or customer.~~

~~(5) Performing treatments or providing services which a licensee is not qualified to perform or which are beyond the licensee's education, training, capabilities, experience, or scope of practice.~~ [Repealed.]

§ 289. ~~LICENSURE BY ENDORSEMENT~~

~~The board may issue a license to an individual who is currently licensed or certified in another jurisdiction in good standing, provided the individual has been in active practice for at least three years immediately preceding application or has 2,000 documented hours of practice in not less than one year.~~ [Repealed.]

Sec. 13. DIRECTOR OF PROFESSIONAL REGULATION; BARBERS AND COSMETOLOGISTS; RULEMAKING

Prior to the effective date of Sec. 12 of this act, the Director of the Office of Professional Regulation shall adopt rules in accordance with the amendments to 26 V.S.A. chapter 6 (barbers and cosmetologists) contained in that section.

* * * Dentistry * * *

Sec. 14. 26 V.S.A. chapter 12 is amended to read:

CHAPTER 12. DENTISTS, DENTAL THERAPISTS, DENTAL HYGIENISTS, AND DENTAL ASSISTANTS

* * *

Subchapter 3. Dentists

§ 601. LICENSE BY EXAMINATION

To be eligible for licensure as a dentist, an applicant shall:

(1) have attained the age of majority;

(2) be a graduate of:

(A) a dental college accredited by the Commission on Dental Accreditation of the American Dental Association; or

(B) a program of foreign dental training and a postgraduate program accredited by the Commission on Dental Accreditation of the American Dental Association that is acceptable to the Board; and

(3) meet the certificate, examination, and training requirements established by the ~~board~~ Board by rule.

* * *

Subchapter 6. Renewals, Continuing Education, and Fees

* * *

§ 663. ~~LAPSED LICENSES OR REGISTRATIONS~~

~~(a) Failure to renew a license by the renewal date shall result in a lapsed license subject to late renewal penalties pursuant to 3 V.S.A. § 125(a)(1).~~

~~(b) A person whose license or registration has lapsed may not practice and may be subject to disciplinary action.~~

~~(c) Notwithstanding the provisions of subsection (a) of this section, a person shall not be required to pay renewal fees or late renewal penalties for years spent on active duty in the armed forces of the United States. A person who returns from active duty shall be required to pay only the most current biennial renewal fee.~~ [Repealed.]

* * * Funeral Services * * *

Sec. 15. 26 V.S.A. chapter 21 is amended to read:

CHAPTER 21. FUNERAL ~~DIRECTORS~~ SERVICES

Subchapter 1. General Provisions

§ 1211. DEFINITIONS

(a) ~~The following words as~~ As used in this chapter, unless a contrary meaning is required by the context~~, shall have the following meanings~~:

(1) "Crematory establishment" means a business registered with the ~~Board~~ Office conducted at a specific street address or location devoted to the disposition of dead human bodies by means of cremation, alkaline hydrolysis, or any other type of human reduction acceptable to the ~~Board of Funeral Service~~ Director as established by ~~Board~~ the Director by rule.

(2) "Director" means the Director of the Office of Professional Regulation.

(3) "Funeral director" means a licensed person who is the owner, co-owner, employee, or manager of a licensed funeral establishment and who, for compensation, engages in the practice of funeral service.

~~(3)~~(4) "Funeral establishment" means a business registered with the ~~Board~~ Office conducted at a specific street address or location devoted to the practice of funeral service, and includes a limited services establishment.

(5) "Office" means the Office of Professional Regulation.

~~(4)~~(6) "Practice of funeral service" means arranging, directing, or providing for the care, preparation, or disposition of dead human bodies for a fee or other compensation. This includes:

* * *

~~(5)~~(7) "Removal" means the removal of dead human bodies from places of death, hospitals, institutions, or other locations, for a fee or other compensation.

* * *

§ 1212. ~~BOARD OF FUNERAL SERVICE; RULES~~ ADVISOR APPOINTEES; DIRECTOR DUTIES; RULES

(a)(1) The ~~board of funeral service shall consist of five members appointed by the governor, three of whom shall be licensed funeral directors under this chapter with five years of experience as a funeral director, and two members shall represent the public. At least two of the funeral directors shall also be licensed embalmers. The public members shall not have a direct or indirect financial interest in the funeral business. Each member shall be sworn before performing his or her duties~~ Secretary of State shall appoint four persons for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to funeral service. Three of the initial appointments shall be for four-, three-, and two-year terms. Appointees shall include three licensed funeral directors, one of whom is a licensed embalmer and one of whom has training or experience in the operation of crematoria. One appointee shall be a public member.

(2) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

(b) The ~~board~~ Director shall:

(1) adopt rules establishing requirements for facilities used for embalming and preparation of dead human bodies, including the use of universal precautions. Rules adopted under this subdivision shall be submitted to the ~~commissioner of health~~ Commissioner of Health before the proposed rule is filed with the ~~secretary of state~~ Secretary of State under 3 V.S.A. chapter 25;

(2) adopt rules governing professional standards, standards for disclosure of prices, and a description of the goods and services that will be provided for those prices not inconsistent with Federal Trade Commission regulations regarding funeral industry practices and unfair or deceptive business practices;

(3) provide general information to applicants for licensure;

(4) explain appeal procedures to licensees and applicants and complaint procedures to the public;

(5) issue licenses to qualified applicants under this chapter; and

(6) adopt rules regarding:

(A) minimum standards for crematory establishments, including standards for permits and documentation, body handling, containers, infectious diseases, pacemakers, body storage, sanitation, equipment, and maintenance, dealing with the public and other measures necessary to protect the public; and

(B) the transaction of ~~its~~ business as the ~~board~~ Director deems necessary~~;~~

~~(7) conduct at least one examination each year if there are candidates for examination;~~

~~(8) hold meetings as frequently as the efficient discharge of its duties requires. A majority of the members present shall constitute a quorum for the transaction of business~~.

* * *

§ 1213. INSPECTION OF PREMISES

(a) The ~~board of funeral service~~ Director or ~~its~~ his or her designee may, at any reasonable time, inspect funeral and crematory establishments.

(b) Each funeral and crematory establishment shall be inspected at least once every two years. Copies of the inspector's report of inspections of establishments shall be provided to the ~~board~~ Director.

* * *

§ 1215. PENALTIES; JURISDICTION OF OFFENSES

(a) A person who engages in the practice of funeral services without a license shall be subject to the penalties provided in 3 V.S.A. § 127~~(c)~~.

(b) ~~No~~ A person shall not embalm or introduce any fluid into a dead human body unless the person is a licensed embalmer or is an apprentice and performs under the direction of an embalmer in his or her presence. A person who is not duly licensed as provided in this chapter ~~may~~ shall not practice or hold himself or herself out to the public as a practicing embalmer ~~and~~; a person who does so shall be subject to the penalties provided in 3 V.S.A. § 127~~(c)~~.

* * *

Subchapter 2. Licenses

§ 1251. LICENSE REQUIREMENTS

(a) ~~No~~ A person, partnership, corporation, association, or other organization ~~may~~ shall not open or maintain a funeral establishment unless the

establishment is licensed by the ~~board of funeral service~~ Office to conduct the business and unless the owner, a co-owner, or manager is a licensed funeral director.

(b) ~~No~~ A person, partnership, corporation, association, or other organization ~~may~~ shall not open or maintain a crematory establishment unless the establishment is licensed by the ~~board of funeral service~~ Office.

(c) ~~No~~ A person ~~may~~ shall not hold himself or herself out as performing the duties of a funeral director unless licensed by the ~~board of funeral service~~ Office.

(d) Except as otherwise permitted by law, ~~no~~ a person employed by a funeral or crematory establishment ~~may~~ shall not perform a removal unless registered with the ~~board~~ Office.

§ 1252. APPLICATION; QUALIFICATIONS

(a) Funeral director.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination as a funeral director provided that he or she has:

(A) graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than two academic years, or graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than one academic year or its equivalent as determined by the ~~Board~~ Director, with 30 additional credit hours in subjects approved by the ~~Board~~ Director and obtained in a college or university approved by the ~~Board~~ Director;

(B) completed a traineeship of 12 months of full-time employment or its equivalent under the direct supervision of a person duly licensed for the practice of funeral service within a licensed funeral establishment not connected with a school. The duration of the traineeship and the work performed shall be verified by affidavit as required by the ~~Board~~ Director; and

(C) submitted a written application and the required application fee.

(2) The ~~Board~~ Director may waive the educational and traineeship requirements for examination as a funeral director, provided the applicant possesses a valid license from another state with licensure requirements substantially similar to those required by this chapter.

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection (a), the ~~Board~~ Director may by rule prescribe an alternative

pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the ~~Board~~ Director to ensure competence as a funeral director.

(b) Embalmer.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination in embalming provided that he or she has:

(A) graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than two academic years, or graduated from a school of funeral service accredited or approved by the American Board of Funeral Service Education in a course of instruction of not less than one academic year or its equivalent as determined by the ~~Board~~ Director, with 30 additional credit hours in subjects approved by the ~~Board~~ Director and obtained in a college or university approved by the ~~Board~~ Director;

(B) served a traineeship of 12 months of full-time employment or its equivalent under the direct supervision of a person duly licensed for the practice of funeral service, within a licensed funeral establishment not connected with a school. The duration of the traineeship and the work performed shall be verified by affidavit as required by the ~~Board~~ Director; and

(C) submitted a written application and the required application fee.

(2) The ~~Board~~ Director may waive the educational and traineeship requirements for examination as an embalmer, provided the applicant possesses a valid license from another state with licensure requirements substantially similar to those required by this chapter.

(c) Funeral establishment.

(1) A person, partnership, association, or other organization desiring to operate a funeral establishment, shall apply, in writing, to the ~~Board of Funeral Service~~ Director for a license. The applicant, if a corporation, partnership, association, or other organization, must have a manager or co-owner who is a licensed funeral director.

(2) The application for a license shall be sworn to by the individual, a partner, or a duly authorized officer of a corporation, and shall be on the form prescribed and furnished by the ~~Board of Funeral Service~~ Director, and the applicant shall furnish such information as required by the Director by rule ~~or regulation of the Board~~. The application shall be accompanied by a licensing fee.

(d) Crematory establishment.

(1) A person, partnership, corporation, association, or other organization desiring to operate a crematory establishment shall apply, in writing, to the ~~Board of Funeral Service~~ Director for a license. The applicant, if a partnership, corporation, association, or other organization, must have a designated manager or co-owner who is responsible for the operation of the establishment and who is registered with the ~~Board~~ Office under subsection (e) of this section.

(2) The application for a license shall be sworn to by the individual, or a partner or a duly authorized officer of a corporation, shall be on the form prescribed and furnished by the ~~Board~~ Director, and the applicant shall furnish information, as required by rule. The application shall be accompanied by a licensing fee. However, the applicant shall not be required to pay the fee under this subsection if the applicant pays the fee under subsection (b) of this section.

(e) Crematory personnel.

(1) Any person who desires to engage in direct handling, processing, identification, or cremation of dead human remains within a licensed crematory establishment shall register with the ~~Board of Funeral Service~~ Office and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed crematory establishment.

(2) The ~~Board~~ Director may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in programs approved by the ~~Board~~ Director.

(f) Removal personnel.

(1) Any person who desires to engage in removals shall register with the ~~Board of Funeral Service~~ Office and pay the fee established in subsection 1256(d) of this chapter. The applicant shall have attained the age of majority and be directly employed by a licensed funeral or crematory establishment, or the University of Vermont for removals related to the University's anatomical gift program.

(2) The ~~Board~~ Director may prescribe, by rule, the forms for applicants, which may include proof of completion of up to three hours of education and training in infectious diseases in programs approved by the ~~Board~~ Director.

(3) Registrants under this ~~section~~ subsection are authorized to perform removals only, as defined by this chapter. Unregistered personnel may accompany registered personnel to assist in removals so long as they have been instructed in handling and precautionary procedures prior to the call.

(g) Limited services establishment.

(1) The ~~Board of Funeral Service~~ Director may adopt rules for the issuance of limited service establishment licenses in accordance with this chapter. Limited service establishment licensees are authorized to perform only disposition services without arranging, directing, or performing embalming, public viewings, gatherings, memorials, funerals, or related ceremonies. Disposition services under this subsection include direct cremation, direct alkaline hydrolysis, immediate burial, or direct green burial.

(2) Limited services shall be overseen by a funeral director licensed under this chapter who is employed by the limited service establishment.

(3) Each limited service arrangement shall include a mandatory written disclosure providing notice to the purchaser that limited services do not include embalming, public viewings, gatherings, memorials, funerals, or related ceremonies.

(4) A funeral director associated with a funeral establishment licensed under subsection (c) of this section may provide limited services so long as the mandatory disclosure described under subdivision (3) of this subsection is provided to the purchaser.

§ 1253. EXAMINATIONS

An applicant for a funeral director's or embalmer's license shall be examined ~~by~~ as the ~~board~~ Director may require by rule. ~~The examinations shall be in writing and upon forms approved by the board containing questions on subjects as the board by rule may require to determine the qualifications of the applicant.~~

§ 1254. ISSUANCE OR DENIAL OF LICENSE

If, upon review, it is found that the applicant possesses sufficient skill and knowledge of the business and has met the application and qualification requirements set forth in this chapter, the ~~board~~ Director shall issue to him or her a license to engage in the business of funeral director, embalmer, funeral establishment, crematory establishment, or removal personnel. ~~All applications shall be granted or denied within 90 days from the making thereof.~~

~~§ 1255. RECORD OF LICENSES AND APPLICATIONS~~

~~The board shall keep a record of licenses granted and applications made for license, which shall be open to public inspection at all reasonable times.~~ [Repealed.]

§ 1256. RENEWAL OF REGISTRATION OR LICENSE

(a)~~(1) One month before renewal is required, the Board or the Office of Professional Regulation shall notify, by mail, every licensee of the date on which his or her or its license will expire.~~

~~(2)~~ Biennially, every licensee shall renew his or her or its registration or license by paying the required fee.

(b) Upon request of the Board of Health or a person authorized to issue burial or removal permits, a licensee shall show proof of current licensure.

(c) ~~If a licensee fails to pay the renewal fee by the required date, the license shall lapse. Thereafter, the license may be reinstated only upon application to the Board or the Office of Professional Regulation and upon payment of the renewal fee and a reinstatement fee.~~ [Repealed.]

(d) Applicants and persons regulated under this chapter shall pay the following fees:

(1) Application for license	$ 70.00
(2) Biennial renewal of license	
(A) Funeral director	$ 350.00
(B) Embalmer	$ 350.00
(C) Funeral establishment	$ 800.00
(D) Crematory establishment	$ 800.00
(E) Crematory personnel	$ 125.00
(F) Removal personnel	$125.00
(G) Limited services establishment license	$800.00

(e)(1) In addition to the provisions of subsection (a) of this section, an applicant for renewal as a funeral director or embalmer shall have satisfactorily completed continuing education as required by the ~~Board~~ Director.

(2) For purposes of this subsection, the ~~Board~~ Director shall require, by rule, not less than six nor more than ten hours of approved continuing education as a condition of renewal and may require up to three hours of continuing education for removal personnel in the subject area of universal precautions and infectious diseases.

§ 1257. UNPROFESSIONAL CONDUCT

(a) A licensee shall not engage in unprofessional conduct.

(b) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a:

(1) Using dishonest or misleading advertising.

(2) Failure to make available, upon request of a person who had received services, copies of documents in the possession or under the control of the practitioner.

(3) Failure to comply with rules adopted by the ~~board~~ Director, the ~~office of professional regulation~~ Office, or by the Federal Trade Commission relating to funeral goods and services.

(4) For funeral directors, failure to make available at the licensee's place of business, by color picture or display, the three least expensive caskets, as available. For the purposes of this section and related administrative rules, the three least expensive caskets shall include one cloth, one metal, and one wood casket.

~~(c) After hearing and upon a finding of unprofessional conduct, the board may take disciplinary action against a licensee.~~

~~(d) For purposes of this section, "disciplinary action" includes any action taken by the board against a licensee premised on a finding of unprofessional conduct. Disciplinary action includes all appropriate remedies, including denial of renewal of a license, suspension, revocation, limiting, or conditioning of the license, issuing reprimands or warnings, and adopting consent orders.~~

~~(e) Disciplinary proceedings against a licensed crematory establishment or its personnel, when that crematory is independent from a licensed funeral establishment, may, upon petition of the licensee, be heard by an administrative law officer appointed by the director of the office of professional regulation.~~

* * *

Subchapter 3. Prepaid Funeral Arrangements

§ 1271. PREPAID ARRANGEMENTS

A funeral establishment that sells services or merchandise that is not to be delivered or provided within 30 days of sale has entered into a prepaid funeral arrangement and shall comply with the requirements of this subchapter.

§ 1272. RULES; PREPAID FUNERAL FUNDS

The ~~board, with the assistance of the office of professional regulation,~~ Director shall adopt rules to carry out the provisions of this subchapter to ~~insure~~ ensure the proper handling of all funds paid pursuant to a prepaid

funeral agreement and to protect consumers in the event of default. The rules shall include provisions relating to the following:

* * *

(5) Information to be provided the escrow agent by the funeral director and information regarding the escrow account or the prepaid funeral that shall be made available to the buyer on request and annually in a format as determined by the ~~board~~ Director.

* * *

(8) Other factors determined by the ~~board~~ Director to be reasonably necessary to ~~insure~~ ensure the security of the funds paid into an escrow account as part of a prepaid funeral arrangement.

(9) Establishment of a funeral services trust account.

(A) For purposes of funding the funeral services trust account, the ~~board or the office of professional regulation~~ Office shall assess each funeral or crematory establishment a per funeral, burial, or disposition fee of $6.00.

(B) The account shall be administered by the ~~secretary of state~~ Secretary of State and shall be used for the sole purpose of protecting prepaid funeral contract holders in the event a funeral establishment defaults on its obligations under the contract.

(C) The account shall consist of all fees collected under this subdivision (9) and any assessments authorized by the ~~general assembly~~ General Assembly. The principal and interest remaining in the account at the close of any fiscal year shall not revert but shall remain in the account for use in succeeding fiscal years.

(D) Notwithstanding the ~~foregoing~~ provisions of this subdivision (9) to the contrary, if the fund balance at the beginning of a fiscal year is at least $200,000.00, no fees shall be imposed during that fiscal year.

(E) Payments on consumer claims from the fund shall be made on warrants by the ~~commissioner of finance and management~~ Commissioner of Finance and Management, at the direction of the ~~board of funeral services~~ Director.

(F) When an investigation reveals financial discrepancies within a licensed establishment, the ~~director~~ Director may order an audit to determine the existence of possible claims on the funeral services trust account. In cases where both a funeral and crematory establishment are involved in a disposition, the party receiving the burial permit shall be responsible for the disposition fee.

* * *

§ 1273. WRITTEN AGREEMENTS

(a) Each prepaid funeral arrangement shall be expressed in a written contract. The ~~board~~ Director shall adopt rules for standard provisions to be included in all pre-need trust forms and may adopt a standard form ~~which~~ that every funeral director accepting prepaid funeral arrangements shall use. Those provisions shall include:

(1) Disclosure of whether the contract is revocable or irrevocable.

(2) A declaration of the person who will most likely be responsible for the funeral and who is to be notified of the prepaid funeral.

(3) Any other provision determined by the ~~board~~ Director to be reasonably necessary to ~~insure~~ ensure full disclosure to the buyer of all prepaid funeral arrangements as required under this chapter.

* * *

Sec. 16. REPEAL

26 V.S.A. § 1256(d) (funeral services; application and renewal fees) shall be repealed on June 1, 2023.

Sec. 17. TRANSITIONAL PROVISION; FUNERAL SERVICE RULES

On the effective date of Sec. 15 of this act (amending 26 V.S.A. chapter 21 (funeral services)), the rules of the Board of Funeral Service shall constitute the rules of the Director of the Office of Professional Regulation for the funeral service professions and establishments.

* * * Nursing * * *

Sec. 18. 26 V.S.A. chapter 28 is amended to read:

CHAPTER 28. NURSING

Subchapter 1. General Provisions

* * *

§ 1573. VERMONT STATE BOARD OF NURSING

(a) There is hereby created ~~a~~ the Vermont State Board of Nursing consisting of six registered nurses~~,~~; two practical nurses~~,~~; one nursing assistant~~,~~; and two public members. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.

* * *

~~(d) Six members of the Board shall constitute a quorum.~~

§ 1579. ~~ISSUANCE AND DURATION OF LICENSES~~

~~Licenses and endorsements shall be renewed every two years on a schedule determined by the Office of Professional Regulation.~~ [Repealed.]

* * *

§ 1584. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

* * *

~~(8) [Deleted.]~~

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127~~(c)~~.

~~(c) [Deleted.]~~

* * *

Subchapter 2. Advanced Practice Registered Nurses

* * *

§ 1612. ~~PRACTICE GUIDELINES~~

~~(a) APRN licensees who intend to or are engaged in clinical practice as an APRN shall submit for review individual practice guidelines and receive Board approval of the practice guidelines. Practice guidelines shall reflect current standards of advanced nursing practice specific to the APRN's role, population focus, and specialty.~~

~~(b) Licensees shall submit for review individual practice guidelines and receive Board approval of the practice guidelines:~~

~~(1) prior to initial employment;~~

~~(2) if employed or practicing as an APRN, upon application for renewal of an APRN's registered nurse license; and~~

~~(3) prior to a change in the APRN's employment or clinical role, population focus, or specialty.~~ [Repealed.]

* * *

§ 1614. APRN RENEWAL

An APRN license renewal application shall include:

(1) documentation of completion of the APRN practice requirement;

(2) possession of a current certification by a national APRN specialty certifying organization; and

(3) ~~current practice guidelines; and~~

~~(4)~~ a current collaborative provider agreement if required for transition to practice.

§ 1615. ADVANCED PRACTICE REGISTERED NURSES; REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) In addition to the provisions of 3 V.S.A. § 129a and section 1582 of this chapter, the Board may deny an application for licensure, renewal, or reinstatement~~,~~ or may revoke, suspend, or otherwise discipline an advanced practice registered nurse upon due notice and opportunity for hearing if the person engages in the following conduct:

* * *

(4) Practice beyond those acts and situations that are within the ~~practice guidelines approved by the Board for an APRN and within the~~ limits of the knowledge and experience of the APRN, and, for an APRN who is practicing under a collaborative agreement, practice beyond those acts and situations that are within both the usual scope of the collaborating provider's practice and the terms of the collaborative agreement.

(5) For an APRN who acts as the collaborating provider for an APRN who is practicing under a collaboration agreement, allowing the mentored APRN to perform a medical act that is outside the usual scope of the mentor's own practice or that the mentored APRN is not qualified to perform by training or experience or that is not consistent with the requirements of this chapter and the rules of the Board.

* * *

Subchapter 3. Registered Nurses and Practical Nurses

* * *

§ 1622. REGISTERED NURSE LICENSURE BY ENDORSEMENT

To be eligible for licensure as a registered nurse by endorsement, an applicant shall:

(1) hold a current license to practice registered nursing in another U.S. jurisdiction based on education in a ~~U.S.~~ nursing program acceptable to the Board; and

(2) meet practice requirements set by the Board by rule.

* * *

§ 1626. PRACTICAL NURSE LICENSURE BY ENDORSEMENT

To be eligible for licensure as a practical nurse by endorsement, an applicant shall:

(1) hold a current license to practice practical nursing in another U.S. jurisdiction based on education in a ~~U.S.~~ nursing program acceptable to the Board; and

(2) meet practice requirements set by the Board by rule.

* * *

Subchapter 4. Nursing Assistants

* * *

§ 1645. RENEWAL

(a) To renew a license, a nursing assistant shall meet active practice requirements set by the Board by rule.

(b) The Board shall credit as active practice those activities, regardless of title or obligation to hold a license, that reasonably tend to reinforce the training and skills of a licensee.

* * *

Sec. 19. NURSING COMPACT ASSESSMENT

(a) The Board of Nursing and the Office of Professional Regulation shall assess the costs and benefits of participation in licensure compacts for nurses at various levels of licensure.

(b) On or before March 15, 2019, the Office shall report its assessment to the House and Senate Committees on Government Operations. The report may be in verbal form.

* * * Pharmacy * * *

Sec. 20. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

* * *

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(4) "Disciplinary action" or "disciplinary cases" includes any action taken by the Board against a licensee or others premised upon a finding of ~~wrongdoing or~~ unprofessional conduct by the licensee. It includes all sanctions of any kind, including obtaining injunctions, issuing warnings, and other similar sanctions.

* * *

(7) "Drug outlet" means all pharmacies, ~~nursing homes, convalescent homes, extended care facilities, drug abuse treatment centers, family planning clinics, retail stores, hospitals,~~ wholesalers, manufacturers, ~~any authorized treatment centers,~~ and ~~mail order vendors~~ other entities that are engaged in the dispensing, delivery, or distribution of prescription drugs.

* * *

(10) "Manufacturer" means ~~anyone who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug~~ a person, regardless of form, engaged in the manufacturing of drugs or devices.

(11)(A) "Manufacturing" means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis.

(B) "Manufacturing" includes the packaging or repackaging of a drug or device or the labeling or relabeling of the container of a drug or device for resale by a pharmacy, practitioner, or other person.

(12) "Nonprescription drugs" means nonnarcotic medicines or drugs that may be sold without a prescription and that are prepackaged for use by the consumer and labeled in accordance with the requirements of the statutes and regulations of this State and the federal government.

~~(12)~~(13) "Pharmacist" means an individual licensed under this chapter.

~~(13)~~(14) "Pharmacy technician" means an individual who performs tasks relative to dispensing only while assisting~~,~~ and under the supervision and control of~~,~~ a licensed pharmacist.

~~(14)~~(15)(A) "Practice of pharmacy" means:

(i) ~~the interpretation~~ interpreting and ~~evaluation of~~ evaluating 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~~ participating in drug selection and drug utilization reviews;

(iv) ~~the proper and safe storage of~~ properly and safely storing drugs and legend devices, and ~~the maintenance of~~ maintaining 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;

(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~~ or offering to perform those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

(B) "Practice of clinical pharmacy" or "clinical pharmacy" means:

* * *

(ii) ~~the provision of~~ providing 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~~ practicing pharmacy pursuant to a collaborative practice agreement.

(C) ~~A rule shall not be adopted by the~~ The Board ~~under this chapter that~~ shall ~~require~~ not adopt any rule requiring that pharmacists or pharmacies be involved in 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~~; provided, however, that nothing in this subdivision (C) shall limit the authority of the Board to adopt rules applicable to the elective sale or distribution of nonprescription drugs by pharmacists or pharmacies.

~~(15)~~(16) "Practitioner" means an individual authorized by the laws of the United States or its jurisdictions or Canada to prescribe and administer prescription drugs in the course of his or her professional practice and permitted by that authorization to dispense, conduct research with respect to, or administer drugs in the course of his or her professional practice or research in his or her respective state or province.

~~(16)~~(17) "Prescription drug" means any human drug required by federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to Section 503(b) of the Federal Food, Drug and Cosmetic Act.

~~(17)~~(18) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

* * *

~~(18)~~(19) "Wholesale ~~drug~~ distributor" means any person who is engaged in wholesale distribution of prescription drugs, but does not include any ~~for hire~~ for-hire carrier or person hired solely to transport prescription drugs.

~~(19)~~(20) "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.

* * *

Subchapter 2. Board of Pharmacy

§ 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION

(a)(1) There is hereby created the ~~board of pharmacy~~ Board of Pharmacy to enforce the provisions of this chapter.

(2) The ~~board~~ Board shall consist of seven members, five of whom shall be pharmacists licensed under this chapter with five years of experience in the practice of pharmacy in this ~~state~~ State. Two members shall be members of the public having no financial interest in the practice of pharmacy.

(b) Members of the ~~board~~ Board shall be appointed by the ~~governor~~ Governor pursuant to 3 V.S.A. §§ 129b and 2004. ~~A majority of members shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.~~

* * *

Subchapter 3. Licensing

§ 2041. UNLAWFUL PRACTICE

(a) It shall be unlawful for any person to engage in the practice of pharmacy unless licensed to so practice under the provisions of this chapter; provided, however, physicians, dentists, veterinarians, osteopaths, or other practitioners of the healing arts who are licensed under the laws of this State may dispense and administer prescription drugs to their patients in the practice of their respective professions where specifically authorized to do so by statute of this State.

(b)~~(1)~~ Any person ~~who shall be found by the Board after hearing to have unlawfully engaged in the practice of pharmacy shall be subject to disciplinary action.~~

~~(2) For the purpose of enforcing this section, the Attorney General or a State's Attorney or an attorney assigned by the Office of Professional Regulation may commence a criminal action against any person unlawfully engaging in the practice of pharmacy, and upon conviction, the person,~~ including a business entity, violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

* * *

§ 2042b. PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS; SUPERVISION

* * *

(f)(1) A pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician.

(2) A pharmacist responsible for a pharmacy technician shall be on the premises at all times, or in the case of a remote pharmacy approved by the Board, immediately available by a functioning videoconference link.

(3) A pharmacist shall verify a prescription before medication is provided to the patient.

* * *

§ 2044. ~~RENEWAL OF LICENSES~~

~~Each person or entity licensed or regulated under the provisions of this chapter shall apply for renewal biennially by a date established by the director of the office of professional regulation.~~ [Repealed.]

§ 2045. ~~REINSTATEMENT~~

~~(a) The board may renew a license which has lapsed upon payment of the required fee and the late renewal penalty, provided all the requirements for renewal set by the board by rule, have been satisfied. The board shall not require payment of renewal fees for years during which the license was lapsed.~~

~~(b) As a condition of renewal, the board may by rule set reinstatement requirements for those whose licenses have lapsed for more than five years.~~ [Repealed.]

* * *

Subchapter 4. ~~Discipline~~

~~§ 2051. UNPROFESSIONAL CONDUCT~~

~~The board of pharmacy may refuse to issue or renew, or may suspend, revoke, or restrict the licenses of any person, pursuant to the procedures set forth in section 2052 of this title, upon one or more of the following grounds and upon the grounds set forth in 3 V.S.A. § 129a:~~

~~(1) Unprofessional conduct as that term is defined by the rules and regulations of the board;~~

~~(2) Incapacity of a nature that prevents a pharmacist from engaging in the practice of pharmacy with reasonable skill, competence, and safety to the public;~~

~~(3) Fraud or intentional misrepresentation by a licensee in securing the issuance or renewal of a license;~~

~~(4) Engaging or aiding and abetting an individual to engage in the practice of pharmacy without a license or to falsely use the title of pharmacist;~~

~~(5) Being found by the board to be in violation of any of the provisions of this chapter or rules and regulations adopted pursuant to this chapter.~~

~~§ 2052. PENALTIES AND REINSTATEMENT~~

~~(a)(1) Upon the finding, after notice and opportunity for hearing, of the existence of grounds for discipline of any person or any drug outlet holding a license, under the provisions of this chapter, the board of pharmacy may impose one or more of the following penalties:~~

~~(A) Suspension of the offender's license for a term to be determined by the board;~~

~~(B) Revocation of the offender's license;~~

~~(C) Restriction of the offender's license to prohibit the offender from performing certain acts or from engaging in the practice of pharmacy in a particular manner for a term to be determined by the board;~~

~~(D) Placement of the offender under the supervision of the board for a period to be determined and under conditions set by the board;~~

~~(E) A requirement to perform up to 100 hours of public service, in a manner and at a time and place to be determined by the board;~~

~~(F) A requirement of a course of education or training;~~

~~(G) An administrative penalty as provided in 3 V.S.A. § 129a(d).~~

~~(2) [Deleted.]~~

~~(b) Any person or drug outlet whose license to practice pharmacy in this state has been suspended, revoked, or restricted pursuant to this chapter, whether voluntarily or by action of the board, shall have the right, at reasonable intervals, to petition the board for reinstatement of such license. Such petition shall be made in writing and in the form prescribed by the board. Upon hearing, the board may in its discretion grant or deny such petition or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant such modifications.~~

~~(c) Nothing herein shall be construed as barring criminal prosecutions for violations of this chapter where such violations are deemed as criminal offenses in other statutes of this state or of the United States.~~

~~(d) All final decisions by the board shall be subject to review pursuant to 3 V.S.A. § 130a.~~ [Repealed.]

Subchapter 5. Registration of Facilities

§ 2061. REGISTRATION AND LICENSURE

(a) All drug outlets shall biennially register with the Board of Pharmacy.

(b) Each drug outlet shall apply for a license in one or more of the following classifications:

(1) Retail ~~drug outlet~~.

(2) Institutional ~~drug outlet~~.

(3) ~~Manufacturing drug outlet~~ Manufacturer.

(4) Wholesale ~~drug outlet or wholesale drug~~ distributor.

(5) Investigative and research projects.

(6) Compounding.

(7) Outsourcing.

(8) Home infusion.

(9) Nuclear.

§ 2064. VIOLATIONS AND PENALTIES

(a) ~~No~~ A drug outlet designated in section 2061 of this ~~title~~ subchapter shall not be operated until a license has been issued to ~~said~~ that outlet by the ~~board~~ Board. ~~Upon the finding of a violation of this section, the board may impose one or more of the penalties enumerated in section 2052 of this title.~~

(b) ~~Reinstatement of a license that has been suspended, revoked, or restricted by the board may be granted in accordance with the procedures~~

~~specified by subsection 2052(b) of this title~~ Unauthorized operation of a drug outlet may be penalized as provided in 3 V.S.A. § 127 and shall constitute unprofessional conduct by the licensees involved.

Subchapter 6. Wholesale ~~Drug~~ Distributors

§ 2067. WHOLESALE ~~DRUG~~ DISTRIBUTOR; LICENSURE REQUIRED

(a) A person who is not licensed under this subchapter shall not engage in wholesale ~~drug~~ distribution in this State.

(b) [Repealed.]

* * *

(d) An agent or employee of any licensed wholesale ~~drug~~ distributor shall not be required to obtain a license under this subchapter and may lawfully possess pharmaceutical drugs when that agent or employee is acting in the usual course of business or employment.

* * *

§ 2071. APPLICATION OF FEDERAL GUIDELINES

(a) The requirements set forth in sections 2068 and 2069 of this ~~title~~ chapter shall conform to wholesale ~~drug~~ distributor licensing guidelines formally adopted by the ~~United States~~ U.S. Food and Drug Administration (FDA).

(b) In case of conflict between any wholesale ~~drug~~ distributor licensing requirement imposed by the ~~board~~ Board under this chapter and any FDA wholesale ~~drug~~ distributor licensing guideline, the latter shall control.

§ 2072. ~~LICENSE RENEWAL~~

~~Licenses and registrations shall be renewed biennially on a schedule as determined by the office of professional regulation.~~ [Repealed.]

§ 2073. RULES

(a) The ~~board~~ Board may adopt rules necessary to carry out the purposes of the provisions of this subchapter.

(b) All rules adopted under this subchapter shall conform to wholesale ~~drug~~ distributor licensing guidelines formally adopted by the ~~Federal Drug Administration~~ FDA at 21 C.F.R. Part 205.

§ 2074. ~~COMPLAINTS~~

~~Complaints arising under this subchapter shall be handled according to the policies and procedures for handling complaints adopted by the director of the office of professional regulation.~~ [Repealed.]

§ 2075. ~~PENALTIES~~

~~After notice and opportunity for hearing, the board may suspend, revoke, limit, or condition a license granted under this subchapter if the board finds that the licensee:~~

~~(1) violated a provision of this subchapter or a rule adopted by the board under this subchapter; or~~

~~(2) has been convicted of a violation of a federal or state drug law.~~ [Repealed.]

§ 2076. INSPECTION POWERS; ACCESS TO WHOLESALE ~~DRUG~~ DISTRIBUTOR RECORDS

(a) A person authorized by the ~~board~~ Board may enter, during normal business hours, all open premises purporting or appearing to be used by a wholesale ~~drug~~ distributor for purposes of inspection.

(b)(1) Wholesale ~~drug~~ distributors may keep records regarding purchase and sales transactions at a central location apart from the principal office of the wholesale ~~drug~~ distributor or the location at which the drugs were stored and from which they were shipped, provided that such records shall be made available for inspection within two working days of a request by the ~~board~~ Board.

(2) Records may be kept in any form permissible under federal law applicable to prescription drugs ~~record-keeping~~ record keeping.

* * *

Sec. 21. CREATION OF POSITION WITHIN THE OFFICE OF PROFESSIONAL REGULATION; PHARMACY

(a) There is created within the Secretary of State's Office of Professional Regulation one new position: Executive Officer of Pharmacy.

(b) Any funding necessary to support the position created in subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund, with no General Fund dollars.

* * * Real Estate Brokers and Salespersons * * *

Sec. 22. 26 V.S.A. § 2211 is amended to read:

§ 2211. DEFINITIONS

(a) ~~When~~ As used in this chapter, the following definitions shall have the following meanings except where the context clearly indicates that another meaning is intended:

* * *

(4) "Real estate broker" or "broker" means any person who, for another, for a fee, commission, salary, or other consideration, or with the intention or expectation of receiving or collecting such compensation from another, engages in or offers or attempts to engage in, either directly or indirectly, by a continuing course of conduct, any of the following acts:

* * *

(5) "Real estate salesperson" or "salesperson" means any person who for a fee, compensation, salary, or other consideration, or in the expectation or upon the promise thereof, is employed by or associated with a licensed real estate broker to do any act or deal in any transaction as provided in subdivision (4) of this subsection ~~(a)~~ for or on behalf of ~~such~~ a licensed real estate broker.

(b) The terms "real estate broker," "real estate salesperson," or "broker" shall not ~~be held to~~ include:

(1) Any person, partnership, association, or corporation who as a bona fide owner performs any of the ~~aforesaid~~ acts set forth in subdivision (a)(4) of this section with reference to property owned by them, nor shall it apply to regular employees thereof, ~~where~~ when such acts are performed in the regular course of or as an incident to the management of such property and the investment therein. This subdivision (1) shall not apply to licensees.

* * *

* * * Radiologic Technicians * * *

Sec. 23. 26 V.S.A. § 2803 is amended to read:

§ 2803. EXEMPTIONS

The prohibitions in section 2802 of this chapter shall not apply to dentists licensed under chapter 12 of this title and actions within their scope of practice nor to:

* * *

(5) Any of the following when operating dental radiographic equipment to conduct intraoral radiographic examinations under the general supervision of a licensed practitioner; and~~,~~ any of the following when operating dental radiographic equipment to conduct specialized radiographic examinations, including tomographic, cephalometric, or temporomandibular joint examinations, if the person has completed a course in radiography approved by the Board of Dental Examiners and practices under the general supervision of a licensed practitioner:

(A) a licensed dental therapist;

(B) a licensed dental hygienist;

~~(B)~~(C) a registered dental assistant who has completed a course in radiography approved by the Board of Dental Examiners; or

~~(C)~~(D) a student of dental therapy, dental hygiene, or dental assisting as part of the training program when directly supervised by a licensed dentist, ~~certified~~ licensed dental therapist, licensed dental hygienist, or ~~a~~ registered dental assistant.

* * *

* * * Private Investigators and Security Guards * * *

Sec. 24. 26 V.S.A. chapter 59 is amended to read:

CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

Subchapter 1. General Provisions

§ 3151. DEFINITIONS

As used in this chapter:

* * *

~~(5) "Qualifying agent" means a licensed private investigator who is responsible for a private investigative services agency or combination agency, or a licensed security guard who is responsible for a private security services agency or combination agency. A sole proprietor shall be the qualifying agent of his or her agency and shall meet all qualifying agent licensure requirements.~~

~~(6) "Combination agency" means an agency that provides both private investigative and private security services to the public.~~

§ 3151a. EXEMPTIONS

(a) The term "private investigator" shall not include:

* * *

(3) Persons regularly employed as investigators~~,~~ exclusively by one employer in connection with the affairs of that employer only, provided that the employer is not a private investigative agency and the employee is engaged directly as part of the ordinary payroll for tax, accounting, and insurance purposes.

* * *

(b) The term "security guard" shall not include:

* * *

(3) Persons regularly employed as security guards exclusively by one employer in connection with the affairs of that employer only, provided that the employer is not a security agency and the employee is engaged directly as part of the ordinary payroll for tax, accounting, and insurance purposes.

Subchapter 2. State Board of Private Investigative and Security Services

* * *

§ 3162. ~~POWERS AND DUTIES~~ BOARD RULEMAKING AUTHORITY

The Board may~~:~~

~~(1) Adopt~~ adopt rules necessary for the performance of its duties, including rules prescribing minimum standards and qualifications for:

(1) security guards who may:

(A) practice independently or head agencies; or

(B) practice within the hierarchy of an agency;

(2) private investigators who may:

(A) practice independently or head agencies; or

(B) practice within the hierarchy of an agency;

(3) agencies; and

(4) recognized trainers and training programs.

~~(2) Conduct any necessary hearings in connection with the issuance, renewal, denial, suspension, or revocation of a license or registration or otherwise related to the disciplining of a licensee, registrant, or applicant.~~

~~(3) Receive and investigate complaints and charges of unprofessional conduct against any holder of a license or registration, or any applicant. The Board shall investigate all complaints in which there are reasonable grounds to believe that unprofessional conduct has occurred.~~

~~(4) Conduct examinations and pass upon the qualifications of applicants for a license or registration.~~

~~(5) Issue subpoenas and administer oaths in connection with any authorized investigation, hearing, or disciplinary proceeding.~~

~~(6) Take or cause depositions to be taken as needed in any investigation, hearing, or proceeding.~~

~~(7)(A) Adopt rules establishing a security guard or private investigator training program, consisting of not fewer than 40 hours of training, as a prerequisite to registration.~~

~~(B) Full-time employees shall complete the training program prior to being issued a permanent registration.~~

~~(C)(i) Part-time employees shall complete not fewer than eight hours of training prior to being issued a part-time employee temporary registration, which shall be valid for not more than 180 days from the date of issuance. The remaining training hours for part-time employees shall be completed within the temporary registration period of 180 days or before the employee has worked 500 hours, whichever occurs first. The part-time employee temporary registration may be issued only once and shall expire after 180 days or 500 hours.~~

~~(ii) As used in this subdivision (C), "part-time employee" means an employee who works no more than 80 hours per month.~~

~~(iii) The Board may prioritize training subjects to require that certain subject areas are covered in the initial eight hours of training required for part-time employees.~~

~~(8) Adopt rules establishing continuing education requirements and establish or approve continuing education programs to assist a licensee or registrant in meeting these requirements.~~

§ 3163. ~~FUNCTIONING OF LICENSING BOARD~~

~~(a) Annually, the board shall elect a chairperson, a vice chairperson, and a secretary.~~

~~(b) Meetings may be called by the chairperson and shall be called upon the request of two other members.~~

~~(c) Meetings shall be warned and conducted in accordance with 1 V.S.A. chapter 5.~~

~~(d) A majority of the members of a board shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.~~

~~(e), (f) [Deleted.]~~ [Repealed.]

* * *

Subchapter 3. Licensing

* * *

§ 3173. PRIVATE INVESTIGATOR LICENSES

(a) A person shall not engage in the business of private investigation or provide private investigator services in this State without first obtaining a license. The Board shall issue a license to a private investigator after obtaining and approving all of the following:

* * *

(4) evidence that the applicant has successfully passed ~~the~~ any examination required by ~~section 3175 of this title~~ rule.

* * *

(c) The Board shall require that ~~the~~ a person licensed to practice independently has had appropriate experience in investigative work, for a period of not less than two years, as determined by the Board. Such experience may include having been regularly employed as a private detective licensed in another state or as an investigator for a private detective licensed in this or another state~~,~~ or ~~has~~ having been a sworn member of a federal, state, or municipal law enforcement agency.

(d) An application for a license may be denied upon failure of the applicant to provide information required~~,~~; upon a finding that the applicant does not meet a high standard as to character, integrity, and reputation~~,~~; or for unprofessional conduct defined in section 3181 of this ~~title~~ chapter.

* * *

§ 3174. SECURITY GUARD LICENSES

(a) ~~No~~ A person shall not engage in the business of a security guard or provide guard services in this State without first obtaining a license. The Board shall issue a license after obtaining and approving all of the following:

* * *

(4) Evidence that the applicant has successfully passed ~~the~~ any examination required by ~~section 3175 of this title~~ rule.

* * *

(c) The Board shall require that ~~the~~ a person licensed to practice independently has had experience satisfactory to the Board in security work~~,~~ for a period of not less than two years. Such experience may include having been licensed as a security guard in another state or regularly employed as a security guard for a security agency licensed in this or another state~~,~~ or having been a sworn member of a federal, state, or municipal law enforcement agency.

(d) An application for a license may be denied upon failure of the applicant to provide information required~~,~~; upon a finding that the applicant does not meet a high standard as to character, integrity, and reputation~~,~~; or for unprofessional conduct defined in section 3181 of this ~~title~~ chapter.

* * *

§ 3176b. ~~TEMPORARY REGISTRATION FOR EMPLOYEES OF AGENCIES~~

~~(a) A 60-day temporary registration may be issued to a person who applies for registration as an employee of a licensed private investigator or a licensed security guard under section 3176 of this title. A temporary registration shall authorize a person to work as an unarmed private investigator or unarmed security guard while employed by a private investigator agency or security guard agency licensed by the board.~~

~~(b) Temporary registrations shall expire at the end of the 60-day period or by final action on the application, whichever occurs first. For good cause shown, the board may extend a temporary registration one time for an additional period of 60 days.~~ [Repealed.]

§ 3176c. ~~TEMPORARY EMERGENCY REGISTRATION~~

~~(a) If the board determines that the public health, safety, or welfare so requires, it may grant to an applicant a temporary registration to practice as a security guard. To qualify under this section, an applicant shall have a license in good standing to practice as a security guard in another jurisdiction within the United States that regulates the practice. The person seeking the temporary registration shall document to the board's satisfaction that the applicant will otherwise meet all state and federal requirements necessary to perform the specific security duties arising out of the emergency circumstances warranting temporary licensure.~~

~~(b) The board may restrict or condition a temporary registration issued under this section, as it deems appropriate in light of the specific emergency, to a particular facility, industry, geographic area, or scope of duty.~~

~~(c) Duration of practice under a temporary registration shall be determined by the board but shall not exceed 60 days unless the person granted a temporary registration has submitted an application for full registration under this chapter, prior to the expiration of the term of the temporary registration, and the board finds the emergency to be ongoing.~~ [Repealed.]

* * *

§ 3178. ~~RENEWALS AND REINSTATEMENT~~

~~A license or registration issued under this chapter shall be renewed biennially upon payment of the required fee.~~ [Repealed.]

* * *

§ 3179. PENALTIES

(a) A person who engages in the practice or business of a private investigator or security guard without being licensed under ~~to~~ this chapter shall be subject to the penalties provided in 3 V.S.A § 127~~(c)~~.

* * *

Subchapter 4. Unprofessional Conduct and Discipline

§ 3181. UNPROFESSIONAL CONDUCT

* * *

~~(c) After conducting a hearing and upon a finding that a licensee, registrant, or applicant engaged in unprofessional conduct, the board may take disciplinary action. Discipline for unprofessional conduct may include denial of an application, revocation or suspension of a license or registration, supervision, reprimand, warning, or the required completion of a course of action.~~

* * * Clinical Mental Health Counselors * * *

Sec. 25. 26 V.S.A. chapter 65 is amended to read:

CHAPTER 65. CLINICAL MENTAL HEALTH COUNSELORS

* * *

§ 3262a. BOARD OF ALLIED MENTAL HEALTH PRACTITIONERS

(a) ~~A~~ The Board of Allied Mental Health Practitioners is established.

* * *

~~(c) A majority of the members of the Board shall constitute a quorum for transacting business, and all action shall be taken upon a majority vote of the members present and voting.~~

* * *

§ 3265. ELIGIBILITY

To be eligible for licensure as a clinical mental health counselor an applicant shall ~~satisfy all of the following~~ have:

(1) ~~Shall have completed a minimum of 60 graduate hours and received~~ Received a master's degree or higher degree in counseling or a related field, from an accredited educational institution, after having successfully completed a course of study ~~as defined by the board, by rule, which included~~ requiring a minimum number of graduate credit hours established by the Board by rule and a supervised practicum, internship, or field experience, as defined by the ~~board,~~ Board by rule, in a mental health counseling setting.

(2) ~~Shall have documented~~ Documented a minimum of 3,000 hours of supervised work in clinical mental health counseling ~~over~~ during a minimum of two years of post-master's experience~~. Persons engaged in supervised work shall be entered on the roster of nonlicensed, noncertified psychotherapists and shall comply with the laws of that profession, and shall have documented a minimum of~~, including at least 100 hours of face-to-face supervision ~~over~~ during a minimum of two years of post-master's experience. ~~Clinical work shall be performed under the supervision of a licensed physician certified in psychiatry by the American Board of Medical Specialties, a licensed psychiatric nurse practitioner, a licensed psychologist, a licensed clinical social worker, a licensed marriage and family therapist, a licensed clinical mental health counselor, or a person certified or licensed in another jurisdiction in one of these professions or in a profession which is the substantial equivalent, or a supervisor trained by a regional or national organization which has been approved by the board~~ Persons engaged in supervised work shall be registered on the roster of nonlicensed, noncertified psychotherapists and shall comply with the laws applicable to registrants.

(3) ~~Shall pass~~ Passed the examinations required by ~~board~~ Board rules ~~as provided in section 3267 of this title~~.

§ 3266. ~~APPLICATION~~

~~To apply for licensure as a clinical mental health counselor, a person shall apply to the board on a form furnished by the board. The application shall be accompanied by payment of the specified fee and evidence of eligibility as requested by the board.~~ [Repealed.]

§ 3267. ~~EXAMINATION~~

~~(a) The board or its designee shall conduct written examinations under this chapter at least twice a year, except that examinations need not be conducted when no one has applied to be examined.~~

~~(b) Examinations administered by the board and the procedures of administration shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted licensure if they demonstrate that they possess the minimal occupational qualifications which~~

~~are consistent with the public health, safety, and welfare. They shall not be designed or implemented for the purpose of limiting the number of license holders. The board with the advice of the clinical mental health counselors who are members of the special panel, shall establish, by rule, fixed criteria for passing the examination that shall apply to all persons taking the examination.~~

~~(c) The board may contract with independent testing services, licensed clinical mental health counselors, or others to assist in the administration of written examinations.~~ [Repealed.]

* * *

§ 3269. RENEWALS

~~(a)~~ Licenses shall be renewed every two years upon payment of ~~the~~ required ~~fee, provided the person applying for renewal completes at least 40 hours~~ fees and proof of such continuing education~~, approved by the board, during the preceding two-year period. The board shall establish,~~ as the Board may require by rule~~, guidelines and criteria for continuing education credit~~.

~~(b) Biennially, the director shall forward a renewal form to each license holder. Upon receipt of the completed form and the renewal fee, the director shall issue a new license.~~

~~(c) Any application for renewal of a license which has expired shall be accompanied by the renewal fee and a reinstatement fee. A person shall not be required to pay renewal fees for years during which the license was lapsed.~~

~~(d) [Deleted.]~~

* * *

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except:

(1) this section and Secs. 2, amending 3 V.S.A. § 125 (fees) and 13 (Director of Professional Regulation; barbers and cosmetologists; rulemaking) shall take effect on passage, except that in Sec. 2, 3 V.S.A. § 125:

(A) subdivisions (b)(2)(A) (application for barbering and cosmetology schools and shops) and (b)(4)(E) and (F) (renewal for barbering and cosmetology professionals and schools) shall take effect on January 1, 2019; and

(B) subdivisions (b)(2)(B) and (b)(4)(G)-(I) (application and renewal for funeral service professionals and establishments) shall take effect on June 1, 2023;

(2) Sec. 6, amending 3 V.S.A. § 129a (unprofessional conduct), shall take effect on July 1, 2019; and

(3) Sec 12, amending 26 V.S.A. chapter 6 (barbers and cosmetologists), shall take effect on January 1, 2019.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Pollina, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

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.

Proposal of Amendment; Third Reading Ordered

H. 727.

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

An act relating to the admissibility of a child's hearsay statements in a proceeding before the Human Services Board.

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:

Sec. 1. 33 V.S.A. § 4916b is amended to read:

§ 4916b. HUMAN SERVICES BOARD HEARING

(a) Within 30 days ~~of~~ after the date on which the administrative reviewer mailed notice of placement of a report on the Registry, the person who is the subject of the substantiation may apply in writing to the Human Services Board for relief. The Board shall hold a fair hearing pursuant to 3 V.S.A. § 3091. When the Department receives notice of the appeal, it shall make note in the Registry record that the substantiation has been appealed to the Board.

(b)(1) The Board shall hold a hearing within 60 days ~~of~~ after the receipt of the request for a hearing and shall issue a decision within 30 days ~~of~~ after the hearing.

(2) Priority shall be given to appeals in which there are immediate employment consequences for the person appealing the decision.

(3) ~~Rule 804a of the Vermont Rules of Evidence (V.R.E.) shall apply to hearings held under this subsection only as follows:~~

(A) ~~V.R.E. 804a(a)(1) and (4) shall apply.~~

~~(B) V.R.E. 804a(a)(2) shall apply, except that any deposition or testimony given under oath at another proceeding shall be admissible evidence in a hearing held under this subsection.~~

~~(C) V.R.E. 804a(a)(3) shall apply to hearings under this subsection unless the hearing officer determines, based on a preponderance of the evidence, that requiring the child to testify will present a substantial risk of trauma to the child.~~

~~(D) V.R.E. 804a(b) shall not apply~~ Article VIII of the Vermont Rules of Evidence (Hearsay) shall not apply to any hearing held pursuant to this subchapter with respect to statements made by a child 12 years of age or under who is alleged to have been abused or neglected and the child shall not be required to testify or give evidence at any hearing held under this subchapter. Evidence shall be admissible if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.

(B) Article VIII of the Vermont Rules of Evidence (Hearsay) shall not apply to any hearing held pursuant to this subchapter with respect to statements made by a child who is at least 13 years of age and under 16 years of age who is alleged to have been abused or neglected and the child shall not be required to testify or give evidence at any hearing held under this subchapter in either of the following circumstances:

(i) The hearing officer determines, based on a preponderance of the evidence, that requiring the child to testify will present a substantial risk of trauma to the child. Evidence of trauma need not be offered by an expert and may be offered by any adult with an ongoing significant relationship with the child. Evidence shall be admissible if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.

(ii) The hearing officer determines that the child is physically unavailable to testify or the Department has made diligent efforts to locate the child and was unsuccessful. Evidence shall be admissible if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.

(4) Convictions and adjudications ~~which~~ that arose out of the same incident of abuse or neglect for which the person was substantiated, whether by verdict, by judgment, or by a plea of any type, including a plea resulting in a deferred sentence, shall be competent evidence in a hearing held under this subchapter.

(c) A hearing may be stayed upon request of the petitioner if there is a related case pending in the Criminal or Family Division of the Superior Court ~~which~~ that arose out of the same incident of abuse or neglect for which the person was substantiated.

(d) If no review by the Board is requested, the Department's decision in the case shall be final, and the person shall have no further right for review under this section. The Board may grant a waiver and permit such a review upon good cause shown.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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.

House Proposal of Amendment Concurred In

S. 105.

House proposal of amendment to Senate bill entitled:

An act relating to consumer justice enforcement.

Was taken up.

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

Sec. 1. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT ACT; STANDARD-FORM CONTRACTS

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims take place in an inconvenient venue. As used in this subdivision, "inconvenient venue" includes for State law claims a place other than the state in which the individual resides or the contract was consummated, and for federal law claims

a place other than the federal judicial district where the individual resides or the contract was consummated. Inconvenient venue shall not include the State or federal judicial district in which the individual suffered injury during the performance of the contract.

(2) A waiver of the individual's right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual's right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State's courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code.

(1) In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(2) When a party claims or it appears to the court that the contract or any clause within the contract is unconscionable, the parties shall be afforded a reasonable opportunity to present evidence regarding its commercial setting, purpose, and effect to aid the court in making a determination.

(c) Severability. If a court finds that a standard-form contract contains an unconscionable term, the court shall:

(1) so limit the application of the unconscionable term or the clause containing that term as to avoid any illegal or unconscionable result; or

(2) refuse to enforce the entire contract or the specific part, clause, or provision containing the unconscionable term.

(d) Unfair and deceptive act and practice.

(1) In an underlying legal dispute between the drafting and non-drafting parties in which the drafting party seeks to enforce one or more terms identified in subsection (a) of this section, and upon a finding that such terms are actually unconscionable, the court may also find that the drafting party has

thereby committed an unfair and deceptive practice in violation of section 2453 of this title and may order up to $1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(2) Each term the drafting party seeks to enforce that is found by the court to be actually unconscionable may constitute a separate violation of this section.

(e) Limitation on applicability. This section shall not apply to contracts to which one party is:

(1) regulated by the Vermont Department of Financial Regulation; or

(2) a financial institution as defined by 8 V.S.A. § 11101(32).

(f) Nothing in this chapter shall be construed to limit the application of 12 V.S.A. § 1037 (acceptance of inherent risks).

Sec. 1a. LEGISLATIVE INTENT

The General Assembly acknowledges that outdoor recreation is an important part of Vermont's economy and culture that encourages healthy communities and individuals, increases our connection to nature, enhances the Vermont lifestyle, and supports the attraction of high-quality employers and a sustainable workforce in all economic sectors. It is not the intent of the General Assembly to change the way courts allocate responsibility for the inherent risks of any outdoor recreational activity or sport.

Sec. 2. EFFECTIVE DATE

This act shall take effect on October 1, 2019.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 179.

House proposal of amendment to Senate bill entitled:

An act relating to community justice centers.

Was taken up.

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

Sec. 1. 28 V.S.A. § 107 is amended to read:

§ 107. OFFENDER AND INMATE RECORDS; CONFIDENTIALITY; EXCEPTIONS; CORRECTIONS

(a)(1) The Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 defining what are "offender and inmate records~~,~~" ~~as that phrase is~~ produced or acquired by the Department.

(2) As used in this section, the phrase "offender and inmate records" means the records defined under the rule required under subdivision (1) of this subsection.

(b) Offender and inmate records ~~maintained by the Department~~ are exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Department:

(1) Shall release or permit inspection of such records if required under federal or State law, including 42 U.S.C. §§ 10805 and 10806 (Protection and Advocacy Systems).

(2) Shall release or permit inspection of such records pursuant to a court order for good cause shown or, in the case of an offender or inmate seeking records relating to him or her in litigation, in accordance with discovery rules.

(3) Shall release or permit inspection of such records to a State or federal prosecutor as part of a criminal investigation pursuant to a court order issued ex parte if the court finds that the records may be relevant to the investigation. The information in the records may be used for any lawful purpose but shall not otherwise be made public.

(4) Shall release or permit inspection of such records to the Department for Children and Families for the purpose of child protection, unless otherwise prohibited by law.

(5) Shall release or permit inspection of ~~designated~~ specific categories or types of offender and inmate records to specific persons, or to any person, in accordance with ~~rules~~ a rule that the Commissioner shall adopt pursuant to 3 V.S.A. chapter 25, provided that the Commissioner shall redact any information that may compromise the safety of any person, or that is required by law to be redacted, prior to releasing or permitting inspection of such records under the ~~rules~~ rule. The ~~Commissioner shall authorize release or inspection of offender and inmate records under these rules~~ rule shall provide for disclosure of a category or type of record in either of the following circumstances:

(A) ~~When~~ when the public interest served by disclosure ~~of a record~~ outweighs the privacy, security, or other interest in keeping the record confidential~~.~~; or

(B) ~~To~~ in order to provide an offender or inmate access to offender and inmate records relating to him or her ~~if access is not otherwise guaranteed under this subsection, unless providing such access would reveal information that~~, unless:

(i) the category or type of record is confidential or exempt from disclosure under a law other than this section~~,~~;

(ii) providing access would unreasonably interfere with the Department's ability to perform its functions, including unreasonable interference due to the staff time or other cost associated with providing a category or type of record; or

(iii) providing access may compromise the health, safety, security, or rehabilitation of the offender or inmate or of another person.

(c)(1) ~~The rules may specify circumstances under which the Department~~ Unless otherwise provided in this section or required by law, the rule required under subdivision (b)(5) of this section:

(A) shall specify the categories or types of records to be disclosed and to whom they are to be disclosed, and shall not provide for any exceptions to disclosure of records that fall within these categories or types except for redactions required by law;

(B) shall specify which categories or types of records relating to an offender or inmate shall be provided to the offender or inmate as a matter of course and which shall be provided only upon request;

(C) may limit the offender's or inmate's access to include only records produced or acquired in the year preceding the date of the request;

(D) may limit the number of requests by an offender or inmate that will be fulfilled per calendar year, ~~as long as~~ provided that the Department fulfills at least ~~one request~~ two requests by the offender or inmate per calendar year excluding any release of records ordered by a court~~, and at least one additional request in the same calendar year limited to records not in existence at the time of the original request or not within the scope of the original request. The rules also~~;

(E) may specify circumstances when ~~the~~ an offender's or inmate's right of access will be limited to an inspection overseen by an agent or employee of the Department;

(F) may provide that the Department has no obligation to provide an offender or inmate a record previously provided if he or she still has access to the record. ~~The rules~~; and

(G) shall reflect the Department's obligation not to withhold a record in its entirety on the basis that it contains some confidential or exempt content, to redact such content, and to make the redacted record available.

(2) The Department shall provide records available to an offender or inmate under the rule free of charge, except that if the offender or inmate is responsible for the loss or destruction of a record previously provided, the Department may charge him or her for a replacement copy at $0.01 per page.

~~(c)~~(d) Notwithstanding the provisions of 1 V.S.A. chapter 5, subchapter 3 (Public Records Act) that govern the time periods for a public agency to respond to a request for a public record and rights of appeal, the Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 governing response and appeal periods and appeal rights in connection with a request by an offender or inmate to access records relating to him or her maintained by the Department. The rule shall provide for a final exhaustion of administrative appeals no later than 45 days from the Department's receipt of the initial request.

~~(d)~~(e) An offender or inmate may request that the Department correct a fact in a record maintained by the Department that is material to his or her rights or status, except for a determination of fact that resulted from a hearing or other proceeding that afforded the offender or inmate notice and opportunity to be heard on the determination. The rule required under subsection ~~(c)~~(d) of this section shall reference that requests for such corrections are handled in accordance with the Department's grievance process. If the Department issues a final decision denying a request under this subsection, the offender or inmate may appeal the decision to the Civil Division of the Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. The Court shall not set aside the Department's decision unless it is clearly erroneous.

Sec. 2. REPEAL

In 2016 Acts and Resolves No. 137, Sec. 7, as amended by 2017 Acts and Resolves No. 78, Sec. 10, subsections (b)–(e) and (g) hereby are repealed.

Sec. 3. EFFECTIVE DATE; TRANSITION PROVISION

(a) This act shall take effect on passage.

(b) Prior to the Commissioner of Corrections' (Commissioner) adopting a rule pursuant to the rulemaking mandates of 28 V.S.A. § 107(a) and (b)(5) as amended in Sec. 1 of this act, the Department of Corrections (Department) shall keep confidential "offender and inmate records" as defined in

Department policies or directives in effect prior to the effective date of the rule, except that the Department:

(1) shall apply the exceptions to the confidentiality of offender and inmate records that exist under 28 V.S.A. § 107(b)(1)–(4);

(2) shall apply the exceptions to the confidentiality of offender and inmate records that exist under directives, policies, and practices adopted by the Department prior to the effective date of the rule, and in so doing shall apply the redaction requirements of 28 V.S.A. § 107(b)(5) as amended in Sec. 1 of this act; and

(3) may rely upon the limitations on offender and inmate access to records, and the provisions related to charging for copies of such records, in 28 V.S.A. § 107(c)(1)(C)–(F) and (c)(2) as amended in Sec. 1 of this act.

(c) On or before September 15, 2018, the Commissioner shall prefile rules with the Interagency Committee on Administrative Rules in accordance with the rulemaking requirements of 28 V.S.A. § 107, as amended in Sec. 1 of this act. The Commissioner shall update the Joint Legislative Justice Oversight Committee on the status of its efforts to adopt the rules at the Oversight Committee's first meeting on or after September 15, 2018.

and that after passage the title of the bill be amended to read: "An act relating to offender and inmate records"

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Proposal of Amendment; Third Reading Ordered

H. 901.

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

An act relating to health information technology and health information exchange.

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:

Sec. 1. HEALTH INFORMATION TECHNOLOGY; HEALTH INFORMATION EXCHANGE; PROGRESS REPORTS

(a) On or before May 1, 2018, the Department of Vermont Health Access and the Vermont Information Technology Leaders, Inc. (VITL) shall submit to

the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; and the Green Mountain Care Board a work plan detailing the process by which the Department and VITL shall implement the recommendations of the health information technology report submitted to the General Assembly in accordance with 2017 Acts and Resolves No. 73, Sec. 15 (Act 73 report). The work plan shall be informed by stakeholder and consumer input and by technology options and opportunities. The Plan shall identify potential steps for addressing issues of data ownership and issues of intellectual property. It shall also set forth both a timeline of tasks to be completed and a list of clear objectives to assist the General Assembly in evaluating the success or failure of the parties' work.

(b) On or before September 1, 2018, the Department of Vermont Health Access and VITL shall submit to the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; the Health Reform Oversight Committee; and the Green Mountain Care Board a contingency plan for health information technology to be used if the Department and VITL are unable to implement the recommendations from the Act 73 report. The contingency plan shall contain the following:

(1) a description of the health information exchange services that would need to be replaced;

(2) a process for determining the manner in which the services would be replaced and the mechanism for acquiring the replacement services, such as a request for proposals;

(3) an assessment of the State's ownership interests in hardware systems, software systems, applications, data, and other physical and intellectual property that would need to be licensed to a future operator of Vermont's health information exchange;

(4) a plan for transitioning operations from VITL to the new operator or operators; and

(5) the impacts of the change on health care providers, health care consumers, State government, and Vermont's health care reform initiatives.

(c) On or before October 15, 2018, the Department of Vermont Health Access shall submit to the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; the Health Reform Oversight Committee; and the Green Mountain Care Board the results of an evaluation, which shall be conducted by an independent entity with expertise in health information

technology, of the work plan, the contingency plan, and the Department's and VITL's progress toward implementing the recommendations in the Act 73 report.

(d) On or before May 1, July 1, September 1, and November 1, 2018 and January 1, 2019, the Department of Vermont Health Access and VITL shall provide to the House Committees on Appropriations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Health and Welfare, and on Finance; the Health Reform Oversight Committee; and the Green Mountain Care Board written updates on their progress toward implementing the recommendations contained in the Act 73 report.

(e) In addition to the written updates required by subsection (d) of this section, the Department of Vermont Health Access and VITL shall provide testimony on their progress toward implementing the recommendations contained in the Act 73 report at a meeting of the Health Reform Oversight Committee at least once every two months or more frequently if so requested by the Committee. The testimony at the Committee's first meeting after the General Assembly has adjourned in 2018 shall also include information regarding the work plan required by subsection (a) of this section, and the testimony at the Committee's first meeting after September 1, 2018 shall also include information regarding the contingency plan required by subsection (b) of this section.

Sec. 2. 18 V.S.A. § 9351 is amended to read:

§ 9351. HEALTH INFORMATION TECHNOLOGY PLAN

(a)(1) The ~~Secretary of Administration or designee~~ Department of Vermont Health Access, in consultation with the Department's Health Information Exchange Steering Committee, shall be responsible for the overall coordination of Vermont's statewide Health Information Technology Plan. The Plan shall be revised annually and updated comprehensively every five years to provide a strategic vision for clinical health information technology.

(2) The Department shall submit the proposed Plan to the Green Mountain Care Board annually on or before November 1. The Green Mountain Care Board shall approve, reject, or request modifications to the Plan within 45 days following its submission; if the Board has taken no action after 45 days, the Plan shall be deemed to have been approved.

(3) The ~~Secretary or designee~~ Department, in consultation with the Steering Committee, shall administer the Plan, which shall include the implementation of an integrated electronic health information infrastructure for the sharing of electronic health information among health care facilities, health care professionals, public and private payers, and patients. The Plan

shall include standards and protocols designed to promote patient education, patient privacy, physician best practices, electronic connectivity to health care data, access to advance care planning documents, and, overall, a more efficient and less costly means of delivering quality health care in Vermont.

* * *

(c) The ~~Secretary of Administration or designee may update the Plan~~ Department of Vermont Health Access, in consultation with the Steering Committee and subject to Green Mountain Care Board approval, may propose updates to the Plan in addition to the annual updates as needed to reflect emerging technologies, the State's changing needs, and such other areas as the ~~Secretary or designee~~ Department deems appropriate. The ~~Secretary or designee~~ Department shall solicit recommendations from ~~Vermont Information Technology Leaders, Inc. (VITL) and other entities~~ interested stakeholders in order to ~~update~~ propose updates to the Health Information Technology Plan pursuant to subsection (a) of this section and to this subsection, including applicable standards, protocols, and pilot programs, and following approval of the proposed updates by the Green Mountain Care Board, may enter into a contract or grant agreement with ~~VITL or other~~ appropriate entities to update some or all of the Plan. Upon approval ~~by the Secretary~~ of the updated Plan by the Green Mountain Care Board, the Department of Vermont Health Access shall distribute the updated Plan ~~shall be distributed~~ to the Secretary of Administration; the ~~Commissioner of Information and Innovation~~ Secretary of Digital Services; the Commissioner of Financial Regulation; ~~the Commissioner of Vermont Health Access;~~ the Secretary of Human Services; the Commissioner of Health; the Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and Independent Living; the Senate Committee on Health and Welfare; the House Committee on Health Care; affected parties; and interested stakeholders. Unless major modifications are required, the ~~Secretary~~ Department may present updated information about the Plan to the ~~Green Mountain Care Board and~~ legislative committees of jurisdiction in lieu of creating a written report.

* * *

Sec. 3. 18 V.S.A. § 9352 is amended to read:

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. The Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall

continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise the following:

(A) ~~one member~~ two current members of the General Assembly, one of whom shall be a member of the House of Representatives appointed ~~jointly~~ by the Speaker of the House and ~~the President Pro Tempore of the Senate~~ one of whom shall be a member of the Senate appointed by the Committee on Committees, ~~who~~ and both of whom shall be entitled to ~~the same~~ per diem compensation and ~~expense~~ reimbursement of expenses pursuant to 2 V.S.A. § 406 ~~as provided for attendance at sessions~~ during adjournment of the General Assembly;

(B) one individual appointed by the Governor; and

(C) ~~one representative of the business community;~~

~~(D) one representative of health care consumers;~~

~~(E) one representative of Vermont hospitals;~~

~~(F) one representative of Vermont physicians;~~

~~(G) one practicing clinician licensed to practice medicine in Vermont;~~

~~(H) one representative of a health insurer licensed to do business in Vermont;~~

~~(I) the President of VITL, who shall be an ex officio, nonvoting member;~~

~~(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and~~

~~(K) two at-large members~~ representatives of the business community, of health care consumers, of Vermont hospitals, of Vermont-licensed clinicians, and of health insurers licensed to offer plans in Vermont, as well as individuals familiar with health information technology, including, to the extent practicable, one or more individuals who are or have served as the chief technology officer for a health care facility.

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

* * *

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan approved by the Green Mountain Care Board pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. ~~After the~~ The Plan shall determine the manner in which Vermont's health information exchange network shall be managed. The Green Mountain Care Board ~~approves~~ shall have the authority to approve VITL's ~~core activities and~~ budget pursuant to chapter 220 of this title~~, the Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to 8 V.S.A. § 4089k~~. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the contrary, upon request of the Secretary of Administration, the ~~Department of Information and Innovation~~ Agency of Digital Services shall review VITL's technology for security, privacy, and interoperability with State government information technology, consistent with the State's health information technology plan required by section 9351 of this title.

(d) Privacy. The standards and protocols implemented by VITL shall be consistent with those adopted by the statewide Health Information Technology Plan pursuant to subsection 9351(e) of this title.

(e) Report. ~~No later than~~ On or before January 15 of each year, VITL shall file a report with the Green Mountain Care Board; the Secretary of Administration; the ~~Commissioner of Information and Innovation~~ Secretary of Digital Services; the Commissioner of Financial Regulation; the Commissioner of Vermont Health Access; the Secretary of Human Services; the Commissioner of Health; the Commissioner of Mental Health; the Commissioner of Disabilities, Aging, and Independent Living; the Senate Committee on Health and Welfare; and the House Committee on Health Care. The report shall include an assessment of progress in implementing health information technology in Vermont and recommendations for additional funding and legislation required. In addition, VITL shall publish minutes of VITL meetings and any other relevant information on a public website. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(f) Funding authorization. VITL is authorized to seek matching funds to assist with carrying out the purposes of this section. In addition, it may accept any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from the federal or any local government, or any agency thereof, and from any person, firm, foundation, or corporation for any of its purposes and functions under this section and may receive and use the

same, subject to the terms, conditions, and regulations governing such donations, gifts, and grants. VITL shall not use any State funds for health care consumer advertising, marketing, or similar services unless necessary to comply with the terms of a contract or grant that requires a contribution of State funds.

(g) Waivers. The Secretary of ~~Administration~~ Human Services or designee, in consultation with VITL, may seek any waivers of federal law, of rule, or of regulation that might assist with implementation of this section.

(h) [Repealed.]

(i) Certification of meaningful use and connectivity.

(1) To the extent necessary to support Vermont's health care reform goals or as required by federal law, VITL shall be authorized to certify the meaningful use of health information technology and electronic health records by health care providers licensed in Vermont.

(2) VITL, in consultation with health care providers and health care facilities, shall establish criteria for creating or maintaining connectivity to the State's health information exchange network. VITL shall provide the criteria annually ~~by~~ on or before March 1 to the Green Mountain Care Board established pursuant to chapter 220 of this title.

(j) Scope of activities. VITL and any person who serves as a member, director, officer, or employee of VITL with or without compensation shall not be considered a health care provider as defined in subdivision 9432 of this title for purposes of any action taken in good faith pursuant to or in reliance upon provisions of this section relating to VITL's:

(1) governance;

(2) electronic exchange of health information and operation of the statewide Health Information Exchange Network as long as nothing in such exchange or operation constitutes the practice of medicine pursuant to 26 V.S.A. chapter 23 or 33;

(3) implementation of privacy provisions;

(4) funding authority;

(5) application for waivers of federal law;

(6) establishment and operation of a financing program providing electronic health records systems to providers; or

(7) certification of health care providers' meaningful use of health information technology.

Sec. 4. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. ~~In performing its review, the Board shall consult with and consider any recommendations regarding the plan received from the Vermont Information Technology Leaders, Inc. (VITL).~~

(B) Review and approve the criteria required for health care providers and health care facilities to create or maintain connectivity to the State's health information exchange as set forth in section 9352 of this title. Within 90 days following this approval, the Board shall issue an order explaining its decision.

(C) Annually review ~~the budget and all activities of VITL~~ and approve the budget, consistent with available funds~~, and the core activities associated with public funding, which shall include establishing the interconnectivity of electronic medical records held by health care professionals and the storage, management, and exchange of data received from such health care professionals, for the purpose of improving the quality of and efficiently providing health care to Vermonters~~ of the Vermont Information Technology Leaders, Inc. (VITL). This review shall take into account VITL's responsibilities pursuant to section 9352 of this title and the availability of funds needed to support those responsibilities.

* * *

Sec. 5. 2013 Acts and Resolves No. 73, Sec. 60(10), as amended by 2017 Acts and Resolves No. 73, Sec. 14, is further amended to read:

(10) Secs. 48-51 (health claims tax) shall take effect on July 1, 2013 and 52 and 53 (health claims tax revenue; Health IT-Fund; sunset) shall take effect on July 1, ~~2018~~ 2019.

Sec. 6. FUTURE OF HEALTH INFORMATION EXCHANGE NETWORK; LEGISLATIVE INTENT

It is essential to the future of health information technology and health information exchange in Vermont that the recommendations of the health information technology report submitted to the General Assembly in accordance with 2017 Acts and Resolves No. 73, Sec. 15 are successfully implemented in a thorough and timely manner. If they are not successfully implemented pursuant to the timeline adopted in the work plan described in

Sec. 1 of this act, it is the intent of the General Assembly to eliminate the designation of Vermont Information Technology Leaders, Inc. to operate the exclusive statewide health information exchange network for Vermont pursuant to 18 V.S.A. § 9352.

Sec. 7. HEALTH INFORMATION EXCHANGE; CONSENT POLICY; REPORT

The Department of Vermont Health Access, in consultation with Vermont Information Technology Leaders, Inc., the Office of the Health Care Advocate, and other interested stakeholders, shall provide recommendations to the House Committees on Health Care and on Energy and Technology and the Senate Committee on Health and Welfare on or before January 15, 2019 regarding whether individual consent to the exchange of health care information through the Vermont Health Information Exchange should be on an opt-in or opt-out basis.

Sec. 8. IMPROVING INTEROPERABILITY OF ELECTRONIC HEALTH RECORDS SYSTEMS; REPORT

The Department of Vermont Health Access, in consultation with Vermont Information Technology Leaders, Inc. and other interested stakeholders, shall provide recommendations to the House Committees on Health Care and on Energy and Technology and the Senate Committee on Health and Welfare on or before January 15, 2019 regarding ways to improve the utility and interoperability of electronic health records and health information exchange in Vermont.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1, health information technology; health information exchange; progress reports, subsections (b), (c), and (d) following "the Health Reform Oversight Committee;" by inserting the following: the Joint Information Technology Oversight Committee;

Second: In Sec. 1, health information technology; health information exchange; progress reports, subsection (e), in the first sentence, following "Health Reform Oversight Committee", by inserting and at a meeting of the

Joint Information Technology Oversight Committee, and at the end of the first sentence, by striking out "the Committee" and inserting in lieu thereof a Committee

Third: In Sec. 1, health information technology; health information exchange; progress reports, subsection (e), in the second sentence, preceding both instances of the word "Committee's", by striking out the word "the" and inserting in lieu thereof the word each

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 the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Health and Welfare, as amended, was agreed to and third reading of the bill was ordered.

Message from the House No. 64

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill of the following title:

H. 911. An act relating to changes in Vermont's personal income tax and education financing system.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Ancel of Calais
Rep. Sharpe of Bristol
Rep. Beck of St. Johnsbury.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 526. An act relating to regulating notaries public.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposals of amendment to House bill of the following title:

H. 923. An act relating to capital construction and State bonding budget adjustment.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Rules Suspended; Bills Messaged

On motion of Senator Balint, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S.281, H. 806.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock and fifteen minutes in the afternoon.

Afternoon

The Senate was called to order by the President.

Bill Referred

Pursuant to Temporary Rule 44A the following bill having failed to meet cross-over and being referred to the Committee on Rule was referred to its respective committee of jurisdiction:

H. 928.

An act relating to compensation for certain State employees (Pay Act).

To the Committee on Government Operations.

Proposals of Amendment; Consideration Postponed

H. 636.

House bill entitled:

An act relating to miscellaneous fish and wildlife subjects.

Was taken up.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the Senate proposal of amendment as follows:

First: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. 10 V.S.A. § 4254c is added to read:

§ 4254c. NOTICE OF TRAPPING; DOMESTIC DOG OR DOMESTIC CAT

A person who incidentally traps a domestic dog or domestic cat shall notify a fish and wildlife warden or the Department within 24 hours after discovery of the trapped domestic dog or domestic cat. The Department shall maintain records of all reports of incidentally trapped domestic dogs or domestic cats submitted under this section, and the reports shall include the disposition of each incidentally trapped domestic dog or domestic cat.

Second: By striking out Sec. 12 in its entirety and inserting in lieu thereof a new Sec. 12 to read as follows:

Sec. 12. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(13) Rabbit: to include wild hare.

(14) Fur-bearing animals: beaver, otter, marten, mink, raccoon, fisher, fox, skunk, coyote, bobcat, weasel, opossum, lynx, wolf, and muskrat.

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals, domestic cats, or domestic dogs.

* * *

(40) Domestic cat: any species of Felis catus that is normally maintained in or near the household of the owner. Domestic cat shall not mean a feral cat, bobcat, or a wild animal.

(41) Domestic dog: any species of Canis lupus familiaris that is normally maintained in or near the household of the owner. Domestic dog shall not mean a coyote or a wild animal.

(42) Feral cat: any species of Felis catus that: has no visible owner identification of any kind; lives outdoors; and displays a temperament of extreme fear in the presence of humans.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Rodgers? Senator Sears raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Rodgers was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order and ruled that the proposals of amendment were *germane* in that they related to the subject matter of the Senate proposal of amendment.

Thereupon, the question, Shall the Senate proposal of amendment be amended as moved by Senate Rodgers was disagreed to.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the Senate proposal of amendment by adding Secs. 16a through 16d with a reader assistance heading to read as follows:

* * * Gun Suppressors for Hunting * * *

Sec. 16a. 13 V.S.A. § 4010 is amended to read:

§ 4010. GUN SUPPRESSORS

(a) As used in this section:

(1) "Gun suppressor" means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a gun suppressor, and any part intended only for use in such assembly or fabrication.

(2) "Sport shooting range" shall have the same meaning as used in 10 V.S.A. § 5227(a).

(b) A person shall not manufacture, make, or import a gun suppressor, except for:

(1) a licensed manufacturer, as defined in 18 U.S.C. § 921, who is registered as a manufacturer pursuant to 26 U.S.C. § 5802;

(2) a licensed importer, as defined in 18 U.S.C. § 921, who is registered as an importer pursuant to 26 U.S.C. § 5802; or

(3) a person who makes a gun suppressor in compliance with the requirements of 26 U.S.C. § 5822.

(c) A person shall not use a gun suppressor in the State, except for use by:

(1) a Level III certified law enforcement officer or Department of Fish and Wildlife employee in connection with his or her duties and responsibilities and in accordance with the policies and procedures of that officer's or employee's agency or department;

(2) the Vermont National Guard in connection with its duties and responsibilities;

(3) a licensed manufacturer or a licensed importer, as defined in 18 U.S.C. § 921, who is also registered as a manufacturer or an importer pursuant to 26 U.S.C. § 5802, who in the ordinary course of his or her business as a manufacturer or as an importer tests the operation of the gun suppressor; ~~or~~

(4) a person lawfully using a sport shooting range; or

(5) a person taking game as authorized under 10 V.S.A. § 4701.

(d)(1) A person who violates subsection (b) of this section shall be fined not less than $500.00 for each offense.

(2) A person who violates subsection (c) of this section shall be fined $50.00 for each offense.

Sec. 16b. 10 V.S.A. § 4701 is amended to read:

§ 4701. USE OF GUN, BOW AND ARROW, AND CROSSBOW; LEGAL DAY; DOGS; GUN SUPPRESSORS

(a) Unless otherwise provided by statute, a person shall not take game except with:

(1) a gun fired at arm's length;

(2) a bow and arrow; or

(3) a crossbow as authorized under section 4711 of this title or as authorized by the rules of the Board.

(b) A person shall not take game between one-half hour after sunset and one-half hour before sunrise unless otherwise provided by statute or by the rules of the Board.

(c) A person may take game and fur-bearing animals during the open season therefor, with the aid of a dog, unless otherwise prohibited by statute or by the rules of the Board.

(d) A person taking game with a gun may possess, carry, or use a gun suppressor in the act of taking game.

Sec. 16c. 10 V.S.A. § 4704 is amended to read

§ 4704. USE OF MACHINE GUNS~~,~~ OR AUTOLOADING RIFLES~~, AND GUN SUPPRESSORS~~

(a) A person engaged in hunting for wild animals shall not use, carry, or have in his or her possession:

(1) a machine gun of any kind or description; or

(2) an autoloading rifle with a magazine capacity of over six cartridges, except a .22 caliber rifle using rim fire cartridges~~; or~~

~~(3) a gun suppressor~~.

(b) ~~As used in this section, "gun suppressor" means any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a gun suppressor, and any part intended only for use in such assembly or fabrication.~~ [Repealed.]

Sec. 16d. 10 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

Words and phrases used in this part, unless otherwise provided, shall be construed to mean as follows:

* * *

(9) Game: game birds or game quadrupeds, or both.

(10) Game birds: quail, partridge, woodcock, pheasant, plover of any kind, Wilson snipe, other shore birds, rail, coot, gallinule, wild ducks, wild geese, and wild turkey.

* * *

(15) Wild animals or wildlife: all animals, including birds, fish, amphibians, and reptiles, other than domestic animals.

* * *

(23) Take and taking: pursuing, shooting, hunting, killing, capturing, trapping, snaring, and netting fish, birds, and quadrupeds and all lesser acts, such as disturbing, harrying or worrying, or wounding or placing, setting, drawing, or using any net or other device commonly used to take fish or wild animals, whether they result in the taking or not; and shall include every attempt to take and every act of assistance to every other person in taking or attempting to take fish or wild animals, provided that when taking is allowed by law, reference is had to taking by lawful means and in lawful manner.

* * *

(40) Gun suppressor: any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a gun suppressor, and any part intended only for use in such assembly or fabrication.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Rodgers? Senator Baruth raised a *point of*

order under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Rodgers was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order and ruled that the proposals of amendment were *germane* in that they related to the subject matter of the Senate proposal of amendment.

Thereupon, the question, Shall the Senate proposal of amendment be amended as moved by Senate Rodgers was disagreed to on a roll call, Yeas 12, 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, Branagan, Brock, Collamore, Flory, MacDonald, Mazza, Rodgers, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, McCormack, Nitka, Pearson, Pollina, Sears, Sirotkin.

Thereupon, pending third reading, Senator Rodgers moved to amend the Senate proposal of amendment by inserting new Secs. 17 and 18 and a reader assistance heading to read as follows:

* * * Large Capacity Ammunition Feeding Devices * * *

Sec. 17. 13 V.S.A. § 4021 is amended to read:

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

* * *

(d)(1) This section shall not apply to any large capacity ammunition feeding device:

* * *

(F) transported by a resident of another state into this State for the exclusive purpose of use in an established shooting competition, exhibition, or educational event if the device is lawfully possessed under the laws of another state.

* * *

Sec. 18. REPEAL

2018 Acts and Resolves No. 94, Sec. 11 (July 1, 2019 repeal of 13 V.S.A. § 4021(d)(1)(F), relating to transportation into Vermont of large capacity ammunition feeding devices for use in shooting competitions) is repealed.

And by renumbering the remaining section to be numerically correct.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Rodgers? Senator Baruth raised a *point of order* that the proposal of amendment violated Senate Rule 90 and could not be considered by the Senate.

The President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Rodgers violated Senate Rule 90 - in particular the proposed Section 18 relating to repealing 2018 Acts and Resolves No. 94 Sec. 11.

The President thereupon declared that the proposal of amendment offered by Senator Rodgers could *not* be considered by the Senate and the proposal of amendment was ordered stricken.

Thereupon, Senator Sears moved that the Rules be suspended to consider the proposal of amendment by Senator Rodgers which was disagreed to on a roll call, Yeas 19, Nays 11. (The necessary 3/4th majority not having been attained.)

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: Benning, Branagan, Brock, Campion, Collamore, Cummings, Flory, Kitchel, MacDonald, Mazza, McCormack, Nitka, Pollina, Rodgers, Sears, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Brooks, Clarkson, Ingram, Lyons, Pearson, Sirotkin.

Thereupon, pending third reading, Senator Rodgers moved to amend the Senate proposal of amendment by adding a new Sec. 17 to read as follows:

Sec. 17. 13 V.S.A. § 4021 is amended to read:

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

* * *

(e)(1) As used in this section, "large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept~~:~~

~~(A) more than 10 rounds of ammunition for a long gun; or~~

~~(B)~~ more than ~~15~~ 30 rounds of ammunition ~~for a hand gun~~.

And by renumbering the remaining section to be numerically correct.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Rodgers? Senator Baruth raised a *point of order* that the proposal of amendment violated Senate Rule 90 and could not be considered by the Senate.

The President *overruled* the point of order and ruled that the proposal of amendment did not violate Senate Rule 90.

Senator Sears moved that the bill be postponed until tomorrow, which was agreed to.

Proposal of Amendment; Third Reading Ordered

H. 675.

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to conditions of release prior to trial.

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:

Sec. 1. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person; and

(2) as a result of the threat, place ~~the~~ any other person in reasonable apprehension of death or serious bodily injury to themselves or any other person.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than $1,000.00, or both.

(c) 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.

(d)(1) A person shall not by words or conduct knowingly:

(A) threaten to use a firearm or an explosive device to harm another person in a school building, on school property, or in an institution of higher education; and

(B) as a result of the threat, place any other person in reasonable apprehension of death or serious bodily injury to themselves or any other person.

(2) A person who violates this subsection shall be imprisoned not more than five years or fined not more than $5,000.00, or both.

~~(d)~~(e) As used in this section:

(1) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(2) "Threat" and "threaten" shall not include constitutionally protected activity.

(3) "Firearm" shall have the same meaning as in section 4016 of this title.

(4) "School property" shall have the same meaning as in section 4004 of this title.

~~(e)~~(f) Any person charged under subsection (a) or (c) of this section who is under 18 years of age shall be adjudicated as a juvenile delinquent.

~~(f)~~(g) 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.

Sec. 2. 13 V.S.A. § 4004 is amended to read:

§ 4004. POSSESSION OF DANGEROUS OR DEADLY WEAPON IN A SCHOOL BUS OR SCHOOL BUILDING OR ON SCHOOL PROPERTY

(a) No person shall knowingly possess a firearm or a dangerous or deadly weapon while within a school building or on a school bus. A person who violates this section shall, for the first offense, be imprisoned not more than one year or fined not more than $1,000.00, or both, and for a second or subsequent offense shall be imprisoned not more than three years or fined not more than $5,000.00, or both.

(b) No person shall knowingly possess a firearm or a dangerous or deadly weapon on any school property with the intent to injure another person. A

person who violates this section shall, for the first offense, be imprisoned not more than two years or fined not more than $1,000.00, or both, and for a second or subsequent offense shall be imprisoned not more than three years or fined not more than $5,000.00, or both.

(c) This section shall not apply to:

(1) A law enforcement officer ~~while engaged in law enforcement duties~~.

(2) Possession and use of firearms or dangerous or deadly weapons if the board of school directors, or the superintendent or principal if delegated authority to do so by the board, authorizes possession or use for specific occasions or for instructional or other specific purposes.

(d) As used in this section:

(1) "School property" means any property owned by a school, including motor vehicles.

(2) "Owned by the school" means owned, leased, controlled or subcontracted by the school.

* * *

Sec. 3. 16 V.S.A. § 1167 is amended to read:

§ 1167. SCHOOL RESOURCE OFFICER; MEMORANDUM OF UNDERSTANDING

(a) Neither the State Board nor the Agency shall regulate the use of restraint and seclusion on school property by a school resource officer certified pursuant to 20 V.S.A. § 2358.

(b) ~~School boards~~ Prior to utilization of a school resource officer in a school, the school board and relevant law enforcement ~~agencies are encouraged to~~ agency shall enter into memoranda of understanding relating to:

(1) the possession and use of weapons and devices by a school resource officer on school property; and

(2) the nature and scope of assistance that a school resource officer will provide to the school system.

Sec. 4. RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING TO SCHOOL DISCIPLINE PROBLEMS

On or before July 1, 2019, the Agency of Education shall issue a report to all public school boards and boards of approved independent schools that set out restorative justice principles for responding to school discipline problems. On or before July 1, 2020, each public school board and each board of an approved independent school shall adopt a policy on the use of restorative

justice principles for responding to school discipline problems, which shall be in effect for the 2020-2021 school year. The restorative justice principles contained in the Agency report and the schools' policies shall be designed to:

(1) decrease the use of exclusionary discipline;

(2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual orientation, immigration status, or disability status; and

(3) provide students with the opportunity to make academic progress while suspended or expelled.

Sec. 5. EFFECTIVE DATES

Sec. 3 shall take effect July 1, 2018 and the remaining sections shall take effect on passage.

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

An act relating to school safety.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Baruth, for the Committee on Education, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

First: By striking out Sec. 2 in its entirety and inserting in lieu thereof: [Deleted.]

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING TO SCHOOL DISCIPLINE PROBLEMS

On or before July 1, 2019, the Agency of Education shall issue guidance to all public school boards and boards of approved independent schools that sets out restorative justice principles for responding to school discipline problems. Each public school board and each board of an approved independent school shall consider this guidance and whether to adopt a policy on the use of restorative justice principles for responding to school discipline problems. The restorative justice principles contained in the Agency guidance shall be designed to:

(1) decrease the use of exclusionary discipline;

(2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual

orientation, immigration status, or disability status; and

(3) provide students with the opportunity to make academic progress while suspended or expelled.

Third: By adding a new section, to be Sec. 5, to read as follows:

Sec. 5. IMPLEMENTATION OF RESTORATIVE JUSTICE PRINCIPLES; GRANT PROGRAM

(a) The Agency of Education shall establish a grant program to assist public and approved independent schools with the adoption and implementation of restorative justice principles for responding to school discipline problems. The Agency shall determine the eligibility criteria for receiving a grant and determining the grant amount, and shall monitor the use of grant monies.

(b) On or before December 1, 2018, 2019, and 2020, the Secretary of Education shall submit a written report to the House Committees on Education and Judiciary and the Senate Committees on Education and on Judiciary describing the eligibility criteria for receiving a grant and for determining the grant amount, identifying the grant recipients and the amounts they received in grant monies, and the use of grant monies by the recipients.

(c) The sum of $250,000.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2019 for the Agency to administer the grant program in accordance with this section.

And by renumbering the remaining section to be numerically correct.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary, as amended by the Committee on Education with the following amendment thereto:

By striking out Sec. 5 in its entirety and by renumbering the remaining section to be numerically correct.

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

Thereupon, the recommendation of proposal of amendment of the Committee on Judiciary, was amended as recommended by the Committee on Education, as amended.

Thereupon, pending the question, Shall the proposal of amendment recommended by the Committee on Judiciary, as amended, be agreed to?, Senators Benning and Sears move that the proposal of amendment of the Committee on Judiciary, as amended be amended as follows:

First: In Sec. 1, 13 V.S.A. § 1702(a), by striking out subsection (2) in its entirety and inserting in lieu thereof a new subsection (2) to read as follows:

(2) as a result of the threat, place ~~the~~ any ~~other~~ person in reasonable apprehension of death or serious bodily injury to themselves or any person.

Second: In subdivision (d)(1)(B), by striking out the word "other" where it twicely appears.

Which was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 59.

Joint Senate resolution entitled:

Joint resolution supporting the Gettysburg Battlefield Preservation Association's effort to preserve the Camp Letterman hospital site.

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

Recess

On motion of Senator Ashe the Senate recessed until 4:00 P.M..

Called to Order

The Senate was called to order by the President.

House Proposal of Amendment Concurred In with Amendment

S. 150.

House proposal of amendment to Senate bill entitled:

An act relating to automated license plate recognition systems.

Was taken up.

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

Sec. 1. EXTENSION OF SUNSET

Subsection (b) of 2013 Acts and Resolves No. 69, Sec. 3, as amended by 2015 Acts and Resolves No. 32, Sec. 1, as further amended by 2016 Acts and Resolves No. 169, Sec. 6, is further amended to read:

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, ~~2018~~ 2019.

Sec. 2. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS; AUDITOR EXAMINATION OF COMPLIANCE

(a) On or before January 15, 2019, with respect to data collected by Automated License Plate Recognition (ALPR) systems, the Auditor of Accounts (Auditor) shall:

(1) examine requests for "historical data" as defined in 23 V.S.A. § 1607 that resulted in a release of historical data to the requester from July 1, 2016 through June 30, 2018 by the Vermont Intelligence Center (VIC), and shall examine such additional records as may be required, to enable the Auditor to determine whether the request and the release complied with requirements of 23 V.S.A. § 1607(c)(2); and

(2) submit a written report to the House and Senate Committees on Judiciary and on Transportation summarizing the findings of the examination required under this subsection.

(b) Notwithstanding any exemption under the Public Records Act (PRA) or other provision of State law to the contrary, a public agency shall release to the Auditor records that the Auditor may need in order to conduct the examination required under subsection (a) of this section. After receiving any record that is exempt from public inspection and copying under the PRA, the Auditor shall have the authority and the obligation to assert the PRA exemption if the Auditor receives a request to inspect or copy the record.

Sec. 3. 23 V.S.A. § 1607(e) is amended to read:

(e) Oversight; rulemaking.

(1) The Department of Public Safety, in consultation with the Department of Motor Vehicles, shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department of Public Safety shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated by government agencies in the State, the number of such units that are stationary, and the number of units submitting data to the statewide ALPR database;

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Nitka, Ashe, Benning, Sears and White moved that the Senate concur in the House proposal of amendment with an amendment in Sec. 1, by striking out "2019" and inserting in lieu thereof 2020

Which was agreed to.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 273.

House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous law enforcement amendments.

Was taken up.

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

* * * Training * * *

Sec. 1. 20 V.S.A. § 2351 is amended to read:

§ 2351. CREATION AND PURPOSE OF COUNCIL

* * *

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ recruit and in-service training for law enforcement officers.

* * *

Sec. 2. 20 V.S.A. § 2351a is amended to read:

§ 2351a. DEFINITIONS

As used in this chapter:

(1) "Executive officer" means the highest-ranking law enforcement officer of a law enforcement agency.

(2) "Law enforcement agency" means the employer of a law enforcement officer.

(3) "Law enforcement officer" means an employee of the Vermont Police Academy as permitted under section 2356 of this chapter; a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor Control who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State's Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or a police officer appointed to the University of Vermont's Department of Police Services.

* * *

Sec. 3. 20 V.S.A. § 2356 is added to read:

§ 2356. VERMONT POLICE ACADEMY; LAW ENFORCEMENT OFFICERS

(a) A person employed by the Vermont Police Academy who is certified as a law enforcement officer under this chapter and who maintains that certification shall be a law enforcement officer with statewide law enforcement authority.

(b) The ability of a person to be a certified law enforcement officer solely through his or her employment at the Vermont Police Academy pursuant to subsection (a) of this section shall not qualify that person for Group C membership in the Vermont State Retirement System.

Sec. 4. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, ~~and~~ of Fish and Wildlife, and of Mental Health;

(B) the Attorney General;

(C) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

(D) a member of the Vermont Police Association, elected by its membership; ~~and~~

(E) ~~five additional members appointed by the Governor.~~

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association~~ a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(F) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(G) a law enforcement officer appointed by the President of the Vermont State Employees Association;

(H) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(I) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and

(J) three public members who shall not be law enforcement officers or current legislators or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.

(2) A member's term shall be three years.

* * *

(c) The public members of the Council set forth in subdivision (a)(1)(J) of this section shall be entitled to receive ~~no~~ per diem compensation ~~for their services~~, but the other members of the Council shall not be entitled to such compensation; provided, however, that all members of the Council shall be ~~allowed their actual and necessary~~ entitled to receive reimbursement of expenses ~~incurred in the performance of their duties~~. Per diem compensation and reimbursement of expenses under this subsection shall be made as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.

* * *

Sec. 4a. TRANSITIONAL PROVISION TO ADDRESS NEW COUNCIL MEMBERSHIP

Any existing member of the Vermont Criminal Justice Training Council who will serve on the Council under its new membership as set forth in Sec. 4 of this act may serve the remainder of his or her term in effect immediately prior to the effective date of Sec. 4.

Sec. 5. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in multiple regions of the State and shall strive to replace overnight courses with these regional trainings whenever possible.

(2) The Council may also offer the basic officer's course for ~~pre-service~~ preservice students and educational outreach courses for the public, including firearms safety and use of force.

* * *

Sec. 6. COUNCIL; REPORT ON TRAINING ALTERNATIVES

On or before January 15, 2019, the Executive Director of the Vermont Criminal Justice Training Council shall report to the Senate and House Committees on Government Operations regarding the Council's identification and implementation of alternate routes to certification and its plan to replace some of its overnight law enforcement training requirements at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (Police Academy) with training in multiple regions of the State, in accordance with 20 V.S.A. § 2355 in Sec. 5 of this act. The report shall specifically address any budgetary implications of the provisions of Sec. 5.

Sec. 7. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level~~,~~ and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(2) Level II certification.

* * *

(3) Level III certification.

* * *

(c)(1) All programs required by this section shall be approved by the Council.

(2) The Council shall structure its programs so that an officer certified as a Level II law enforcement officer may complete additional training in block steps in order to transition to Level III certification, without such an officer needing to restart the certification process.

(3) Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

* * *

Sec. 8. 20 V.S.A. § 2361 is amended to read:

§ 2361. ADDITIONAL TRAINING

(a) Nothing in this chapter prohibits any ~~State~~ law enforcement agency~~, department, or office or any municipality or county of the State~~ from providing additional training beyond basic training to its personnel where no certification is requested of or required by the Council or its Executive Director.

(b) The ~~head of a State agency, department, or office, a municipality's chief of police, or a sheriff~~ executive officer of a law enforcement agency may seek certification from the Council for any in-service training he ~~or~~, she, or his or her designee may provide to ~~his or her employees~~ law enforcement officers of his or her agency or of another agency, or both.

* * * Vermont State Retirement System; Group C Membership * * *

Sec. 9. LAW ENFORCEMENT STATE RETIREMENT BENEFITS STUDY COMMITTEE; REPORT

(a) Creation. There is created the Law Enforcement State Retirement Benefits Study Committee to evaluate the requirements for membership in Group C of the Vermont State Retirement System (System) and to make recommendations to the General Assembly on any proposed changes to those requirements.

(b) Membership.

(1) The Committee shall be composed of the following 10 members:

(A) a current member of the House Committee on Appropriations, appointed by the Speaker;

(B) a current member of the Senate Committee on Appropriations, appointed by the Committee on Committees;

(C) a current member of the House Committee on Government Operations, appointed by the Speaker;

(D) a current member of the Senate Committee on Government Operations, appointed by the Committee on Committees;

(E) the State Treasurer or designee;

(F) the Secretary of Administration or designee;

(G) the Commissioner of Human Resources or designee;

(H) the Commissioner of Public Safety or designee;

(I) the President of the Vermont State Employees' Association or designee; and

(J) the Executive Director of the Vermont Troopers' Association or designee.

(2) Any vacancy in membership shall be filled by the appointing authority for the remainder of the term.

(c) Powers and duties.

(1) Group C analysis. The Committee shall review the requirements for membership in Group C of the System as set forth in 3 V.S.A. § 455(a)(9)(B) and (11)(C) and shall review all current employee positions classified as Group C in order to perform the following analyses:

(A) whether the requirements for membership in Group C are appropriately tailored to provide the appropriate retirement benefit to the appropriate group of employees; and

(B) whether applicable federal requirements, including the provisions of the Age Discrimination in Employment Act, merit changes to the requirements of Group C.

(2) Retirement benefit recommendations. In accordance with its findings made pursuant to subdivision (1) of this subsection, the Committee shall make the following recommendations:

(A) whether any State employee positions currently in Group C should be reclassified to another group within the System, given the nature of the job duties performed by members in those positions;

(B) whether any State employee positions not currently in Group C should be reclassified into Group C, given the nature of the job duties performed by members in those positions; and

(C) whether the General Assembly should consider any revisions or enhancements to the retirement benefits for certain State employee positions that do not qualify for the current or recommended Group C requirements, if the Committee finds that the nature of the position and job duties performed merits such revisions.

(3) Legal and IRS compliance consulting; appropriation. The amount of $5,000.00 is appropriated to the Office of Treasurer for the purpose of contracting with a legal and Internal Revenue Service compliance consultant in order to assist the Committee with its powers and duties set forth in subdivisions (1) and (2) of this subsection.

(d) Assistance.

(1) The Committee shall have the administrative, technical, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(2) The Offices of the State Treasurer and of the Attorney General, the Agency of Administration, the Department of Finance and Management, the Department of Human Resources, and the Agency of Digital Services shall provide support to the Committee as applicable.

(e) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur as soon as practicable in fiscal year 2019.

(2) The Committee shall select co-chairs from among its membership, one of whom shall be a member of the House and one of whom shall be a member of the Senate, serving in their capacity as legislators.

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

(4) The Committee shall cease to exist on June 30, 2019.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings. These payments shall be made from monies appropriated to the Agency of Administration.

(g) Reports. On or before January 15, 2019, the Committee shall report its findings and recommendations to the House and Senate Committees on Government Operations and on Appropriations.

* * * Law Enforcement Advisory Board * * *

Sec. 10. LEAB; REPEAL FOR RECODIFICATION

24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

Sec. 11. 20 V.S.A. § 1818 is added to read:

§ 1818. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board is created within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. The Board shall review any matter that affects more than one law enforcement agency. The Board shall comprise the following members:

(1) the Commissioner of Public Safety or designee;

(2) a member of the Chiefs of Police Association of Vermont appointed by the President of the Association;

(3) a member of the Vermont Sheriffs' Association appointed by the President of the Association;

(4) a representative of the Vermont League of Cities and Towns appointed by the Executive Director of the League;

(5) a member of the Vermont Police Association appointed by the President of the Association;

(6) the Attorney General or designee;

(7) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(8) the U.S. Attorney or designee;

(9) the Executive Director of the Vermont Criminal Justice Training Council;

(10) the Executive Director of the Vermont Troopers' Association or designee;

(11) a member of the Vermont Constables Association appointed by the President of the Association; and

(12) the President of the Vermont State Employees Association or designee.

(b) The Board shall elect a chair and a vice chair, which positions shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair or a majority of the members. A quorum shall consist of seven members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall undertake an ongoing formal process of reviewing law enforcement policies and practices with a goal of developing a comprehensive approach to providing the best services to Vermonters, given the monies available. The Board shall also provide educational resources to Vermonters about public safety challenges in the State.

(d)(1) The Board shall meet at its discretion to develop policies and recommendations for law enforcement priority needs, including retirement benefits, recruitment of officers, training, homeland security issues, dispatching, and comprehensive drug enforcement.

(2) The Board shall present its findings and recommendations in brief summary form to the House and Senate Committees on Judiciary and on Government Operations annually on or before January 15.

Sec. 12. LEAB; RECODIFICATION DIRECTIVE

(a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory revision, the Office of Legislative Council shall revise accordingly any references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

(b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as previously codified shall be deemed to refer to 20 V.S.A. § 1818.

Sec. 13. LEAB; 2019 REPORT ON MUNICIPAL ACCESS TO LAW ENFORCEMENT SERVICES AND ON AGENCY DATA STANDARDS FOR RECORD SYSTEMS

As part of its annual report in the year 2019, the Law Enforcement Advisory Board shall:

(1) specifically recommend ways that towns can increase access to law enforcement services; and

(2) consult with the Vermont Crime Information Center, the Crime Research Group, and other interested stakeholders regarding the manner in which law enforcement agencies enter data into their systems of records of the commission of crimes and related information in order to recommend in the report how agencies can improve that data entry so that crime data is entered uniformly and in a manner that meets the Center's requirement to have a uniform system of crime records as set forth in 20 V.S.A. § 2053.

* * * State Dispatch Costs * * *

Sec. 14. DEPARTMENT OF PUBLIC SAFETY; REPORT ON EXISTING STATE COSTS OF PROVIDING DISPATCH SERVICES

On or before October 1, 2018, the Commissioner of Public Safety shall provide to the House and Senate Committees on Government Operations the existing cost to the State of the Department of Public Safety providing dispatch services.

* * * Effective Dates and Implementation * * *

Sec. 15. EFFECTIVE DATES; IMPLEMENTATION

This act shall take effect on July 1, 2018, except:

(1) Sec. 5, amending 20 V.S.A. § 2355 (Council powers and duties) shall take effect on July 1, 2019 , except that the requirement to adopt rules set forth in subdivision (a)(1) of that section shall take effect on July 1, 2018 so that those rules are adopted on or before July 1, 2019; and

(2) Sec. 7, amending 20 V.S.A. § 2358 (minimum training standards; definitions) shall take effect on July 1, 2020.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator White, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 562.

Senator Nitka, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to parentage proceedings.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. Title 15C is added to read:

TITLE 15C. PARENTAGE PROCEEDINGS

CHAPTER 1. SHORT TITLE; DEFINITIONS; SCOPE; GENERAL PROVISIONS

§ 101. SHORT TITLE

This title may be cited as the Vermont Parentage Act.

§ 102. DEFINITIONS

As used in this title:

(1) "Acknowledged parent" means a person who has established a parent-child relationship under chapter 3 of this title.

(2) "Adjudicated parent" means a person who has been adjudicated by a court of competent jurisdiction to be a parent of a child.

(3) "Alleged genetic parent" means a person who is alleged to be, or alleges that the person is, a genetic parent or possible genetic parent of a child whose parentage has not been adjudicated. The term includes an alleged genetic father and alleged genetic mother. The term does not include:

(A) a presumed parent;

(B) a person whose parental rights have been terminated or declared not to exist; or

(C) a donor.

(4) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse and includes:

(A) intrauterine, intracervical, or vaginal insemination;

(B) donation of gametes;

(C) donation of embryos;

(D) in vitro fertilization and transfer of embryos; and

(E) intracytoplasmic sperm injection.

(5) "Birth" includes stillbirth.

(6) "Child" means a person of any age whose parentage may be determined under this title.

(7) "Domestic assault" shall include any offense as set forth in 13 V.S.A. chapter 19, subchapter 6 (domestic assault).

(8) "Donor" means a person who contributes a gamete or gametes or an embryo or embryos to another person for assisted reproduction or gestation, whether or not for consideration. This term does not include:

(A) a person who gives birth to a child conceived by assisted reproduction except as otherwise provided in chapter 8 of this title; or

(B) a parent under chapter 7 of this title or an intended parent under chapter 8 of this title.

(9) "Embryo" means a cell or group of cells containing a diploid complement of chromosomes or a group of such cells, not including a gamete, that has the potential to develop into a live born human being if transferred into the body of a person under conditions in which gestation may be reasonably expected to occur.

(10) "Gamete" means a sperm, egg, or any part of a sperm or egg.

(11) "Genetic population group" means, for purposes of genetic testing, a recognized group that a person identifies as all or part of the person's ancestry or that is so identified by other information.

(12) "Gestational carrier" means an adult person who is not an intended parent and who enters into a gestational carrier agreement to bear a child conceived using the gametes of other persons and not the gestational carrier's own, except that a person who carries a child for a family member using the

gestational carrier's own gametes and who fulfills the requirements of chapter 8 of this title is a gestational carrier.

(13) "Gestational carrier agreement" means a contract between an intended parent or parents and a gestational carrier intended to result in a live birth.

(14) "Intended parent" means a person, whether married or unmarried, who manifests the intent to be legally bound as a parent of a child resulting from assisted reproduction or a gestational carrier agreement.

(15) "Marriage" includes civil union and any legal relationship that provides substantially the same rights, benefits, and responsibilities as marriage and is recognized as valid in the state or jurisdiction in which it was entered.

(16) "Parent" means a person who has established parentage that meets the requirements of this title.

(17) "Parentage" means the legal relationship between a child and a parent as established under this title.

(18) "Presumed parent" means a person who is recognized as the parent of a child under section 401 of this title.

(19) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) "Sexual assault" shall include sexual assault as provided in 13 V.S.A. § 3252(a), (b), (d), and (e); aggravated sexual assault as provided in 13 V.S.A. § 3253; aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a; lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602; and similar offenses in other jurisdictions.

(21) "Sexual exploitation" shall include sexual exploitation of an inmate as provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A. § 1379, and similar offenses in other jurisdictions.

(22) "Sign" means, with the intent to authenticate or adopt a record, to:

(A) execute or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic symbol, sound, or process.

(23) "Signatory" means a person who signs a record and is bound by its terms.

(24) "Spouse" includes a partner in a civil union or a partner in a legal relationship that provides substantially the same rights, benefits, and responsibilities as marriage and is recognized as valid in the state or jurisdiction in which it was entered.

§ 103. SCOPE AND APPLICATION

(a) Scope. This title applies to determination of parentage in this State.

(b) Choice of law. The court shall apply the law of this State to adjudicate parentage.

(c) Effect on parental rights. This title does not create, enlarge, or diminish parental rights and responsibilities under other laws of this State or the equitable powers of the courts, except as provided in this title.

§ 104. PARENTAGE PROCEEDING

(a) Proceeding authorized. A proceeding to adjudicate the parentage of a child shall be maintained in accordance with this title and with the Vermont Rules for Family Proceedings, except that proceedings for birth orders under sections 708 and 804 of this title shall be maintained in accordance with the Vermont Rules of Probate Procedure.

(b) Actions brought by the Office of Child Support. If the complaint is brought by the Office of Child Support, the complaint shall be accompanied by an affidavit of the parent whose rights have been assigned. In cases where the assignor is not a genetic parent or is a genetic parent who refuses to provide an affidavit, the affidavit may be submitted by the Office of Child Support, but the affidavit alone shall not support a default judgment on the issue of parentage.

(c) Original actions. Original actions to adjudicate parentage may be commenced in the Family Division of the Superior Court, except that proceedings for birth orders under sections 708 and 804 of this title shall be commenced in the Probate Division of the Superior Court.

(d) No right to jury. There shall be no right to a jury trial in an action to determine parentage.

(e) Disclosure of Social Security numbers. A person who is a party to a parentage action shall disclose that person's Social Security number to the court. The Social Security number of a person subject to a parentage adjudication shall be placed in the court records relating to the adjudication. The court shall disclose a person's Social Security number to the Office of Child Support.

§ 105. STANDING TO MAINTAIN PROCEEDING

Subject to other provisions of this chapter, a proceeding to adjudicate parentage may be maintained by:

(1) the child;

(2) the person who gave birth to the child unless a court has adjudicated that the person is not a parent or the person is a gestational carrier who is not a parent under subdivision 803(1)(A) of this title;

(3) a person whose parentage is to be adjudicated;

(4) a person who is a parent under this title;

(5) the Department for Children and Families, including the Office of Child Support; or

(6) a representative authorized by law to act for a person who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor.

§ 106. NOTICE OF PROCEEDING

(a) A petitioner under this chapter shall give notice of the proceeding to adjudicate parentage to the following:

(1) the person who gave birth to the child unless a court has adjudicated that the person is not a parent;

(2) a person who is a parent of the child under this chapter;

(3) a presumed, acknowledged, or adjudicated parent of the child;

(4) a person whose parentage of the child is to be adjudicated; and

(5) the Office of Child Support, in cases in which either party is a recipient of public assistance benefits from the Economic Services Division and has assigned the right to child support, or in cases in which either party has requested the services of the Office of Child Support.

(b) A person entitled to notice under subsection (a) of this section and the Office of Child Support, where the Office is involved pursuant to subdivision (a)(5), has a right to intervene in the proceeding.

(c) Lack of notice required by subsection (a) of this section shall not render a judgment void. Lack of notice does not preclude a person entitled to notice under subsection (a) from bringing a proceeding under this title.

(d) This section shall not apply to petitions for birth orders under chapters 7 and 8 of this title.

§ 107. FORM OF NOTICE

Notice shall be by first-class mail to the person's last known address.

§ 108. PERSONAL JURISDICTION

(a) Personal jurisdiction. A person shall not be adjudicated a parent unless the court has personal jurisdiction over the person.

(b) Personal jurisdiction over nonresident. A court of this State having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident person, or the guardian or conservator of the person, if the conditions prescribed in Title 15B are fulfilled.

(c) Adjudication. Lack of jurisdiction over one person does not preclude the court from making an adjudication of parentage binding on another person over whom the court has personal jurisdiction.

§ 109. VENUE

Venue for a proceeding to adjudicate parentage shall be in the county in which:

(1) the child resides or is present or, for purposes of chapter 7 or 8 of this title, is or will be born;

(2) any parent or intended parent resides;

(3) the respondent resides or is present if the child does not reside in this State;

(4) a proceeding for probate or administration of the parent or alleged parent's estate has been commenced; or

(5) a child protection proceeding with respect to the child has been commenced.

§ 110. JOINDER OF PROCEEDINGS

(a) Joinder permitted. Except as otherwise provided in subsection (b) of this section, a proceeding to adjudicate parentage may be joined with a proceeding for parental rights and responsibilities, parent-child contact, child support, child protection, termination of parental rights, divorce, annulment, legal separation, guardianship, probate or administration of an estate or other appropriate proceeding, or a challenge or rescission of acknowledgment of parentage. Such proceedings shall be in the Family Division of the Superior Court.

(b) Joinder not permitted. A respondent may not join a proceeding described in subsection (a) of this section with a proceeding to adjudicate parentage brought as part of an interstate child support enforcement action under Title 15B.

§ 111. ORDERS

(a) Interim order for support. In a proceeding under this title, the court may issue an interim order for support of a child in accordance with the child support guidelines under 15 V.S.A. § 654 with respect to a person who is:

(1) a presumed, acknowledged, or adjudicated parent of the child;

(2) petitioning to have parentage adjudicated;

(3) identified as the genetic parent through genetic testing under chapter 6 of this title;

(4) an alleged genetic parent who has declined to submit to genetic testing;

(5) shown by a preponderance of evidence to be a parent of the child;

(6) the person who gave birth to the child, other than a gestational carrier; or

(7) a parent under this chapter.

(b) Interim order for parental rights and responsibilities. In a proceeding under this title, the court may make an interim order regarding parental rights and responsibilities on a temporary basis.

(c) Final orders. Final orders concerning child support or parental rights and responsibilities shall be governed by Title 15.

§ 112. ADMISSION OF PARENTAGE AUTHORIZED

(a) Admission of parentage. A respondent in a proceeding to adjudicate parentage may admit parentage of a child when making an appearance or during a hearing in a proceeding involving the child or by filing a pleading to such effect. An admission of parentage pursuant to this section is different from an acknowledgment of parentage as provided in chapter 3 of this title.

(b) Order adjudicating parentage. If the court finds an admission to be consistent with the provisions of this chapter and rejects any objection filed by another party, the court may issue an order adjudicating the child to be the child of the person admitting parentage.

§ 113. ORDER ON DEFAULT

The court may issue an order adjudicating the parentage of a person who is in default, providing:

(1) the person was served with notice of the proceeding; and

(2) the person is found by the court to be the parent of the child.

§ 114. ORDER ADJUDICATING PARENTAGE

(a) Issuance of order. In a proceeding under this chapter, the court shall issue a final order adjudicating whether a person alleged or claiming to be a parent is the parent of a child.

(b) Identify child. A final order under subsection (a) of this section shall identify the child by name and date of birth.

(c) Change of name. On request of a party and for good cause shown, the court may order that the name of the child be changed.

(d) Amended birth record. If the final order under subsection (a) of this section is at variance with the child's birth certificate, the Department of Health shall issue an amended birth certificate.

§ 115. BINDING EFFECT OF DETERMINATION OF PARENTAGE

(a) Determination binding. Except as otherwise provided in subsection (b) of this section, a determination of parentage shall be binding on:

(1) all signatories to an acknowledgment of parentage or denial of parentage as provided in chapter 3 of this title; and

(2) all parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of section 108 of this title.

(b) Adjudication in proceeding to dissolve marriage. In a proceeding to dissolve a marriage, the court is deemed to have made an adjudication of the parentage of a child if:

(1) the court acts under circumstances that satisfy the jurisdictional requirements of section 108 of this title; and

(2) the final order:

(A) expressly identifies a child as a "child of the marriage" or "issue of the marriage" or by similar words indicates that the parties are the parents of the child; or

(B) provides for support of the child by the parent or parents.

(c) Determination a defense. Except as otherwise provided in this chapter, a determination of parentage shall be a defense in a subsequent proceeding seeking to adjudicate parentage by a person who was not a party to the earlier proceeding.

(d) Challenge to adjudication.

(1) Challenge by a person who was a party to an adjudication. A party to an adjudication of parentage may challenge the adjudication only by appeal

or in a manner otherwise consistent with the Vermont Rules for Family Proceedings.

(2) Challenge by a person who was not a party to an adjudication. A person who has standing under section 105 of this title, but who did not receive notice of the adjudication of parentage under section 106 of this title and was not a party to the adjudication, may challenge the adjudication within two years after the effective date of the adjudication. The court, in its discretion, shall permit the proceeding only if it finds that it is in the best interests of the child. If the court permits the proceeding, the court shall adjudicate parentage under section 206 of this title.

(e) Child not bound. A child is not bound by a determination of parentage under this chapter unless:

(1) the determination was based on an unrescinded acknowledgment of parentage and the acknowledgment is consistent with the results of genetic testing;

(2) the determination was based on a finding consistent with the results of genetic testing;

(3) the determination of parentage was made under chapter 7 or 8 of this title; or

(4) the child was a party or was represented by an attorney, guardian ad litem, or similar person in the proceeding in which the child's parentage was adjudicated.

§ 116. FULL FAITH AND CREDIT

A court of this State shall give full faith and credit to a determination of parentage and to an acknowledgment of parentage from another state if the determination is valid and effective in accordance with the law of the other state.

CHAPTER 2. ESTABLISHMENT OF PARENTAGE

§ 201. RECOGNIZED PARENTS

A person may establish parentage by any of the following:

(1) Birth. Giving birth to the child, except as otherwise provided in chapter 8 of this title.

(2) Adoption. Adoption of the child pursuant to Title 15A.

(3) Acknowledgment. An effective voluntary acknowledgment of parentage under chapter 3 of this title.

(4) Adjudication. An adjudication based on an admission of parentage under section 112 of this title.

(5) Presumption. An unrebutted presumption of parentage under chapter 4 of this title.

(6) De facto parentage. An adjudication of de facto parentage, under chapter 5 of this title.

(7) Genetic parentage. An adjudication of genetic parentage under chapter 6 of this title.

(8) Assisted reproduction. Consent to assisted reproduction under chapter 7 of this title.

(9) Gestational carrier agreement. Consent to a gestational carrier agreement by the intended parent or parents under chapter 8 of this title.

§ 202. NONDISCRIMINATION

Every child has the same rights under law as any other child without regard to the marital status or gender of the parents or the circumstances of the birth of the child.

§ 203. CONSEQUENCES OF ESTABLISHMENT OF PARENTAGE

Unless parentage has been terminated by a court order or an exception has been stated explicitly in this title, parentage established under this title applies for all purposes, including the rights and duties of parentage under the law.

§ 204. DETERMINATION OF MATERNITY AND PATERNITY

Provisions of this title relating to determination of paternity may apply to determination of maternity as needed to determine parentage consistent with this title.

§ 205. NO LIMITATION ON CHILD

Nothing in this chapter limits the right of a child to bring an action to adjudicate parentage.

§ 206. ADJUDICATING COMPETING CLAIMS OF PARENTAGE

(a) Competing claims of parentage. Except as otherwise provided in section 616 of this title, in a proceeding to adjudicate competing claims of parentage or challenges to a child's parentage by two or more persons, the court shall adjudicate parentage in the best interests of the child, based on the following factors:

(1) the age of the child;

(2) the length of time during which each person assumed the role of parent of the child;

(3) the nature of the relationship between the child and each person;

(4) the harm to the child if the relationship between the child and each person is not recognized;

(5) the basis for each person's claim to parentage of the child; and

(6) other equitable factors arising from the disruption of the relationship between the child and each person or the likelihood of other harm to the child.

(b) Preservation of parent-child relationship. Consistent with the establishment of parentage under this chapter, a court may determine that a child has more than two parents if the court finds that it is in the best interests of the child to do so. A finding of best interests of the child under this subsection does not require a finding of unfitness of any parent or person seeking an adjudication of parentage.

CHAPTER 3. VOLUNTARY ACKNOWLEDGMENT OF PARENTAGE

§ 301. ACKNOWLEDGMENT OF PARENTAGE

(a) The following persons may sign an acknowledgment of parentage to establish parentage of a child:

(1) a person who gave birth to the child;

(2) a person who is the alleged genetic parent of the child;

(3) a person who is an intended parent to the child pursuant to chapter 7 or 8 of this title; and

(4) a presumed parent pursuant to chapter 4 of this title.

(b) The acknowledgment shall be signed by both the person who gave birth to the child and by the person seeking to establish a parent-child relationship and shall be witnessed and signed by at least one other person.

§ 302. ACKNOWLEDGMENT OF PARENTAGE VOID

An acknowledgment of parentage shall be void if, at the time of signing:

(1) a person other than the person seeking to establish parentage is a presumed parent, unless a denial of parentage in a signed record has been filed with the Department of Health; or

(2) a person, other than the person who gave birth, is an acknowledged, admitted, or adjudicated parent, or an intended parent under chapter 7 or 8 of this title.

§ 303. DENIAL OF PARENTAGE

A person presumed to be a parent or an alleged genetic parent may sign a denial of parentage only in the limited circumstances set forth in this section. A denial of parentage shall be valid only if:

(1) an acknowledgment of parentage by another person has been filed pursuant to this chapter;

(2) the denial is in a record and is witnessed and signed by at least one other person; and

(3) the person executing the denial has not previously:

(A) acknowledged parentage, unless the previous acknowledgment has been rescinded pursuant to section 307 of this title or successfully challenged the acknowledgment pursuant to section 308 of this title; or

(B) been adjudicated to be the parent of the child.

§ 304. CONDITIONS FOR ACKNOWLEDGMENT OR DENIAL OF PARENTAGE

(a) Completed forms for acknowledgment of parentage and denial of parentage shall be filed with the Department of Health.

(b) An acknowledgment of parentage or denial of parentage may be signed before or after the birth of a child.

(c) An acknowledgment of parentage or denial of parentage takes effect on the date of the birth of the child or the filing of the document with the Department of Health, whichever occurs later.

(d) An acknowledgment of parentage or denial of parentage signed by a minor shall be valid provided it is otherwise in compliance with this title.

§ 305. EQUIVALENT TO ADJUDICATION; NO RATIFICATION REQUIRED

(a) Acknowledgment. Except as otherwise provided in sections 307 and 308 of this title, a valid acknowledgment of parentage under section 301 of this title filed with the Department of Health is equivalent to an adjudication of parentage of a child and confers upon the acknowledged parent all of the rights and duties of a parent.

(b) Ratification. Judicial or administrative ratification is neither permitted nor required for an unrescinded or unchallenged acknowledgment of parentage.

(c) Denial. Except as otherwise provided in sections 307 and 308 of this title, a valid denial of parentage under section 303 of this title filed with the

Department of Health in conjunction with a valid acknowledgment of parentage under section 301 of this title is equivalent to an adjudication of the nonparentage of the presumed parent or alleged genetic parent and discharges the presumed parent or alleged genetic parent from all rights and duties of a parent.

(d) Rescission or challenge. A signatory of an acknowledgment of parentage may rescind or challenge the acknowledgment in accordance with sections 307-309 of this title.

§ 306. NO FILING FEE

The Department of Health shall not charge a fee for filing an acknowledgment of parentage or denial of parentage.

§ 307. TIMING OF RESCISSION

(a) A person may rescind an acknowledgment of parentage or denial of parentage under this chapter by any of the following methods:

(1) Filing a rescission with the Department of Health within 60 days after the effective date of the acknowledgment or denial. The signing of the rescission shall be witnessed and signed by at least one other person.

(2) Commencing a court proceeding within 60 days after:

(A) the effective date of the acknowledgment or denial, as provided in section 304 of this title; or

(B) the date of the first court hearing in a proceeding in which the signatory is a party to adjudicate an issue relating to the child, including a proceeding seeking child support.

(b) If an acknowledgment of parentage is rescinded under this section, any associated denial of parentage becomes invalid, and the Department of Health shall notify the person who gave birth to the child and any person who signed a denial of parentage of the child that the acknowledgment of parentage has been rescinded. Failure to give notice required by this section does not affect the validity of the rescission.

§ 308. CHALLENGE TO ACKNOWLEDGMENT AFTER EXPIRATION OF PERIOD FOR RESCISSION

(a) Challenge by signatory. After the period for rescission under section 307 of this title has expired, a signatory of an acknowledgment of parentage or denial of parentage may commence a proceeding to challenge the acknowledgment or denial only:

(1) on the basis of fraud, duress, coercion, threat of harm, or material mistake of fact; and

(2) within two years after the acknowledgment or denial is effective in accordance with section 304 of this title.

(b) Challenge by person not a signatory. If an acknowledgment of parentage has been made in accordance with this chapter, a person who is neither the child nor a signatory to the acknowledgment who seeks to challenge the validity of the acknowledgment and adjudicate parentage shall commence a proceeding within two years after the effective date of the acknowledgment unless the person did not know and could not reasonably have known of the person's potential parentage due to a material misrepresentation or concealment, in which case the proceeding shall be commenced within two years after the discovery of the person's potential parentage.

(c) Burden of proof. A person challenging an acknowledgment of parentage or denial of parentage pursuant to this section has the burden of proof by clear and convincing evidence.

(d) Consolidation. A court proceeding in which the validity of an acknowledgment of parentage is challenged shall be consolidated with any other pending court actions regarding the child.

§ 309. PROCEDURE FOR RESCISSION OR CHALLENGE

(a) Every signatory party. Every signatory to an acknowledgment of parentage and any related denial of parentage shall be made a party to a proceeding under section 307 or 308 of this title to rescind or challenge the acknowledgment or denial.

(b) Submission to personal jurisdiction. For the purpose of rescission of or challenge to an acknowledgment of parentage or denial of parentage, a signatory submits to personal jurisdiction of this State by signing the acknowledgment or denial, effective upon the filing of the document with the Department of Health pursuant to section 304 of this title.

(c) Suspension of legal responsibilities. Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment of parentage or denial of parentage, the court shall not suspend the legal responsibilities of a signatory arising from the acknowledgment, including the duty to pay child support.

(d) Proceeding to rescind or challenge. A proceeding to rescind or challenge an acknowledgment of parentage or denial of parentage shall be conducted as a proceeding to adjudicate parentage pursuant to chapter 1 of this title.

(e) Amendment to birth record. At the conclusion of a proceeding to rescind or challenge an acknowledgment of parentage or denial of parentage, the court shall order the Department of Health to amend the birth record of the child, if appropriate.

§ 310. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PARENTAGE

(a) The Department of Health shall develop an acknowledgment of parentage form and denial of parentage form for execution of parentage under this chapter.

(b) The acknowledgment of parentage form shall provide notice of the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment and shall state that:

(1) there is no other presumed parent of the child or, if there is another presumed parent, shall state that parent's full name;

(2) there is no other acknowledged parent, adjudicated parent, or person who is an intended parent under chapter 7 or 8 of this title other than the person who gave birth to the child; and

(3) the signatories understand that the acknowledgment is the equivalent of a court determination of parentage of the child and that a challenge to the acknowledgment is permitted only under limited circumstances.

(c) A valid acknowledgment of parentage or denial of parentage is not affected by a later modification of the prescribed form.

§ 311. RELEASE OF INFORMATION

The Department of Health may release information relating to an acknowledgment of parentage under section 301 of this title as provided in 18 V.S.A. § 5002.

§ 312. ADOPTION OF RULES

The Department of Health may adopt rules to implement this chapter.

CHAPTER 4. PRESUMED PARENTAGE

§ 401. PRESUMPTION OF PARENTAGE

(a) Except as otherwise provided in this title, a person is presumed to be a parent of a child if:

(1) the person and the person who gave birth to the child are married to each other and the child is born during the marriage; or

(2) the person and the person who gave birth to the child were married to each other and the child is born not later than 300 days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution; or

(3) the person and the person who gave birth to the child married each other after the birth of the child and the person at any time asserted parentage of the child and the person agreed to be and is named as a parent of the child on the birth certificate of the child; or

(4) the person resided in the same household with the child for the first two years of the life of the child, including periods of temporary absence, and the person and another parent of the child openly held out the child as the person's child.

(b) A presumption of parentage shall be rebuttable and may be overcome and competing claims to parentage resolved only by court order or a valid denial of parentage pursuant to chapter 3 of this title.

§ 402. CHALLENGE TO PRESUMED PARENT

(a) Except as provided in subsection (b) of this section, a proceeding to challenge the parentage of a person whose parentage is presumed under section 401 of this title shall be commenced within two years after the birth of the child.

(b) A proceeding to challenge the parentage of a person whose parentage is presumed under section 401 of this title may be commenced two years or more after the birth of the child in the following circumstances:

(1) A presumed parent who is not the genetic parent of a child and who could not reasonably have known about the birth of the child may commence a proceeding under this section within two years after learning of the child's birth.

(2) An alleged genetic parent who did not know of the potential genetic parentage of a child and who could not reasonably have known on account of material misrepresentation or concealment may commence a proceeding under this section within two years after discovering the potential genetic parentage. If the person is adjudicated to be the genetic parent of the child, the court may not disestablish a presumed parent.

(3) Regarding a presumption under subdivision 401(a)(4) of this title, another parent of the child may challenge a presumption of parentage if that parent openly held out the child as the presumptive parent's child due to duress, coercion, or threat of harm. Evidence of duress, coercion, or threat of harm may include whether within the prior ten years, the person presumed to

be a parent pursuant to subdivision 401(a)(4) of this title has been convicted of domestic assault, sexual assault, or sexual exploitation of the child or another parent of the child, was subject to a final abuse protection order pursuant to 15 V.S.A. chapter 21 because the person was found to have committed abuse against the child or another parent of the child, or was substantiated for abuse against the child or another parent of the child pursuant to 33 V.S.A. chapter 49 or 33 V.S.A. chapter 69.

§ 403. MULTIPLE PRESUMPTIONS

If two or more conflicting presumptions arise under this chapter, the court shall adjudicate parentage pursuant to section 206 of this title.

CHAPTER 5. DE FACTO PARENTAGE

§ 501. STANDARD; ADJUDICATION

(a)(1) In a proceeding to adjudicate the parentage of a person who claims to be a de facto parent of the child, if there is only one other person who is a parent or has a claim to parentage of the child, the court shall adjudicate the person who claims to be a de facto parent to be a parent of the child if the person demonstrates by clear and convincing evidence that:

(A) the person resided with the child as a regular member of the child's household for a significant period of time;

(B) the person engaged in consistent caretaking of the child;

(C) the person undertook full and permanent responsibilities of a parent of the child without expectation of financial compensation;

(D) the person held out the child as the person's child;

(E) the person established a bonded and dependent relationship with the child which is parental in nature;

(F) the person and another parent of the child fostered or supported the bonded and dependent relationship required under subdivision (E) of this subdivision (1); and

(G) continuing the relationship between the person and the child is in the best interests of the child.

(2) A parent of the child may use evidence of duress, coercion, or threat of harm to contest an allegation that the parent fostered or supported a bonded and dependent relationship as provided in subdivision (1)(F) of this subsection. Such evidence may include whether within the prior ten years, the person seeking to be adjudicated a de facto parent has been convicted of domestic assault, sexual assault, or sexual exploitation of the child or another parent of

the child, was subject to a final abuse protection order pursuant to 15 V.S.A. chapter 21 because the person was found to have committed abuse against the child or another parent of the child, or was substantiated for abuse against the child or another parent of the child pursuant to 33 V.S.A. chapter 49 or 33 V.S.A. chapter 69.

(b) In a proceeding to adjudicate the parentage of a person who claims to be a de facto parent of the child, if there is more than one other person who is a parent or has a claim to parentage of the child and the court determines that the requirements of subsection (a) of this section are met by clear and convincing evidence, the court shall adjudicate parentage under section 206 of this title, subject to other applicable limitations in this title.

(c) The adjudication of a person as a de facto parent under this chapter does not disestablish the parentage of any other parent.

§ 502. STANDING; PETITION

(a) A person seeking to be adjudicated a de facto parent of a child shall file a petition with the Family Division of the Superior Court before the child reaches 18 years of age. Both the person seeking to be adjudicated a de facto parent and the child must be alive at the time of the filing. The petition shall include a verified affidavit alleging facts to support the existence of a de facto parent relationship with the child. The petition and affidavit shall be served on all parents and legal guardians of the child and any other party to the proceeding.

(b) An adverse party, parent, or legal guardian may file a pleading and verified affidavit in response to the petition that shall be served on all parties to the proceeding.

(c) The court shall determine on the basis of the pleadings and affidavits whether the person seeking to be adjudicated a de facto parent has presented prima facie evidence of the criteria for de facto parentage as provided in subsection 501(a) of this title and, therefore, has standing to proceed with a parentage action. The court, in its sole discretion, may hold a hearing to determine disputed facts that are necessary and material to the issue of standing.

(d) The court may enter an interim order concerning contact between the child and a person with standing seeking adjudication under this chapter as a de facto parent of the child.

CHAPTER 6. GENETIC PARENTAGE

§ 601. SCOPE

This chapter governs procedures and requirements of genetic testing and genetic testing results of a person to determine parentage and adjudication of

parentage based on genetic testing, whether the person voluntarily submits to testing or is tested pursuant to an order of the court. Genetic testing shall not be used to challenge the parentage of a person who is a parent by operation of law under chapter 7 or 8 of this title or to establish the parentage of a person who is a donor.

§ 602. REQUIREMENTS FOR GENETIC TESTING

Genetic testing shall be of a type reasonably relied upon by scientific and medical experts in the field of genetic testing and performed in a testing laboratory accredited by a national association of blood banks or an accrediting body designated by the Secretary of the U.S. Department of Health and Human Services. As used in this chapter, "genetic testing" shall have the same meaning as provided in 18 V.S.A. § 9331.

§ 603. COURT ORDER FOR TESTING

(a) Order to submit to genetic testing. Except as provided in section 615 of this title or as otherwise provided in this chapter, upon motion the court may order a child and other persons to submit to genetic testing.

(b) Presumption of genetic parentage. Genetic testing of the person who gave birth to a child shall not be ordered to prove that such person is the genetic parent unless there is a reasonable, good faith basis to dispute genetic parentage.

(c) In utero testing. A court shall not order in utero genetic testing.

(d) Concurrent or sequential testing. If two or more persons are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

§ 604. GENETIC TESTING RESULTS

(a) A person shall be identified as a genetic parent of a child if the genetic testing of the person complies with this chapter and the results of testing disclose that the individual has at least a 99 percent probability of parentage as determined by the testing laboratory.

(b) Identification of a genetic parent through genetic testing does not establish parentage absent adjudication under this chapter and a court may rely on nongenetic evidence to determine parentage, including parentage by acknowledgment pursuant to chapter 3 of this title or by admission pursuant to section 112 of this title, presumed parentage under chapter 4 of this title, de facto parentage under chapter 5 of this title, and parentage by intended parents under chapter 7 or 8 of this title.

(c) A person identified under subsection (a) of this section as a genetic parent of a child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this chapter that:

(1) excludes the person as a genetic parent of the child; or

(2) identifies a person other than the person who gave birth to the child as a possible genetic parent of the child.

§ 605. REPORT OF GENETIC TESTING

(a) A report of genetic testing shall be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of this chapter is self-authenticating.

(b) A party in possession of results of genetic testing shall provide such results to all other parties to the parentage action upon receipt of the results and not later than 15 days before any hearing at which the results may be admitted into evidence.

§ 606. ADMISSIBILITY OF RESULTS OF GENETIC TESTING

(a) Production of results; notice. Unless waived by the parties, a party intending to rely on the results of genetic testing shall do all of the following:

(1) make the test results available to the other parties to the parentage action at least 15 days prior to any hearing at which the results may be admitted into evidence;

(2) give notice to the court and other parties to the proceeding of the intent to use the test results at the hearing; and

(3) give the other parties notice of this statutory section, including the need to object in a timely fashion.

(b) Objection. Any motion objecting to genetic test results shall be made in writing to the court and to the party intending to introduce the evidence at least seven days prior to any hearing at which the results may be introduced into evidence. If no timely objection is made, the written results shall be admissible as evidence without the need for foundation testimony or other proof of authenticity or accuracy.

(c) Results inadmissible; exceptions. If a child has a presumed parent, acknowledged parent, or adjudicated parent, the results of genetic testing shall be admissible to adjudicate parentage only:

(1) with the consent of each person who is a parent of the child under this title, unless the court finds that admission of the testing is in the best interests of the child as provided in subsection 615(b) of this title; or

(2) pursuant to an order of the court under section 603 of this title.

§ 607. ADDITIONAL GENETIC TESTING

The court shall order additional genetic testing upon the request of a party who contests the result of the initial testing. If the initial genetic testing identified a person as a genetic parent of the child under section 604 of this title, the court shall not order additional testing unless the party provides advance payment for the testing.

§ 608. CONSEQUENCES OF DECLINING GENETIC TESTING

(a) If a person whose parentage is being determined under this chapter declines to submit to genetic testing ordered by the court, the court for that reason may adjudicate parentage contrary to the position of that person.

(b) Genetic testing of the person who gave birth to a child is not a condition precedent to testing the child and an individual whose parentage is being determined under this chapter. If the person who gave birth is unavailable or declines to submit to genetic testing, the court may order the testing of the child and every person whose genetic parentage is being adjudicated.

§ 609. ADJUDICATION OF PARENTAGE BASED ON GENETIC TESTING

(a)(1) If genetic testing results pursuant to section 604 of this title exclude a person as the genetic parent of a child, the court shall find that person is not a genetic parent of the child and may not adjudicate the person as the child's parent on the basis of genetic testing.

(2) If genetic testing results pursuant to section 604 of this title identify a person as the genetic parent of a child, the court shall find that person to be the genetic parent and may adjudicate the person as the child's parent, unless otherwise provided by this title.

(3) Subdivisions (1) and (2) of this subsection do not apply if the results of genetic testing are admitted for the purpose of rebutting results of other genetic testing.

(b) If the court finds that genetic testing pursuant to section 604 of this title neither identifies nor excludes a person as the genetic parent of a child, the court shall not dismiss the proceeding. In that event, the results of genetic testing and other evidence are admissible to adjudicate the issue of parentage, including testimony relating to the sexual conduct of the person who gave birth to the child but only if it is alleged to have occurred during a time when conception of the child was probable.

§ 610. COSTS OF GENETIC TESTING

(a) The costs of initial genetic testing shall be paid:

(1) by the Office of Child Support in a proceeding in which the Office is providing services, if the Office requests such testing;

(2) as agreed by the parties or, if the parties cannot agree, by the person who made the request for genetic testing; or

(3) as ordered by the court.

(b) Notwithstanding subsection (a) of this section, a person who challenges a presumption, acknowledgment, or admission of parentage shall bear the cost for any genetic testing requested by such person.

(c) In cases in which the payment for the costs of initial genetic testing is advanced pursuant to subsection (a) of this section, the Office of Child Support may seek reimbursement from the genetic parent whose parent-child relationship is established.

§ 611. GENETIC TESTING WHEN SPECIMENS NOT AVAILABLE

(a) If a genetic testing specimen is not available from an alleged genetic parent of a child, for good cause the court may order the following persons to submit specimens for genetic testing:

(1) the parents of the alleged genetic parent;

(2) a sibling of the alleged genetic parent;

(3) another child of the alleged genetic parent and the person who gave birth to that other child; and

(4) another relative of the alleged genetic parent necessary to complete genetic testing.

(b) Prior to issuing an order under subsection (a) of this section, the court shall provide notice and opportunity to be heard to the person from whom a genetic sample is requested. If the court does order a person to be tested pursuant to subsection (a) of this section, it shall make a written finding that the need for genetic testing outweighs the legitimate interests, including the privacy and bodily integrity interests, of the person sought to be tested.

(c) A genetic specimen taken pursuant to this section shall be destroyed after final determination of the parentage case.

§ 612. DECEASED PERSON

For good cause shown, the court may order genetic testing of a deceased person.

§ 613. IDENTICAL SIBLING

(a) The court may order genetic testing of a person who is believed to have an identical sibling if evidence suggests the sibling may be the genetic parent of the child.

(b) If more than one sibling is identified as a genetic parent of the child, the court may rely on nongenetic evidence to adjudicate which sibling is a genetic parent of the child.

§ 614. CONFIDENTIALITY OF GENETIC TESTING

(a) A report of genetic testing for parentage is exempt from public inspection and copying under the Public Records Act and shall be kept confidential and released only as provided in this title.

(b) A person shall not intentionally release a report of genetic testing or the genetic material of another person for a purpose not relevant to a parentage proceeding without the written permission of the person who furnished the genetic material. A person who violates this section shall be imprisoned not more than one year or fined not more than $1,000.00, or both.

§ 615. AUTHORITY TO DENY REQUESTED ORDER FOR GENETIC TESTING OR ADMISSION OF TEST RESULTS

(a) Grounds for denial. In a proceeding to adjudicate parentage, the court may deny a motion seeking an order for genetic testing or deny admissibility of the test results at trial if it determines that:

(1) the conduct of the parties estops a party from denying parentage; or

(2) it would be an inequitable interference with the relationship between the child and an acknowledged, adjudicated, de facto, presumed, or intended parent, or would otherwise be contrary to the best interests of the child as provided in subsection (b) of this section.

(b) Factors. In determining whether to deny a motion seeking an order for genetic testing under this title or a request for admission of such test results at trial, the court shall consider the best interests of the child, including the following factors, if relevant:

(1) the length of time between the proceeding to adjudicate parentage and the time that a parent was placed on notice that genetic parentage is at issue;

(2) the length of time during which the parent has assumed a parental role for the child;

(3) the facts surrounding discovery that genetic parentage is at issue;

(4) the nature of the relationship between the child and the parent;

(5) the age of the child;

(6) any adverse effect on the child that may result if parentage is successfully disproved;

(7) the nature of the relationship between the child and any alleged parent;

(8) the extent to which the passage of time reduces the chances of establishing the parentage of another person and a child support obligation in favor of the child; and

(9) any additional factors that may affect the equities arising from the disruption of the relationship between the child and the parent or the chance of an adverse effect on the child.

(c) Order. In cases involving an acknowledged or presumed parent, if the court denies a motion seeking an order for genetic testing, the court shall issue an order adjudicating the acknowledged or presumed parent to be the parent of the child.

§ 616. PRECLUDING ESTABLISHMENT OF PARENTAGE BY PERPETRATOR OF SEXUAL ASSAULT

(a) In a proceeding in which a person is alleged to have committed a sexual assault that resulted in the birth of a child, the person giving birth may seek to preclude the establishment of the other person's parentage.

(b) This section shall not apply if the person alleged to have committed a sexual assault has previously been adjudicated to be a parent of the child.

(c) In a parentage proceeding, the person giving birth may file a pleading making an allegation under subsection (a) of this section at any time.

(d) The standard of proof that a child was conceived as a result of the person sexually assaulting the person who gave birth to the child may be proven by the petitioner by either of the following:

(1) clear and convincing evidence that the person was convicted of a sexual assault against the person giving birth and that the child was conceived as a result of the sexual assault; or

(2) clear and convincing evidence that the person sexually assaulted or sexually exploited the person who gave birth to the child and that the child was conceived as a result of the sexual assault or sexual exploitation, regardless of whether criminal charges were brought against the person.

(e) If the court finds that the burden of proof under subsection (d) of this section is met, the court shall enter an order:

(1) adjudicating that the person alleged to have committed a sexual assault is not a parent of the child;

(2) requiring that the Department of Health amend the birth certificate to delete the name of the person precluded as a parent; and

(3) requiring that the person alleged to have committed a sexual assault to pay child support or birth-related costs, or both, unless the person giving birth requests otherwise.

CHAPTER 7. PARENTAGE BY ASSISTED REPRODUCTION

§ 701. SCOPE

This chapter does not apply to the birth of a child conceived by sexual intercourse or assisted reproduction under a surrogacy agreement under chapter 8 of this title.

§ 702. PARENTAL STATUS OF DONOR

(a) A donor is not a parent of a child conceived through assisted reproduction.

(b) Notwithstanding subsection (a) of this section:

(1) a person who provides a gamete or gametes or an embryo or embryos to be used for assisted reproduction for the person's spouse is a parent of the resulting child; and

(2) a person who provides a gamete or an embryo for assisted reproduction is a parent of the resulting child if the person has a written agreement or agreements with the person giving birth that the person providing the gamete or the embryo is intended to be a parent.

§ 703. PARENTAGE OF CHILD OF ASSISTED REPRODUCTION

A person who consents under section 704 of this title to assisted reproduction by another person with the intent to be a parent of a child conceived by the assisted reproduction is a parent of the child.

§ 704. CONSENT TO ASSISTED REPRODUCTION

(a)(1) A person who intends to be a parent of a child born through assisted reproduction shall consent to such in a signed record that is executed by each intended parent and provides that the signatories consent to the use of assisted reproduction to conceive a child with the intent to parent the child.

(2) Consent pursuant to subdivision (1) of this subsection, executed via a form made available by the Department of Health, shall be accepted and relied upon for purposes of issuing a birth record.

(b) In the absence of a record pursuant to subsection (a) of this section, a court may adjudicate a person as the parent of a child if it finds by a preponderance of the evidence that:

(1) prior to conception or birth of the child, the parties entered into an agreement that they both intended to be the parents of the child; or

(2) the person resided with the child after birth and undertook to develop a parental relationship with the child.

§ 705. LIMITATION ON SPOUSE'S DISPUTE OF PARENTAGE

(a) Except as otherwise provided in subsection (b) of this section, a spouse may commence a proceeding to challenge his or her parentage of a child born by assisted reproduction during the marriage within two years after the birth of the child if the court finds that the spouse did not consent to the assisted reproduction before, on, or after the birth of the child or that the spouse withdrew consent pursuant to section 706 of this title.

(b) A spouse or the person who gave birth to the child may commence a proceeding to challenge the spouse's parentage of a child born by assisted reproduction at any time if the court determines:

(1) the spouse neither provided a gamete for, nor consented to, the assisted reproduction;

(2) the spouse and the person who gave birth to the child have not cohabited since the probable time of assisted reproduction; and

(3) the spouse never openly held out the child as the spouse's child.

(c) This section shall apply to a spouse's dispute of parentage even if the spouse's marriage is declared invalid after assisted reproduction occurs.

§ 706. EFFECT OF DISSOLUTION OF MARRIAGE OR WITHDRAWAL OF CONSENT

(a) If a marriage is dissolved before transfer or implantation of gametes or embryos, the former spouse is not a parent of the resulting child unless the former spouse consented in a signed record with notice to the other spouse and the person giving birth that, if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.

(b) Consent of a person to assisted reproduction pursuant to section 704 of this title may be withdrawn by that person in a signed record with notice to the

person giving birth and any other intended parent before transfer or implantation of gametes or embryos. A person who withdraws consent under this subsection is not a parent of the resulting child.

§ 707. PARENTAL STATUS OF DECEASED PERSON

(a) If a person who intends to be a parent of a child conceived by assisted reproduction dies during the period between the transfer of a gamete or embryo and the birth of the child, the person's death does not preclude the establishment of the person's parentage of the child if the person otherwise would be a parent of the child under this chapter.

(b)(1) If a person who consented in a record to assisted reproduction by the person giving birth to the child dies before transfer or implantation of gametes or embryos, the deceased person is not a parent of a child conceived by assisted reproduction unless:

(A) the deceased person consented in a record that if assisted reproduction were to occur after the death of the deceased person, the deceased person would be a parent of the child; or

(B) the deceased person's intent to be a parent of a child conceived by assisted reproduction after the person's death is established by a preponderance of the evidence.

(2) A person is a parent of a child conceived by assisted reproduction under subdivision (1) of this subsection only if:

(A) the embryo is in utero not later than 36 months after the person's death; or

(B) the child is born not later than 45 months after the person's death.

§ 708. BIRTH ORDERS

(a) A party consenting to assisted reproduction, a person who is a parent pursuant to sections 702-704 of this title, an intended parent or parents, or the person giving birth may commence a proceeding in the Probate Division of the Superior Court to obtain an order:

(1) declaring that the intended parent or parents are the parent or parents of the resulting child and ordering that parental rights and responsibilities vest exclusively in the intended parent or parents immediately upon the birth of the child;

(2) sealing the record from the public to protect the privacy of the child and the parties;

(3) designating the contents of the birth certificate and directing the Department of Health to designate the intended parent or parents as the parent or parents of the child; or

(4) for any relief that the court determines necessary and proper.

(b) A proceeding under this section may be commenced before or after the birth of the child.

(c) Neither the State nor the Department of Health is a necessary party to a proceeding under this section.

(d) The intended parent or parents and any resulting child shall have access to the court records relating to the proceeding at any time.

§ 709. LABORATORY ERROR

If due to a laboratory error the child is not genetically related to either of the intended parents, the intended parents are the parents of the child unless otherwise determined by the court.

CHAPTER 8. PARENTAGE BY GESTATIONAL CARRIER AGREEMENT

§ 801. ELIGIBILITY TO ENTER GESTATIONAL CARRIER AGREEMENT

(a) In order to execute an agreement to act as a gestational carrier, a person shall:

(1) be at least 21 years of age;

(2) have completed a medical evaluation that includes a mental health consultation;

(3) have had independent legal representation of the person's own choosing and paid for by the intended parent or parents regarding the terms of the gestational carrier agreement and have been advised of the potential legal consequences of the gestational carrier agreement; and

(4) not have contributed gametes that will ultimately result in an embryo that the gestational carrier will attempt to carry to term, unless the gestational carrier is entering into an agreement with a family member.

(b) Prior to executing a gestational carrier agreement, a person or persons intending to become a parent or parents, whether genetically related to the child or not, shall:

(1) be at least 21 years of age;

(2) have completed a medical evaluation and mental health consultation; and

(3) have retained independent legal representation regarding the terms of the gestational carrier agreement and have been advised of the potential legal consequences of the gestational carrier agreement.

§ 802. GESTATIONAL CARRIER AGREEMENT

(a) Written agreement. A prospective gestational carrier, that person's spouse, and the intended parent or parents may enter into a written agreement that:

(1) the prospective gestational carrier agrees to pregnancy by means of assisted reproduction;

(2) the prospective gestational carrier and that person's spouse have no rights and duties as the parents of a child conceived through assisted reproduction; and

(3) the intended parent or parents will be the parents of any resulting child.

(b) Enforceability. A gestational carrier agreement is enforceable only if it meets the following requirements:

(1) The agreement shall be in writing and signed by all parties.

(2) The agreement shall not require more than a one-year term to achieve pregnancy.

(3) At least one of the parties shall be a resident of this State.

(4) The agreement shall be executed before the commencement of any medical procedures other than the medical evaluations required by section 801 of this title and, in every instance, before transfer of embryos.

(5) The gestational carrier and the intended parent or parents shall meet the eligibility requirements of section 801 of this title.

(6) If any party is married, the party's spouse shall be a party to the agreement.

(7) The gestational carrier and the intended parent or parents shall be represented by independent legal counsel in all matters concerning the agreement and each counsel shall affirmatively so state in a written declaration attached to the agreement. The declarations shall state that the agreement meets the requirements of this title and shall be solely relied upon by health care providers and staff at the time of birth and by the Department of Health for birth registration and certification purposes.

(8) The parties to the agreement shall sign a written acknowledgment of having received a copy of the agreement.

(9) The signing of the agreement shall be witnessed and signed by at least one other person.

(10) The agreement shall expressly provide that the gestational carrier:

(A) shall undergo assisted reproduction and attempt to carry and give birth to any resulting child;

(B) has no claim to parentage of all resulting children to the intended parent or parents immediately upon the birth of the child or children regardless of whether a court order has been issued at the time of birth; and

(C) shall acknowledge the exclusive parentage of the intended parent or parents of all resulting children.

(11) If the gestational carrier is married, the carrier's spouse:

(A) shall acknowledge and agree to abide by the obligations imposed on the gestational carrier by the terms of the gestational carrier agreement;

(B) has no claim to parentage of any resulting children to the intended parent or parents immediately upon the birth of the children regardless of whether a court order has been issued at the time of birth; and

(C) shall acknowledge the exclusive parentage of the intended parent or parents of all resulting children.

(12) The gestational carrier shall have the right to use the services of a health care provider or providers of the gestational carrier's choosing to provide care during the pregnancy.

(13) The intended parent or parents shall:

(A) be the exclusive parent or parents and accept parental rights and responsibilities of all resulting children immediately upon birth regardless of the number, gender, or mental or physical condition of the child or children; and

(B) assume responsibility for the financial support of all resulting children immediately upon the birth of the children.

(c) Medical evaluations. If requested by a party or the court, a party shall provide records to the court and other parties related to the medical evaluations conducted pursuant to section 801 of this title.

(d) Reasonable consideration and expenses. Except as provided in section 809 of this title, a gestational carrier agreement may include provisions for payment of consideration and reasonable expenses to a prospective gestational carrier, provided they are negotiated in good faith between the parties.

(e) Decision of gestational carrier. A gestational agreement shall permit the gestational carrier to make all health and welfare decisions regarding the gestational carrier's health and pregnancy, and shall not enlarge or diminish the gestational carrier's right to terminate the pregnancy.

§ 803. PARENTAGE; PARENTAL RIGHTS AND RESPONSIBILITIES

(a)(1) If a gestational carrier agreement satisfies the requirements of this chapter, the intended parent or parents are the parent or parents of the resulting child immediately upon the birth of the child, and the resulting child is considered the child of the intended parent or parents immediately upon the birth of the child. Neither the gestational carrier nor the gestational carrier's spouse, if any, is the parent of the resulting child.

(2) A person who is determined to be a parent of the resulting child is obligated to support the child. The breach of the gestational carrier agreement by the intended parent or parents does not relieve the intended parent or parents of the obligation to support the resulting child.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, if genetic testing indicates a genetic relationship between the gestational carrier and the child, parentage shall be determined by the Family Division of the Superior Court pursuant to chapters 1 through 6 of this title.

(b) Parental rights and responsibilities shall vest exclusively in the intended parent or parents immediately upon the birth of the resulting child.

(c) If due to a laboratory error, the resulting child is not genetically related to either the intended parent or parents or any donor who donated to the intended parent or parents, the intended parent or parents are considered the parent or parents of the child.

§ 804. BIRTH ORDERS

(a) Before or after the birth of a resulting child, a party to a gestational carrier agreement may commence a proceeding in the Probate Division of the Superior Court to obtain an order doing any of the following:

(1) Declaring that the intended parent or parents are the parent or parents of the resulting child and ordering that parental rights and responsibilities vest exclusively in the intended parent or parents immediately upon the birth of the child.

(2) Designating the contents of the birth certificate and directing the Department of Health to designate the intended parent or parents as the parent or parents of the child. The Department of Health may charge a reasonable fee for the issuance of a birth certificate.

(3) Sealing the record from the public to protect the privacy of the child and the parties.

(4) Providing any relief the court determines necessary and proper.

(b) Neither the State nor the Department of Health is a necessary party to a proceeding under subsection (a) of this section.

(c) The intended parent or parents and any resulting child shall have access to their court records at any time.

§ 805. EXCLUSIVE, CONTINUING JURISDICTION

Subject to the jurisdictional standards of 15 V.S.A. § 1071, the court conducting a proceeding under this chapter has exclusive, continuing jurisdiction of all matters arising out of the gestational carrier agreement until a child born to the gestational carrier during the period governed by the agreement attains the age of 180 days.

§ 806. TERMINATION OF GESTATIONAL CARRIER AGREEMENT

(a) A party to a gestational carrier agreement may withdraw consent to any medical procedure and may terminate the gestational carrier agreement at any time prior to any embryo transfer or implantation by giving written notice of termination to all other parties.

(b) Upon termination of the gestational carrier agreement under subsection (a) of this section, the parties are released from all obligations recited in the agreement except that the intended parent or parents remain responsible for all expenses that are reimbursable under the agreement incurred by the gestational carrier through the date of termination. The gestational carrier is entitled to keep all payments received and obtain all payments to which the gestational carrier is entitled. Neither a prospective gestational carrier nor the gestational carrier's spouse, if any, is liable to the intended parent or parents for terminating a gestational carrier agreement.

§ 807. GESTATIONAL CARRIER AGREEMENT; EFFECT OF SUBSEQUENT CHANGE OF MARITAL STATUS

Unless a gestational carrier agreement expressly provides otherwise:

(1) the marriage of a gestational carrier or of an intended parent after the agreement has been signed by all parties does not affect the validity of the agreement, the gestational carrier's spouse's consent or intended parent's spouse's consent to the agreement is not required, and the gestational carrier's spouse or intended parent's spouse is not a presumed parent of a child conceived by assisted reproduction under the agreement; and

(2) the divorce, dissolution, annulment, or legal separation of the gestational carrier or of an intended parent after the agreement has been signed by all parties does not affect the validity of the agreement.

§ 808. EFFECT OF NONCOMPLIANCE; STANDARD OF REVIEW; REMEDIES

(a) Not enforceable. A gestational carrier agreement that does not meet the requirements of this chapter is not enforceable.

(b) Standard of review. In the event of noncompliance with the requirements of this chapter or with a gestational carrier agreement, the Family Division of the Superior Court shall determine the respective rights and obligations of the parties to the gestational carrier agreement, including evidence of the intent of the parties at the time of execution.

(c) Remedies. Except as expressly provided in a gestational carrier agreement and in subsection (d) of this section, in the event of a breach of the gestational carrier agreement by the gestational carrier or the intended parent or parents, the gestational carrier or the intended parent or parents are entitled to all remedies available at law or in equity.

(d) Genetic testing. If a person alleges that the parentage of a child born to a gestational carrier is not the result of assisted reproduction, and this question is relevant to the determination of parentage, the court may order genetic testing.

(e) Specific performance. Specific performance is not an available remedy for a breach by the gestational carrier of any term in a gestational carrier agreement that requires the gestational carrier to be impregnated or to terminate a pregnancy. Specific performance is an available remedy for a breach by the gestational carrier of any term that prevents the intended parent or parents from exercising the full rights of parentage immediately upon the birth of the child.

§ 809. LIABILITY FOR PAYMENT OF GESTATIONAL CARRIER HEALTH CARE COSTS

(a) The intended parent or parents are liable for the health care costs of the gestational carrier that are not paid by insurance. As used in this section, "health care costs" means the expenses of all health care provided for assisted reproduction, prenatal care, labor, and delivery.

(b) A gestational carrier agreement shall explicitly detail how the health care costs of the gestational carrier are paid. The breach of a gestational carrier agreement by a party to the agreement does not relieve the intended parent or parents of the liability for health care costs imposed by subsection (a) of this section.

(c) This section is not intended to supplant any health insurance coverage that is otherwise available to the gestational carrier or an intended parent for the coverage of health care costs. This section does not change the health insurance coverage of the gestational carrier or the responsibility of the insurance company to pay benefits under a policy that covers a gestational carrier.

Sec. 2. REPEAL

15 V.S.A. chapter 5, subchapter 3A (parentage proceedings) is repealed.

Sec. 3. 33 V.S.A. § 4921(e)(1) is amended to read:

(e)(1) Upon request, relevant Department records or information created under this subchapter shall be disclosed to:

* * *

(F) a Family Division of the Superior Court involved in any proceeding in which:

(i) custody of a child or parent-child contact is at issue pursuant to 15 V.S.A. chapter 11, subchapter 3A;

(ii) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or

(iii) a parent of a child contests an allegation that he or she fostered or supported a bonded and dependent relationship between the child and a person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2);

* * *

Sec. 4. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a)(1) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

* * *

(C) Relevant information may be disclosed to a Family Division of the Superior Court, upon the request of that court, in any proceeding in which:

(i) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or

(ii) a parent of a child contests an allegation that he or she fostered or supported a bonded and dependent relationship between the child and a

person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2).

* * *

(c) The Commissioner or designee may disclose Registry information only to:

* * *

(11) A Family Division of the Superior Court upon request of that court if it is involved in any proceeding in which:

(A) a parent of a child challenges a presumption of parentage under 15C V.S.A. § 402(b)(3); or

(B) a parent of a child contests an allegation that he or she fostered or supported a bonded and dependent relationship between the child and a person seeking to be adjudicated a de facto parent under 15C V.S.A. § 501(a)(2).

* * *

Sec. 5. TRANSITIONAL PROVISION

This title applies to a pending proceeding to adjudicate parentage commenced before the effective date of this act for an issue on which a judgment has not been rendered.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

ALICE W. NITKA
RICHARD W. SEARS
JOSEPH C. BENNING

Committee on the part of the Senate

MARTIN J. LALONDE
MAXINE JO GRAD
EILEEN "LYNN" G. DICKINSON

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Proposal of Amendment; Third Reading Ordered

H. 410.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to adding products to Vermont's energy efficiency standards for appliances and equipment.

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:

* * * Appliance Efficiency * * *

Sec. 1. PURPOSE

(a) In 9 V.S.A. § 2792, the General Assembly found that efficiency standards for products sold or installed in the State provide benefits to consumers and businesses, including saving money on utility bills, saving energy and thereby reducing the environmental impacts of energy consumption, reducing or delaying the need for new power plants and upgrades to the electric transmission and distribution system, and allowing the energy cost savings to be spent on other goods and services within the State's economy.

(b) The purpose of this act is to obtain the benefits found in 9 V.S.A. § 2792 for the following products to which the State's efficiency standards under 9 V.S.A. chapter 74 do not currently apply: air compressors, commercial dishwashers, commercial fryers, commercial hot-food holding cabinets, commercial steam cookers, computers and computer monitors, faucets, high color rendering index fluorescent lamps, portable air conditioners, portable electric spas, residential ventilating fans, showerheads, spray sprinkler bodies, uninterruptible power supplies, urinals, and water coolers.

Sec. 2. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(16) With respect to air compressors, the following definitions apply:

(A) "Air compressor" means a compressor that is designed to compress air that has an inlet open to the atmosphere or other source of air and that consists of the bare compressor, also known as the compression element; one or more drivers; mechanical equipment to drive the compression element; and any ancillary equipment.

(B) "Compressor" means a machine or apparatus that converts different types of energy into the potential energy of gas pressure for displacement and compression of gaseous media to any higher-pressure values

above atmospheric pressure and has a pressure ratio at full-load operating pressure greater than 1.3.

(17) "Commercial dishwasher" means a machine designed to clean and sanitize plates, pots, pans, glasses, cups, bowls, utensils, and trays by applying sprays of detergent solution, with or without blasting media granules, and a sanitizing rinse. The phrase "commercial dishwasher" does not include dishwashers intended for consumer use as defined in 10 C.F.R. § 430.2.

(18) "Commercial fryer" means an appliance, including a cooking vessel, in which oil is placed to such a depth that the cooking food is supported by displacement of the cooking fluid rather than by the bottom of the vessel. Heat is delivered to the cooking fluid by means of an immersed electric element of band-wrapped vessel or by heat transfer from gas burners either through the walls of the fryer or through tubes passing through the cooking fluid.

(19) "Commercial hot-food holding cabinet" means a heated, fully enclosed compartment with one or more solid or transparent doors designed to maintain the temperature of hot food that has been cooked using a separate appliance. The phrase "commercial hot-food holding cabinet" does not include heated glass merchandizing cabinets, drawer warmers, or cook-and-hold appliances.

(20) "Commercial steam cooker" means a device with one or more food-steaming compartments in which the energy in the steam is transferred to the food by direct contact. A commercial steam cooker may also be known as a compartment steamer.

(21) "ENERGY STAR Program" means the federal program initiated by the U.S. Environmental Protection Agency pursuant to 42 U.S.C. § 7403(g) that includes certification of energy-saving products, buildings, and tools, and includes other resources for saving energy.

(22) With respect to faucets and showerheads, the following definitions apply:

(A) "Faucet" means a lavatory faucet, kitchen faucet, metering faucet, public lavatory faucet, or replacement aerator for a lavatory, public lavatory, or kitchen faucet. As used in this subdivision (24)(A):

(i) "Metering faucet" means a fitting that, when turned on, will gradually shut itself off over a period of several seconds.

(ii) "Public lavatory faucet" means a fitting intended to be installed in nonresidential bathrooms that are exposed to walk-in traffic.

(iii) "Replacement aerator" means an aerator sold as a replacement, separate from the faucet to which it is intended to be attached.

(B) "Showerhead" means an accessory to a supply fitting for spraying water onto a bather, typically from an overhead position. The term includes a body spray and handheld shower. As used in this subdivision (22)(B):

(i) "Body spray" means a shower device for spraying water onto a bather other than from the overhead position.

(ii) "Handheld shower" means a showerhead that can be held or fixed in place for the purpose of spraying water onto a bather and that is connected to a flexible hose.

(23) "High color rendering index (CRI) fluorescent lamp" means a fluorescent lamp with a color rendering index of 87 or greater that is not a compact fluorescent lamp.

(24) "Luminaire" means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

(25) With respect to portable air conditioners, the following definitions apply:

(A) "Portable air conditioner" means a portable encased assembly, other than a packaged terminal air conditioner, room air conditioner, or dehumidifier, that includes a source of refrigeration; delivers cooled, conditioned air to an enclosed space; and is powered by single-phase electric current. The assembly may include additional means for air circulation and heating and may be a single-duct or a dual-duct portable air conditioner.

(B) "Single-duct portable air conditioner" means a portable air conditioner that draws all of the condenser inlet air from the conditioned space without the means of a duct and discharges the condenser outlet air outside the conditioned space through a single duct attached to an adjustable window bracket.

(C) "Dual-duct portable air conditioner" means a portable air conditioner that draws some or all of the condenser inlet air from outside the conditioned space through a duct attached to an adjustable window bracket, may draw additional condenser inlet air from the conditioned space, and discharges the condenser outlet air outside the conditioned space by means of a separate duct attached to an adjustable window bracket.

(26) "Portable electric spa" means a factory-built electric spa or hot tub, which may or may not include any combination of integral controls, water heating, or water circulating equipment.

(27) "Residential ventilating fan" means a ceiling, wall-mounted, or remotely mounted in-line fan designed to be used in a bathroom or utility room whose purpose is to move air from inside the building to the outdoors.

(28) With respect to spray sprinkler bodies, the following definitions apply:

(A) "Pressure regulator" means a device that maintains constant operating pressure immediately downstream from the device, given higher pressure upstream.

(B) "Spray sprinkler body" means the exterior case or shell of a sprinkler incorporating a means of connection to the piping system designed to convey water to a nozzle or orifice.

(29) "T12 fluorescent lamp" means a tubular fluorescent lamp to which one of the following applies:

(A) The lamp has a nominal rating of 34 watts, is 48 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1006-1). Such a lamp is often referred to as an "F34T12 lamp" or an "F40T12/ES lamp."

(B) The lamp has a nominal rating of 40 watts, is 48 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1010-1). Such a lamp is often referred tas an "F40T12 lamp."

(C) The lamp has a nominal rating of 60 watts, is 96 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3006-1). Such a lamp is often referred to an "F96T12/ES lamp."

(D) The lamp has a nominal rating of 75 watts, is 96 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-3007-1). Such a lamp is often referred to as an "F96T12 lamp."

(E) The lamp has a nominal rating of 95 watts, is 96 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1017-1). Such a lamp is often referred to as an "F96T12HO/ES lamp."

(F) The lamp has a nominal rating of 110 watts, is 96 inches in length and one and one-half inches in diameter, and conforms to ANSI standard C78.81-2003 (Data Sheet 7881-ANSI-1019-1). Such a lamp is often referred to as an "F96T12HO lamp."

(30) "Uninterruptible power supply" means a battery charger consisting of a combination of convertors, switches, and energy storage devices, such as batteries, constituting a power system that maintains continuity of load power in case of input power failure.

(31) With respect to urinals, the following definitions apply:

(A) "Plumbing fixture" means an exchangeable device that connects to a plumbing system to deliver and drain away water and waste.

(B) "Trough-type urinal" means a urinal designed for simultaneous use by two or more persons.

(C) "Urinal" means a plumbing fixture that receives only liquid body waste and conveys the waste through a trap into a drainage system.

(32) With respect to water coolers, the following definitions apply:

(A) "Cold-only unit" means a water cooler that dispenses cold water only.

(B) "Cook and cold unit" means a water cooler that dispenses both cold and room-temperature water.

(C) "Hot and cold unit" means a water cooler that dispenses both hot and cold water. A hot and cold unit also may dispense room-temperature water.

(D) "On demand" means that a water cooler heats water as it is requested, which typically takes a few minutes to deliver.

(E) "Storage-type" means that a water cooler stores thermally conditioned water in a tank and the conditioned water is available instantaneously. Storage-type water coolers include point-of-use, dry storage compartment, and bottled water coolers.

(F) "Water cooler" means a freestanding device that consumes energy to cool or heat potable water, or both.

Sec. 3. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

(1) Medium voltage dry-type distribution transformers.

(2) Metal halide lamp fixtures.

(3) Residential furnaces and residential boilers.

(4) Single-voltage external AC to DC power supplies.

(5) State-regulated incandescent reflector lamps.

(6) General service lamps.

(7) Air compressors.

(8) Commercial dishwashers.

(9) Commercial fryers.

(10) Commercial hot-food holding cabinets.

(11) Commercial steam cookers.

(12) Computers and computer monitors.

(13) Faucets.

(14) High CRI fluorescent lamps.

(15) Portable air conditioners.

(16) Portable electric spas.

(17) Residential ventilating fans.

(18) Showerheads.

(19) Spray sprinkler bodies.

(20) Uninterruptible power supplies.

(21) Urinals.

(22) Water coolers.

(23) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

~~(8)~~(24) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 4. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

(a) The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(4)(A) Single-voltage external AC to DC power supplies shall meet the energy efficiency requirements of the following table:

* * *

(C) For purposes of this subdivision (4), the efficiency of single-voltage external AC to DC power supplies shall be measured in accordance with the test methodology specified by the ~~U.S. Environmental Protection Agency's Energy Star~~ ENERGY STAR Program, "Test Method for Calculating the Energy Efficiency of Single-Voltage External AC-DC and AC-AC Power Supplies (August 11, 2004)."

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations, except that for faucets, showerheads, and urinals, the minimum standard and testing protocol shall be as otherwise set forth in this section.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

(8) In this subdivision (8), "final rule" means the document setting forth a final action by the U.S. Department of Energy (DOE) with respect to a final rule for "Energy Conservation Standards for Air Compressors," docket no. EERE-2013-BT-STD-0040, approved by DOE on December 5, 2016. Air compressors that meet the 12 criteria to be codified under 10 C.F.R. § 431.345(a) and set forth on pages 350 to 351 of the final rule shall meet the requirements contained in Table 1 on page 352 of the final rule using the instructions to be codified under 10 C.F.R. § 431.345(b) and set forth on page 353 of the final rule. Compliance with these requirements shall be measured in accordance with 10 C.F.R. Part 431, Subpart T, Appendix A, entitled "Uniform Test Method for Certain Air Compressors," as in effect on July 3, 2017.

(9) Commercial dishwashers included in the scope of the "ENERGY STAR Program Requirements Product Specification for Commercial Dishwashers," Version 2.0, shall meet the qualification criteria of that specification.

(10) Commercial fryers included in the scope of the "ENERGY STAR Program Requirements Product Specification for Commercial Fryers," Version 2.0, shall meet the qualification criteria of that specification.

(11) Commercial hot-food holding cabinets shall have a maximum idle energy rate of 40 watts per cubic foot of interior volume, as determined by the "idle energy rate-dry test" in ASTM F2140-11, "Standard Test Method for Performance of Hot-Food Holding Cabinets," ASTM International (2011). Interior volume shall be measured as prescribed in the "ENERGY STAR Program Requirements Product Specification for Commercial Hot-Food Holding Cabinets," Version 2.0.

(12) Commercial steam cookers shall meet the requirements of the "ENERGY STAR Program Requirements Product Specification for Commercial Steam Cookers," Version 1.2.

(13) Computers and computer monitors shall meet the requirements of 20 California Code of Regulations (C.C.R.) § 1605.3(v) and compliance with these requirements shall be measured in accordance with test methods prescribed in 20 C.C.R. § 1604(v).

(A) For the purposes of this subdivision (13), terms used in the referenced portions of the C.C.R. shall be as defined in 20 C.C.R. § 1602.

(B) The rules shall define "computer" and "computer monitor" to have the same meaning as set forth in 20 C.C.R. § 1602(v).

(C) The referenced portions of the C.C.R. shall be those adopted on or before the effective date of this section. However, the Commissioner shall

have authority to amend the rules so that the definitions of "computer" and "computer monitor" and the minimum efficiency standards for computers and computer monitors conform to subsequently adopted modifications to the referenced sections of the C.C.R.

(14) Faucets, except for metering faucets, and showerheads shall meet the standards set forth in this subdivision (14) when tested in accordance with 10 C.F.R. Part 430, Subpart B, Appendix S, entitled "Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads," as in effect on January 3, 2017.

(A) Lavatory faucets and replacement aerators shall not exceed a maximum flow rate of 1.5 gallons per minute (gpm) at 60 pounds per square inch (psi).

(B) Residential kitchen faucets and replacement aerators shall not exceed a maximum flow rate of 1.8 gpm at 60 psi, with optional temporary flow of 2.2 gpm, provided they default to a maximum flow rate of 1.8 gpm at 60 psi after each use.

(C) Public lavatory faucets and replacement aerators shall not exceed a maximum flow rate of 0.5 gpm at 60 psi.

(D) Showerheads shall not exceed a maximum flow rate of 2.0 gpm at 80 psi.

(15) High CRI fluorescent lamps shall meet the minimum efficacy requirements contained in 10 C.F.R. § 430.32(n)(4) as that subdivision existed on January 3, 2017. Compliance with requirements shall be measured in accordance with 10 C.F.R. Part 430, Subpart B, Appendix R, entitled "Uniform Test Method for Measuring Average Lamp Efficacy (LE), Color Rendering Index (CRI), and Correlated Color Temperature (CCT) of Electric Lamps," as that appendix existed on January 3, 2017.

(16) Urinals, other than trough-type urinals and urinals designed and marketed exclusively for use at prisons or mental health facilities, shall have a maximum flush volume of 0.5 gallons per flush when tested in accordance with 10 C.F.R. Part 430, Subpart B, Appendix T, entitled "Uniform Test Method for Measuring the Water Consumption of Water Closets and Urinals," as in effect on January 3, 2017 and shall pass the waste extraction test for water closets set forth in Sec. 7.10 of the American Society of Mechanical Engineers (ASME) standard A112.19.2-2013/CSA B.45.1, as that standard exists on the effective date of this section.

(17) Portable air conditioners shall have a Combined Energy Efficiency Ratio (CEER), that is greater than or equal to: $1.04 \times [SACC/(3.7177 \times SACC^{0.6384})]$.

(A) In this subdivision (17), "SACC" means seasonally adjusted cooling capacity expressed in British thermal units per hour.

(B) The CEER shall be measured in accordance with 10 C.F.R. Part 430, Subpart B, Appendix CC, entitled "Uniform Test Method for Measuring the Energy Consumption of Portable Air Conditioners," as in effect on January 3, 2017.

(18) Portable electric spas shall meet the requirements of the American National Standard for Portable Electric Spa Energy Efficiency, ANSI/APSP/ICC-14 2014, as that standard exists on the effective date of this section.

(19) Residential ventilating fans shall meet the qualification criteria of the "ENERGY STAR Program Requirements Product Specification for Residential Ventilating Fans," Version 3.2.

(20) Spray sprinkler bodies shall include an integral pressure regulator and shall meet the water efficiency and performance criteria and other requirements of the Environmental Protection Agency's "WaterSense Specification for Spray Sprinkler Bodies," Version 1.0. However, this subdivision (20) shall not apply to spray sprinkler bodies that are specifically excluded from the scope of that specification.

(21) In this subdivision (21), "final rule" means the document setting forth a final action by DOE with respect to a final rule for "Energy Conservation Standards for Uninterruptible Power Supplies," docket no. EERE-2016-BT-STD-0022, approved by DOE on December 28, 2016. Uninterruptible power supplies that use a National Electrical Manufacturer Association (NEMA) 1-15P or 5-15P input plug and have an alternating current (AC) output shall have an average load-adjusted efficiency that meets or exceed the values shown to be codified under 10 C.F.R. § 430.32(z)(3) and set forth on pages 193–194 of the final rule. Compliance with these requirements shall be measured in accordance with 10 C.F.R. Part 430, Subpart B, Appendix Y, entitled "Uniform Test Method for Measuring the Energy Consumption of Battery Chargers," as in effect on January 11, 2017.

(22) Water coolers included in the scope of the "ENERGY STAR Program Requirements Product Specification for Water Coolers," Version 2.0, shall have "on mode with no water draw" energy consumption less than or equal to the following values, measured in accordance with the test requirements of that specification:

(A) 0.16 kilowatt-hours (kWh) per day for cold-only units and cook and cold units;

(B) 0.87 kWh per day for storage type hot and cold units; and

(C) 0.18 kWh per day for on-demand hot and cold units.

(b) When a minimum efficiency standard as described in subsection (a) of this section sets forth requirements that change over time, the rules shall provide for compliance with the changed requirements as they come into effect.

(c) When a subdivision within subdivisions (a)(8) through (a)(22) of this section requires compliance with an efficiency standard or testing protocol contained in a document issued by an agency of the United States, another state, or a nationally or internationally recognized organization, the rules of the Commissioner may incorporate the specified standard or protocol by reference pursuant to 3 V.S.A. § 838 rather than setting forth its language.

(d) With respect to computers and computer monitors subject to subdivision (a)(13) of this section, the Commissioner shall have authority to adopt official interpretations of the applicable efficiency standards published by the staff of the California Energy Commission (CEC). The rules shall state the process for such adoption and the manner in which the Commissioner will make the adopted interpretations publicly available.

Sec. 5. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

(d) ~~One year after the date upon which the sale or offering for sale of certain products becomes subject to the requirements of subsection (a) or (b) of this section, no new products may be installed for compensation in the State unless the efficiency of a new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.~~

(1) On or after July 1, 2019, no new luminaire that is designed and marketed to operate with T12 fluorescent lamps may be sold or offered for sale in the State. This prohibition shall not apply to a luminaire that the seller purchased on or before June 30, 2019.

(2) On or after July 1, 2020, no new air compressor, commercial dishwasher, commercial fryer, commercial hot-food holding cabinet, commercial steam cooker, computer or computer monitor, high CRI fluorescent lamp, portable electric spa, residential ventilating fan, spray sprinkler body, uninterruptible power supply, or water cooler may be sold or offered for sale, lease, or rent in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(3) On or after July 1, 2021, no new faucet, showerhead, or urinal may be sold or offered for sale, lease, or rent in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title.

(4) This subdivision governs the date after which no new portable air conditioner may be sold or offered for sale, lease, or rent in the State unless the efficiency of the new product meets or exceeds the efficiency standards set forth in the rules adopted pursuant to section 2795 of this title (the compliance date).

(A) The compliance date shall be on or after February 1, 2022, unless subdivision (B) of this subdivision (4) applies.

(B) If, prior to January 1, 2019, the U.S. Department of Energy (DOE) has published a final rule in the Federal Register establishing efficiency standards for portable air conditioners and the rule has not been repealed, voided, or retracted, the compliance date shall be on or after the date as of which portable air conditioners are required to comply with the DOE rule.

(5) The prohibitions set forth in subdivisions (2) through (4) of this subsection shall not apply to a product that the seller or lessor purchased:

(A) in the case of a product listed in subdivision (2) of this subsection, on or before June 30, 2020;

(B) in the case of a faucet, showerhead, or urinal, on or before June 30, 2021; and

(C) in the case of a portable air conditioner, before the first date on which compliance is required under subdivision (4).

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 6. RULEMAKING

On or before May 1, 2019, the Commissioner of Public Service shall file with the Secretary of State proposed rules to implement Secs. 2 through 4 of this act.

Sec. 7. 26 V.S.A. § 2173 is amended to read:

§ 2173. RULES ADOPTED BY THE BOARD

(a) The ~~plumber's examining board~~ Plumber's Examining Board may, pursuant to the ~~provisions of 3 V.S.A. chapter 25 (Administrative Procedure Act)~~ Administrative Procedure Act, make and revise such plumbing rules as necessary for protection of the public health, except that no rule of the ~~board~~ Board may require the installation or maintenance of a water heater at a minimum temperature. To the extent that a rule of the ~~board~~ Board conflicts with this subsection, that rule shall be invalid and unenforceable. The rules shall be in effect in every city, village, and town having a public water system or public sewerage system and apply to all premises connected to the systems and all public buildings containing plumbing or water treatment and heating specialties whether they are connected to a public water or sewerage system. The local board of health and the ~~commissioner of public safety~~ Commissioner of Public Safety shall each have authority to enforce these rules. The rules shall be limited to minimum performance standards reasonably necessary for the protection of the public against accepted health hazards and shall be consistent with any minimum efficiency standards for plumbing fixtures adopted under 9 V.S.A. chapter 74. The ~~board~~ Board may, if it finds it practicable to do so, adopt the provisions of a nationally recognized plumbing code and as needed shall adopt a Vermont-specific amendment to the adopted code to ensure that it is consistent with any minimum efficiency standards for plumbing fixtures adopted under 9 V.S.A. chapter 74.

* * *

* * * Energy Planning * * *

Sec. 8. 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 relevant 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;

(2) recommendations for State implementation actions, regulation, legislation, and other public and private action to carry out the Comprehensive Energy Plan, including recommendations for State agency energy plans under 3 V.S.A. § 2291 and transportation planning under Title 19; and

(3) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

* * *

(e) The Commissioner of Public Service (Commissioner) shall file an annual report on progress in meeting the goals of the Plan. The report shall address each of the following sectors of energy consumption in the State: electricity, nonelectric fuels for thermal purposes, and transportation. In preparing the report, the Commissioner shall consult with the Secretaries of Administration, of Agriculture, Food and Markets, of Natural Resources, and of Transportation and the Commissioner of Buildings and General Services.

(1) The Commissioner shall file the report on or before January 15 of each year, commencing in 2019. The provisions of 2 V.S.A. § 20(d) shall not apply to this report.

(2) The Commissioner shall file the report with the House Committees on Energy and Technology and on Natural Resources, Fish, and Wildlife and with the Senate Committees on Finance and on Natural Resources and Energy.

(3) For each sector, the report shall provide:

(A) In millions of British thermal units (MMBTUs) for the most recent calendar year for which data are available, the total amount of energy consumed, the amount of renewable energy consumed, and the percentage of

renewable energy consumed. For the electricity sector, the report shall also state the amounts in megawatt hours (MWH) and the Vermont and New England summer and winter peak electric demand, including the hour and day of peak demand.

(B) Projections of the energy reductions and shift to renewable energy expected to occur under existing policies, technologies, and markets. The most recent available data shall be used to inform these projections and shall be provided as a supplement to the data described in subdivision (A) of this subdivision (3).

(C) Recommendations of policies to further the renewable energy goals set forth in statute and the Plan, along with an evaluation of the relative cost-effectiveness of different policy approaches.

(4) The report shall include a supplemental analysis setting forth how progress toward the goals of the Plan is supported by complementary work in avoiding or reducing energy consumption through efficiency and demand reduction. In this subdivision (4), "demand reduction" includes dispatchable measures, such as controlling appliances that consume energy, and nondispatchable measures, such as weatherization.

(5) The report shall include recommendations on methods to enhance the process for planning, tracking, and reporting progress toward meeting statutory energy goals and the goals of the Plan. Such recommendations may include the consolidation of one or more periodic reports filed by the Department or other State agencies relating to renewable energy, with proposals for amending the statutes relevant to those reports.

(6) The report shall include a summary of the following information for each sector:

(A) major changes in relevant markets, technologies, and costs;

(B) average Vermont prices compared to the other New England states, based on the most recent available data; and

(C) significant Vermont and federal incentive programs that are relevant to one or more of the sectors.

Sec. 9. 30 V.S.A. § 218c is amended to read:

§ 218c. LEAST-COST INTEGRATED PLANNING

* * *

(b) Each regulated electric or gas company shall prepare and implement a least-cost integrated plan for the provision of energy services to its Vermont customers. At least every third year on a schedule directed by the Public

Utility Commission, each such company shall submit a proposed plan to the Department of Public Service and the Public Utility Commission. The Commission, after notice and opportunity for hearing, may approve a company's least-cost integrated plan if it determines that the company's plan complies with the requirements of subdivision (a)(1) of this section and of sections 8004 and 8005 of this title and is consistent with the goals of the Comprehensive Energy Plan issued under section 202b of this title.

* * *

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

§ 10b. STATEMENT OF POLICY; GENERAL

(a) The Agency shall be the responsible agency of the State for the development of transportation policy. It shall develop a mission statement to reflect:

(1) that State transportation policy shall be to encompass, coordinate, and integrate all modes of transportation and to consider "complete streets" principles, which are principles of safety and accommodation of all transportation system users, regardless of age, ability, or modal preference; and

(2) the need for transportation projects that will improve the State's economic infrastructure, as well as the use of resources in efficient, coordinated, integrated, cost-effective, and environmentally sound ways, and that will be consistent with the recommendations of the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b.

(b) The Agency shall coordinate planning and education efforts with those of the Vermont Climate Change Oversight Committee and those of local and regional planning entities:

(1) to ~~assure~~ ensure that the transportation system as a whole is integrated, that access to the transportation system as a whole is integrated, and that statewide, local, and regional conservation and efficiency opportunities and practices are integrated; and

(2) to support ~~employer~~ employer-led or local or regional government-led conservation, efficiency, rideshare, and bicycle programs and other innovative transportation advances, especially employer-based incentives.

(c) In developing the State's annual Transportation Program, the Agency shall, consistent with the planning goals listed in 24 V.S.A. § 4302 as amended by 1988 Acts and Resolves No. 200 and with appropriate consideration to local, regional, and State agency plans:

(1) Develop or incorporate designs that provide integrated, safe, and efficient transportation and that are consistent with the recommendations of the CEP.

* * *

Sec. 11. 19 V.S.A. § 10i is amended to read:

§ 10i. TRANSPORTATION PLANNING PROCESS

(a) Long-range systems plan. The ~~agency~~ Agency shall establish and implement a planning process through the adoption of a long-range multi-modal systems plan integrating all modes of transportation. The long-range multi-modal systems plan shall be based upon ~~agency~~ Agency transportation policy developed under section 10b of this title, other policies approved by the ~~legislature, agency~~ General Assembly, Agency goals, mission, and objectives, and demographic and travel forecasts, design standards, performance criteria, and funding availability. The long-range systems plan shall be developed with participation of the public~~,~~ and local~~,~~ and regional governmental entities~~,~~ and pursuant to the planning goals and processes set forth in 1988 Acts and Resolves No. 200 ~~of the Acts of the 1987 Adj. Sess. (1988)~~. The plan shall be consistent with the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b.

* * *

(c) Transportation ~~program~~ Program. The ~~transportation program~~ Transportation Program shall be developed in a fiscally responsible manner to accomplish the following objectives:

(1) ~~Managing~~ managing, maintaining, and improving the ~~state's~~ State's existing transportation infrastructure to provide capacity, safety, and flexibility in the most cost-effective and efficient manner~~.~~;

(2) ~~Developing~~ developing an integrated transportation system that provides Vermonters with transportation choices~~.~~;

(3) ~~Strengthening~~ strengthening the economy, protecting the quality of the natural environment, and improving Vermonters' quality of life; and

(4) achieving the recommendations of the CEP.

* * *

Sec. 12. 3 V.S.A. § 2291 is amended to read:

§ 2291. STATE AGENCY ENERGY PLAN

* * *

(c) The Secretary of Administration with the cooperation of the Commissioners of Public Service and of Buildings and General Services shall develop and oversee the implementation of a State Agency Energy Plan for State government. The Plan shall be adopted by June 30, 2005, modified as necessary, and readopted by the Secretary on or before January 15, 2010 and each sixth year subsequent to 2010. The Plan shall be consistent with the Comprehensive Energy Plan (CEP) issued under 30 V.S.A. § 202b. The Plan shall accomplish the following objectives and requirements:

* * *

Sec. 13. REPORTS; ELECTRIC GENERATION CONSTRAINTS

(a) This section requires two written submissions on matters relating to electric generation, one from the Public Utility Commission (PUC or Commission) and one from the Department of Public Service (DPS or Department). Each submission shall be made on or before January 15, 2019 to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(b) The Commission has pending before it several contested cases raising issues pertaining to electric generation and the area of the Sheffield-Highgate Export Interface (SHEI) and a noncontested case proceeding related to the Standard Offer Program under 30 V.S.A. § 8005a in which the Commission may examine issues related to ensuring that standard offer projects are proposed in areas that do not result in additional costs to the electric transmission or distribution system or that provide the greatest benefit to the system. The Commission's written submission under this section shall include all of the following:

(1) For each of those contested cases, a summary of its findings and conclusions on the merits of the issue or issues in the case related to the SHEI area. This subdivision (1) does not require the Commission to provide a summary for a contested case in which it has not issued a final order on the merits.

(2) For the proceeding related to the Standard Offer Program, a summary of its decisions to date of the submission on issues related to siting standard offer projects in areas that do not result in additional costs to the electric transmission or distribution system or that provide the greatest benefit to the system.

(3) As attachments, a copy of each decision summarized.

(c) The Department shall submit a written report to assist the General Assembly, renewable energy developers, and electric utilities to plan for the deployment of renewable electric generation in a manner that is consistent

with the goals, requirements, and programs related to renewable energy set forth or established in 30 V.S.A. chapter 89, the statutory goals for greenhouse gas reduction at 10 V.S.A. § 578, and the goals and recommendations of the 2016 Comprehensive Energy Plan.

(1) On each of the following, the report shall include analysis and recommendations that are consistent with those goals, requirements, and programs:

(A) How to manage demands on the State's electric transmission and distribution system that relate to or affect the deployment of renewable electric generation. The Department shall identify and review areas of the State, such as the SHEI area, in which generation that is interconnected to the electric transmission and distribution system faces constraints due to system capacity and conditions, including the relationship of interconnected generation to existing load;

(B) How to encourage the deployment of all types of renewable electric generation while minimizing curtailment of such generation.

(C) How to facilitate meeting the distributed renewable generation and energy transformation requirements of the Renewable Energy Standard at 30 V.S.A. §§ 8004–8005 in light of constraints identified under subdivision (A) of this subdivision (1).

(D) The role of energy storage in the deployment of renewable electric generation.

(E) Recommended methods to guide where renewable electric generation should be located in the State;

(F) Recommended methods to guide the location in the State of end users that consume significant amounts of electric energy.

(G) Other relevant issues as determined by the Department.

(2) Prior to submitting this report, the Department shall provide an opportunity for written submission of relevant comments and information by the public and shall conduct one or more meetings at which the public may provide comments and information. The Department shall provide prior notice of the opportunity to submit comments and information and of each meeting to each Vermont electric transmission and distribution utility, Renewable Energy Vermont, each holder of a certificate of public good for an electric generation facility within the SHEI area with a capacity greater than 500 kilowatts, each entity appointed to deliver energy efficiency programs and measures under 30 V.S.A. § 209(d), and any other person who requests such notice or whom the Department may determine to notify.

(3) With respect to the recommendations in the report, the Department shall identify those recommendations that require passage of enabling legislation and those recommendations that may be carried out under existing law. The report shall propose a timetable for implementation of the recommendations that may be carried out under existing law.

Sec. 14. RENEWABLE ENERGY STANDARD (RES) RULEMAKING

2015 Acts and Resolves No. 56, Sec. 8(d) is amended to read:

(d) On or before July 1, ~~2018~~ 2019, the ~~Board~~ Public Utility Commission shall commence rulemaking to implement Secs. 2, 3, and 7 of this act. The ~~Board~~ Commission shall finally adopt these rules within eight months of commencing rulemaking, unless this period is extended by the Legislative Committee on Administrative Rules under 3 V.S.A. § 843.

* * * Authority to Reserve Parking Spaces for Plug-in Electric Vehicles * * *

Sec. 15. 23 V.S.A. § 1104 is amended to read:

§ 1104. STOPPING PROHIBITED

(a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of an enforcement officer or official traffic-control device, no person may:

* * *

(3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or a passenger:

(A) within 50 feet of the nearest rail of a railroad crossing;

(B) at any place where official signs prohibit parking;

(C) at any place where official signs restrict parking to specific sizes or types of vehicles or impose other restrictions and the vehicle violates the restrictions.

* * *

Sec. 16. 23 V.S.A. § 1106 is amended to read:

§ 1106. LIMITATIONS ON USE OF STATE HIGHWAY FACILITIES

(a) As used in this section, "State highway facility" means a State highway rest area, picnic ground, parking area, or park-and-ride facility.

(b) No person shall enter or remain on any State highway facility for the purpose of overnight camping unless the particular facility has been designated for that purpose by the Traffic Committee.

(c)(1) On the basis of an engineering and traffic investigation or findings as to adverse effects on the quiet enjoyment and property values of people living adjacent to a State highway facility, the Traffic Committee may designate the size and types of vehicles allowed to park in a State highway facility or in particular areas of a State highway facility.

(2) In addition, the Secretary may prescribe special restrictions related to parking of plug-in electric vehicles in designated areas of a State highway facility.

(d) Notice of the prohibitions or restrictions under this section shall be posted at the affected facilities by regulatory signs conforming to the Manual on Uniform Traffic Control Devices.

Sec. 17. 23 V.S.A. § 1008a is amended to read:

§ 1008a. REGULATION OF MOTOR VEHICLES AT STATE AIRPORTS

(a)(1) The Secretary may adopt rules governing the operation, use, and parking of motor vehicles on the grounds of State airports, including the access roads.

(2) In addition, the Secretary may prescribe special restrictions related to parking of plug-in electric vehicles in designated areas on such grounds.

(b) Signs indicating the ~~special regulations~~ rules or restrictions shall be conspicuously posted in and near all areas affected.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) This section and Secs. 13 (reports; electric generation constraints) and 14 (RES rulemaking) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018.

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

An act relating to appliance efficiency, energy planning, and electric vehicle parking.

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.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended 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:

First: After Sec. 13 by inserting a new Sec. 13a to read as follows:

Sec. 13a. SHEFFIELD-HIGHGATE EXPORT INTERFACE

(a) The General Assembly finds that deployment of new electric generation in the area served by the Sheffield-Highgate Export Interface (SHEI) exacerbates utility system constraints that can result in curtailment of existing generation in the area, causing significant costs to Vermont ratepayers or the owners and operators of electric generation in the area, or both.

(b) On and after the effective date of this section through June 30, 2019, the Public Utility Commission shall not accept new applications under 30 V.S.A. § 248 for electric generation facilities that will interconnect with transmission or distribution lines in the area served by the SHEI, except for net metering systems with a capacity less than 15 kilowatts. The Commission shall demarcate the specific geographic scope of this area. The purpose of this subsection is to allow time for the completion of the submissions required by Sec. 13 of this act and the consideration by the General Assembly in the 2019 session of potential solutions to the constraints posed by conditions in the SHEI area.

Second: In Sec. 18 (effective dates), by striking out subsection (a) and inserting in lieu thereof a new subsection (a) to read as follows:

(a) This section and Secs. 13 (reports; electric generation constraints), 13a (Sheffield-Highgate Export Interface), and 14 (RES rulemaking) shall take effect on passage.

Thereupon, pending the question, Shall the report of the Committee on Natural Resources and Energy be amended as recommended by Senator Rodgers?, Senators MacDonald, Bray and Lyons moved to substitute a proposal of amendment for the proposal of amendment of Senator Rodgers as follows:

By striking out Sec. 13 (reports; electric generation constraints) and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. REPORTS; ELECTRIC GENERATION CONSTRAINTS

(a) The General Assembly finds that deployment of new electric generation in the area served by the Sheffield-Highgate Export Interface (SHEI) exacerbates utility system constraints that can result in curtailment of existing generation in the area, causing significant costs to Vermont ratepayers or the owners and operators of electric generation in the area, or both.

(b) This section requires two written submissions on constraints relating to electric generation, one from the Public Utility Commission (PUC or Commission) and one from the Department of Public Service (DPS or Department). Each submission shall be made on or before January 15, 2019 to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(c) The Commission has pending before it several contested cases raising issues pertaining to electric generation and the SHEI area and a noncontested case proceeding related to the Standard Offer Program under 30 V.S.A. § 8005a in which the Commission may examine issues related to ensuring that standard offer projects are proposed in areas that do not result in additional costs to the electric transmission or distribution system or that provide the greatest benefit to the system. The Commission's written submission under this section shall include all of the following:

(1) For each of those contested cases, a summary of its findings and conclusions on the merits of the issue or issues in the case related to the SHEI area. This subdivision (1) does not require the Commission to provide a summary for a contested case in which it has not issued a final order on the merits.

(2) For the proceeding related to the Standard Offer Program, a summary of its decisions to date of the submission on issues related to siting standard offer projects in areas that do not result in additional costs to the electric transmission or distribution system or that provide the greatest benefit to the system.

(3) As attachments, a copy of each decision summarized.

(d) The Department shall submit a written report to assist the General Assembly, renewable energy developers, and electric utilities to plan for the deployment of renewable electric generation in a manner that is consistent with the goals, requirements, and programs related to renewable energy set forth or established in 30 V.S.A. chapter 89, the statutory goals for greenhouse gas reduction at 10 V.S.A. § 578, and the goals and recommendations of the 2016 Comprehensive Energy Plan.

(1) On each of the following, the report shall include analysis and recommendations that are consistent with those goals, requirements, and programs:

(A) How to manage demands on the State's electric transmission and distribution system that relate to or affect the deployment of renewable electric generation. The Department shall identify and review areas of the State, such as the SHEI area, in which generation that is interconnected to the electric

transmission and distribution system faces constraints due to system capacity and conditions, including the relationship of interconnected generation to existing load (the identified constrained areas).

(B) How to encourage the deployment of all types of renewable electric generation while minimizing curtailment of such generation.

(C) How to facilitate meeting the distributed renewable generation and energy transformation requirements of the Renewable Energy Standard at 30 V.S.A. §§ 8004–8005 in light of the identified constrained areas.

(D) Whether, until resolution of the constraints in the identified constrained areas, to allocate among all electric distribution utilities in the State the incremental costs to utilities caused by siting in those areas renewable electric generation that was or is encouraged by or used to meet a current or former program under 30 V.S.A. chapter 89 or that is designed or proposed to achieve a goal or recommendation of the 2016 Comprehensive Energy Plan and, if so, to propose a method for such allocation.

(E) The role of energy storage in the deployment of renewable electric generation.

(F) Recommended methods to guide where renewable electric generation should be located in the State.

(G) Recommended methods to guide the location in the State of end users that consume significant amounts of electric energy.

(H) Other relevant issues as determined by the Department.

(2) Prior to submitting this report, the Department shall provide an opportunity for written submission of relevant comments and information by the public and shall conduct one or more meetings at which the public may provide comments and information. The Department shall provide prior notice of the opportunity to submit comments and information and of each meeting to each Vermont electric transmission and distribution utility, Renewable Energy Vermont, each holder of a certificate of public good for an electric generation facility within the SHEI area with a capacity greater than 500 kilowatts, each entity appointed to deliver energy efficiency programs and measures under 30 V.S.A. § 209(d), and any other person who requests such notice or whom the Department may determine to notify.

(3) With respect to the recommendations in the report, the Department shall identify those recommendations that require passage of enabling legislation and those recommendations that may be carried out under existing law. The report shall propose a timetable for implementation of the recommendations that may be carried out under existing law.

Which was agreed to.

Thereupon, the report of the Committee on Natural Resources and Energy was amended by Senator Rodgers, as substituted.

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. 196.

Senator Sirotkin, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to paid family leave.

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:

Sec. 1. 21 V.S.A. § 471 is amended to read:

§ 471. DEFINITIONS

As used in this subchapter:

(1) "Employer" means an individual, organization ~~or~~, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State ~~which for the purposes of parental leave~~ that employs 10 or more individuals who are employed for an average of at least 30 hours per week during a year ~~and for the purposes of family leave employs 15 or more individuals for an average of at least 30 hours per week during a year~~.

* * *

(3) "Family leave" means a leave of absence from employment by an employee who works for an employer ~~which~~ that employs ~~15~~ 10 or more individuals who are employed for an average of at least 30 hours per week during the year for one of the following reasons:

(A) the serious illness of the employee; ~~or~~

(B) the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse;

~~(4) "Parental leave" means a leave of absence from employment by an employee who works for an employer which employs 10 or more individuals~~

~~who are employed for an average of at least 30 hours per week during the year for one of the following reasons:~~

(C) the employee's pregnancy;

~~(A)~~(D) the birth of the employee's child; or

~~(B)~~(E) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care.

~~(5)~~(4) "Serious illness" means an accident, disease, or physical or mental condition that:

* * *

(5) "Commissioner" means the Commissioner of Labor.

Sec. 2. 21 V.S.A. § 472 is amended to read:

§ 472. FAMILY LEAVE

(a) During any 12-month period, an employee shall be entitled to take unpaid leave for a period not to exceed 12 weeks for the following reasons:

(1) ~~for parental leave,~~ during the employee's pregnancy ~~and~~;

(2) following the birth of ~~an~~ the employee's child ~~or~~;

(3) within a year following the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption~~.~~ or foster care;

~~(2)~~(4) ~~for family leave, for~~ the serious illness of the employee; or

(5) the serious illness of the employee's child, stepchild or ward of the employee who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse.

(b) During the leave, at the employee's option, the employee may use accrued sick leave ~~or~~, vacation leave ~~or~~, any other accrued paid leave, ~~not to exceed six weeks~~ Parental and Family Leave Insurance benefits pursuant to subchapter 13 of this chapter, or short-term disability insurance or other insurance benefits. ~~Utilization~~ Use of accrued paid leave, Parental and Family Leave Insurance benefits, or insurance benefits shall not extend the leave provided ~~herein~~ by this section.

* * *

(d) The employer shall post and maintain in a conspicuous place in and about each of ~~his or her~~ its places of business printed notices of the provisions of this subchapter on forms provided by the Commissioner of Labor.

(e)(1) An employee shall give his or her employer reasonable written notice of intent to take family leave under this subchapter. Notice shall include the date the leave is expected to commence and the estimated duration of the leave.

(2) In the case of the adoption or birth of a child, an employer shall not require that notice be given more than six weeks prior to the anticipated commencement of the leave.

(3) In the case of an unanticipated serious illness or premature birth, the employee shall give the employer notice of the commencement of the leave as soon as practicable.

(4) In the case of serious illness of the employee or a member of the employee's family, an employer may require certification from a physician to verify the condition and the amount and necessity for the leave requested.

(5) An employee may return from leave earlier than estimated upon approval of the employer.

(6) An employee shall provide reasonable notice to the employer of his or her need to extend the leave to the extent provided by this chapter.

* * *

(h) Except for serious illness of the employee, an employee who does not return to employment with the employer who provided the family leave shall return to the employer the value of any compensation paid to or on behalf of the employee during the leave, except payments of Parental and Family Leave Insurance benefits and payments for accrued sick leave or vacation leave. An employer may elect to waive the rights provided pursuant to this subsection.

Sec. 3. 21 V.S.A. chapter 5, subchapter 13 is added to read:

Subchapter 13. Parental and Family Leave Insurance

§ 571. DEFINITIONS

As used in this subchapter:

(1) "Employee" means an individual who performs services in employment for an employer.

(2) "Employer" means an individual, organization, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State.

(3) "Employment" has the same meaning as in subdivision 1301(6) of this title.

(4) "Family leave" means a leave of absence from employment by an employee for the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse.

(5) "Parental and bonding leave" means a leave of absence from employment by an employee for:

(A) the birth of the employee's child; or

(B) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care.

(6) "Qualified employee" means an individual who has earned at least $10,710.00 in employment in Vermont during the last 12 months.

(7) "Serious illness" means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

(8) "Wages" has the same meaning as in subdivision 1301(12) of this title.

§ 572. PARENTAL AND FAMILY LEAVE INSURANCE; SPECIAL FUND; ADMINISTRATION

(a)(1) The Parental and Family Leave Insurance Program is established for the provision of Parental and Family Leave Insurance benefits to eligible employees pursuant to this section.

(2) The collection of contributions pursuant to this section and the determination of monetary eligibility for benefits shall be administered by the Commissioner of Taxes. All other aspects of the Program shall be administered by the Commissioner of Labor.

(b) The Parental and Family Leave Insurance Special Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5. The Fund may be expended by the Commissioners of Labor and of Taxes for the administration of the Parental and Family Leave Insurance Program and payment of Parental and Family Leave Insurance benefits provided pursuant to this section. All interest earned on Fund balances shall be credited to the Fund.

(c)(1)(A) The Fund shall consist of contributions equal to 0.141 percent of each employee's covered wages, which an employer shall deduct and withhold from each of its employee's wages.

(B) In lieu of deducting and withholding the full amount of the contribution pursuant to subdivision (A) of this subdivision (1), an employer may elect to pay all or a portion of the contributions due from the employee's covered wages.

(C) As used in this subsection, the term "covered wages" does not include the amount of wages paid to an employee after he or she has received wages equal to $150,000.00. Annually on January 1, the amount of wages included in the term "covered wages" shall be increased by the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1. The amount of wages included in the term "covered wages" shall not be decreased.

(2)(A) Notwithstanding subdivision (1)(A) of this subsection (c), the General Assembly shall annually establish the rate of contribution for the next fiscal year. The rate shall equal the amount necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter, to maintain a reserve equal to at least nine months of the projected benefit payments for the next fiscal year, and to administer the Parental and Family Leave Insurance Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(B) On or before February 1 of each year, the Commissioner of Labor, in consultation with the Commissioner of Taxes, shall report to the General Assembly the rate of contribution necessary to provide Parental and Family Leave Insurance benefits pursuant to this subchapter, to maintain a reserve equal to at least nine months of the projected benefit payments for the next fiscal year, and to administer the Program during the next fiscal year, adjusted by any balance in the Fund from the prior fiscal year.

(d) The Commissioner of Taxes shall require the withholding of the contributions required pursuant to subsection (c) of this section from wages paid by any employer, as if the contributions were an additional Vermont income tax subject to the withholding requirements of 32 V.S.A. § 5841(a). The administrative and enforcement provisions of 32 V.S.A. chapter 151, subchapter 4 shall apply to the withholding requirement under this section as if the contributions withheld were a Vermont income tax.

§ 573. BENEFITS

(a) Except as otherwise provided pursuant to section 572 of this subchapter, a qualified employee awarded Parental and Family Leave Insurance benefits under this section shall receive 70 percent of his or her average weekly wage or an amount equal to a 40-hour workweek paid at a rate double that of the livable wage, as determined by the Joint Fiscal Office pursuant to 2 V.S.A. § 505, whichever is less.

(b) A qualified employee shall be permitted to receive a total of not more than 12 weeks of Parental and Family Leave Insurance benefits in a 12-month period for family leave or parental and bonding leave, or both, which shall include:

(1) not more than 12 weeks of parental and bonding leave, provided that if both parents are qualified employees they shall be permitted to receive a combined total of not more than 12 weeks of Parental and Family Leave Insurance benefits in a 12-month period for parental and bonding leave; and

(2) not more than six weeks of Parental and Family Leave Insurance benefits in a 12-month period for family leave.

§ 574. APPLICATION FOR BENEFITS; PAYMENT; TAX WITHHOLDING

(a) A qualified employee shall file an application for Parental and Family Leave Insurance benefits with the Commissioner of Labor under this section on a form provided by the Commissioner. The Commissioner shall determine whether the qualified employee is eligible to receive Parental and Family Leave Insurance benefits based on the following criteria:

(1) The purposes for which the claim is made are adequately documented pursuant to rules adopted by the Commissioner.

(2) The Commissioner of Taxes certifies that the individual is a qualified employee.

(3) The qualified employee satisfies the eligibility requirements for the requested leave and has specified the duration of the leave.

(4) The benefits are being requested in relation to a family leave or a parental and bonding leave.

(b)(1) The Commissioner of Labor shall make a determination of each claim not later than five business days after the date the claim is filed, and Parental and Family Leave Insurance benefits shall be paid from the Fund created pursuant to this section. The Commissioner may extend the time in which to make a determination of a claim by not more than five business days

if necessary to obtain documents or information that are needed to make the determination.

(2) The first benefit payment shall be sent to a qualified employee within 14 days after his or her claim is approved, and subsequent payments shall be sent biweekly.

(3) The provisions of section 1367 of this title shall apply to Parental and Family Leave Insurance benefits.

(c)(1) An individual filing a claim for benefits pursuant to this section shall, at the time of filing, be advised that Parental and Family Leave Insurance benefits may be subject to income tax and that the individual's benefits may be subject to withholding.

(2) The Commissioner of Labor shall follow all procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the withholding of income tax.

§ 575. REINSTATEMENT; SENIORITY AND BENEFITS PROTECTED

(a) The employer of an employee who receives Parental and Family Leave Insurance benefits under this subchapter shall reinstate the employee at the conclusion of his or her family leave or parental and bonding leave, provided the employee is not out of work for a continuous period in excess of 12 weeks. The employee shall be reinstated in the first available suitable position given the position he or she held at the time his or her leave began.

(b) Upon reinstatement, the employee shall regain seniority and any unused accrued paid leave he or she was entitled to prior to the family leave or parental and bonding leave, less any accrued paid leave used during the family leave or parental and bonding leave.

(c)(1) Nothing in this section shall be construed to diminish an employee's rights pursuant to subsection 472(f) of this chapter.

(2) The provisions of this section shall not apply if:

(A) the employee had been given notice, or had given notice, prior to the beginning of his or her leave;

(B) the employee's position would have terminated of its own terms prior to any reinstatement he or she would otherwise be entitled to under this section; or

(C) the employee fails to inform the employer of:

(i) his or her interest in being reinstated at the conclusion of the leave; and

(ii) the date on which his or her leave is anticipated to conclude.

(d)(1) An employee aggrieved by an employer's failure to comply with the provisions of this section may bring an action in the Civil Division of the Superior Court in the county where the employment is located for compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or other benefits, reinstatement, costs, and other appropriate relief.

(2) A copy of the complaint shall be filed with the Commissioner of Labor.

(3) The court shall award reasonable attorney's fees to the employee if he or she prevails.

§ 576. APPEALS

(a)(1) An employer or individual aggrieved by a decision of the Commissioner of Labor under section 574 of this subchapter may file with the Commissioner a petition for reconsideration within 30 days after receipt of the decision. The petition shall set forth in detail the grounds upon which it is claimed that the decision is erroneous and may include materials supporting that claim.

(2) If an employer petitions the Commissioner to reconsider a decision pursuant to section 574 of this subchapter, the Commissioner shall promptly notify the individual of the petition by ordinary, certified, or electronic mail and provide him or her with an opportunity to file an answer to the employer's petition.

(3) The Commissioner shall promptly notify the employer or individual, or both, of his or her decision by ordinary, certified, or electronic mail.

(b)(1) An employer or individual aggrieved by the Commissioner's decision on reconsideration may file an appeal with a departmental administrative law judge within 30 days after receiving the Commissioner's decision. The appeal shall set forth in detail the grounds upon which it is claimed that the decision is erroneous.

(2) The administrative law judge shall, upon not less than five business days' notice, hold a hearing on the appeal as provided pursuant to rules adopted by the Commissioner. After the hearing, all parties to the appeal shall be promptly notified by ordinary, certified, or electronic mail of the findings of fact, conclusions, and decision of the administrative law judge.

(c) Any party may appeal the administrative law judge's decision to the Supreme Court within 30 days after receiving the decision.

(d) The provisions of section 1353 of this title shall apply to all determinations, redeterminations, findings of fact, conclusions of law, decisions, orders, or judgments entered or made pursuant to this section.

§ 577. FALSE STATEMENT OR REPRESENTATION; PENALTY

A person who willfully makes a false statement or representation for the purpose of obtaining any benefit or payment or to avoid payment of any required contributions under the provisions of this subchapter, either for himself or herself or for any other person, after notice and opportunity for hearing, may be assessed an administrative penalty of not more than $20,000.00 and shall forfeit all or a portion of any right to benefits under the provisions of this subchapter, as determined to be appropriate by the Commissioner of Labor or of Taxes, as appropriate, after a determination by the Commissioner that the person has willfully made a false statement or representation of a material fact.

§ 578. RULEMAKING

(a) The Commissioner of Taxes shall adopt rules as necessary to implement the provisions of this subchapter related to the collection of contributions pursuant to section 572 of this subchapter and the determination of monetary eligibility for benefits.

(b) The Commissioner of Labor shall adopt rules as necessary to implement all other provisions of this subchapter.

§ 579. CONFIDENTIALITY OF INFORMATION

(a) Information obtained from an employer or individual in the administration of this subchapter and determinations of an individual's right to receive benefits that reveal an employer's or individual's identity in any manner shall be kept confidential and shall be exempt from public inspection and copying under the Public Records Act. Such information shall not be admissible as evidence in any action or proceeding other than one brought pursuant to the provisions of this subchapter.

(b) Notwithstanding subsection (a) of this section:

(1) an individual or his or her duly authorized agent may be provided with information to the extent necessary for the proper presentation of his or her claim for benefits or to inform him or her of his or her existing or prospective rights to benefits; and

(2) an employer may be provided with information that the Commissioner of Labor or of Taxes determines is necessary to enable the employer to discharge fully its obligations and protect its rights under this subchapter.

Sec. 4. ADOPTION OF RULES

(a) On or before January 1, 2019, the Commissioner of Taxes shall adopt rules necessary to implement the provisions of 21 V.S.A. chapter 5, subchapter 13 related to the collection of contributions and the determination of monetary eligibility, which shall include:

(1) procedures for the collection of contributions; and

(2) reporting and record-keeping requirements for employers.

(b) On or before January 1, 2019, the Commissioner of Labor shall adopt rules necessary to implement all other provisions of 21 V.S.A. chapter 5, subchapter 13, which shall include:

(1) procedures for receiving and processing applications for benefits;

(2) acceptable documentation for demonstrating eligibility for benefits;

(3) forms and requirements for providing certification from a health care provider of the need for family leave that are modeled on the federal rules governing certification of a serious health condition under the Family and Medical Leave Act;

(4) forms and procedures for obtaining authorization for an individual's health care provider to disclose to the Commissioner information necessary to make a determination of the individual's eligibility for benefits; and

(5) procedures for appealing a decision pursuant to 21 V.S.A. § 574 that are modeled, to the extent possible, on the appeals process provided for determinations of benefits in relation to unemployment insurance.

Sec. 5. EDUCATION AND OUTREACH

On or before January 1, 2019, the Commissioner of Labor shall develop and make available on the Department of Labor's website information and materials to educate and inform employers and employees about the Parental and Family Leave Insurance Program established pursuant to 21 V.S.A. chapter 5, subchapter 13.

Sec. 6. ESTABLISHMENT OF PARENTAL AND FAMILY LEAVE INSURANCE PROGRAM; EXPENDITURES FROM SPECIAL FUND

Beginning on July 1, 2018, the Commissioner of Finance and Management may, pursuant to 32 V.S.A. § 588(4)(C), issue warrants for expenditures from the Parental and Family Leave Insurance Special Fund necessary to establish the Parental and Family Leave Insurance Program in anticipation of the receipt on or after July 1, 2019 of contributions submitted pursuant to 21 V.S.A. § 572.

Sec. 7. ADEQUACY OF RESERVES; REPORT

Annually, on or before January 15, 2021, 2022, and 2023, the Commissioners of Labor and of Taxes, in consultation with the Commissioners of Finance and Management and of Financial Regulation, shall submit a written report to the House Committees on Appropriations, on General, Housing, and Military Affairs, and on Ways and Means and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance regarding the amount and adequacy of the reserves in the Parental and Family Leave Insurance Special Fund and any recommendations for legislative action necessary to ensure that an adequate reserve is maintained in the Fund.

Sec. 8. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

* * *

(F) Parental and Family Leave Insurance benefits pursuant to chapter 5, subchapter 13 of this title.

* * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 3, 4, 5, 6, and 7 shall take effect on July 1, 2018.

(b) Secs. 1, 2, and 8 shall take effect on October 1, 2020.

(c) Contributions shall begin being paid pursuant to 21 V.S.A. § 572 on July 1, 2019, and, beginning on October 1, 2020, employees may begin to receive benefits pursuant to 21 V.S.A. chapter 5, subchapter 13.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, by striking out § 571 in its entirety and inserting in lieu thereof the following:

§ 571. DEFINITIONS

As used in this subchapter:

(1) "Employee" means an individual who receives payments with respect to services performed for an employer from which the employer is required to withhold Vermont income tax pursuant to 32 V.S.A. chapter 151, subchapter 4.

(2) "Employer" means an individual, organization, governmental body, partnership, association, corporation, legal representative, trustee, receiver, trustee in bankruptcy, and any common carrier by rail, motor, water, air or express company doing business in or operating within this State.

(3) "Family leave" means a leave of absence from employment by an employee for the serious illness of the employee's child, stepchild or ward who lives with the employee, foster child, parent, spouse, or parent of the employee's spouse.

(4) "Parental and bonding leave" means a leave of absence from employment by an employee for:

(A) the birth of the employee's child; or

(B) the initial placement of a child 16 years of age or younger with the employee for the purpose of adoption or foster care.

(5) "Qualified employee" means an individual who has earned at least $10,710.00 in wages in Vermont during the last 12 months.

(6) "Serious illness" means an accident, disease, or physical or mental condition that:

(A) poses imminent danger of death;

(B) requires inpatient care in a hospital; or

(C) requires continuing in-home care under the direction of a physician.

(7) "Wages" means payments from an employer to an employee that are subject to income tax withholding pursuant to 32 V.S.A. chapter 151, subchapter 4.

Second: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in § 572, by striking out subdivision (a)(2) in its entirety and inserting in lieu thereof the following:

(2)(A) The Commissioner of Taxes shall administer the collection of contributions, the determination of monetary eligibility for benefits, and the issuance of benefits checks for the program.

(B) The Commissioner of Labor shall administer the receipt and processing of benefits applications, the determination of eligibility for benefits, the collection of overpaid benefits, and all other aspects of the program that are not administered by the Commissioner of Taxes.

Third: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in § 572, in subdivision (c)(1)(A) by striking out the following: "0.141" and inserting in lieu thereof the following: 0.136

Fourth: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in § 575, after subdivision (c)(2)(C)(ii), by adding a subdivision (D) to read as follows:

(D) More than two years have elapsed since the conclusion of the employee's leave.

Fifth: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in § 576, in subsection (a), after both instances of the number "574" by inserting the following: or 581

Sixth: In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, after § 579, by adding §§ 580 and 581 to read as follows:

§ 580. DISQUALIFICATIONS

A qualified employee shall be disqualified for benefits for any week in which he or she has received:

(1) compensation for temporary partial disability or temporary total disability under the workers' compensation law of any state or under a similar law of the United States; or

(2) unemployment compensation benefits under the law of any state.

§ 581. OVERPAYMENT OF BENEFITS; COLLECTION

(a)(1) Any individual who by nondisclosure or misrepresentation of a material fact, by him or her, or by another person, has received Parental and Family Leave Insurance benefits when he or she failed to fulfill a requirement for the receipt of benefits pursuant to this chapter or while he or she was disqualified from receiving benefits pursuant to section 580 of this chapter shall be liable to repay to the Commissioner of Labor the amount received.

(2) Upon determining that an individual has received benefits under this chapter that he or she was not entitled to, the Commissioner of Labor shall provide the individual with notice of the determination. The notice shall include a statement that the individual is liable to repay to the Commissioner

the amount of overpaid benefits and shall identify the basis of the overpayment and the time period in which the benefits were paid.

(3) The determination shall be made within not more than three years after the date of the overpayment.

(b)(1) An individual liable under this section shall repay the overpaid amount to the Commissioner for deposit in the Fund.

(2) If the Commissioner finds that the individual intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits, in addition to the repayment under subdivision (1) of this subsection, the person shall pay an additional penalty of 15 percent of the amount of the overpaid benefits, which shall also be deposited in the Fund.

(3) The Commissioner may collect the amounts due under this section in civil action in the Superior Court.

(c) If an individual is liable to repay any amount pursuant to this section, the Commissioner may withhold, in whole or in part, any future benefits payable to the individual pursuant to this chapter and credit the withheld benefits against the amount due from the individual until it is repaid in full, less any penalties assessed under subdivision (b)(2) of this section.

(d) In addition to the remedy provided pursuant to this section, an individual who intentionally misrepresented or failed to disclose a material fact with respect to his or her claim for benefits may be subject to the penalties provided pursuant to section 577 of this title.

Seventh: In Sec. 4, adoption of rules, by striking out each instance of "January 1, 2019" and inserting in lieu thereof the following: April 1, 2019

Eighth: In Sec. 4, adoption of rules, in subsection (a), by striking out subdivisions (1) and (2) in their entirety and inserting in lieu thereof the following:

(1) procedures for the collection of contributions;

(2) procedures for the issuance of benefits payments; and

(3) reporting and record-keeping requirements for employers.

Ninth: In Sec. 5, education and outreach, by striking out the following: "January 1, 2019" and inserting in lieu thereof the following: June 1, 2019

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Ashe Assumes the Chair

President Assumes the Chair

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported the bill without recommendation.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Finance on a division of the Senate Yeas 23, Nays 7.

Thereupon, the proposal of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, was agreed to and third reading of the bill was ordered.

Message from the House No. 65

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill entitled:

S. 192. An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses.

The Speaker appointed as members of such Committee on the part of the House:

Rep. LaClair of Barre Town
Rep. Gardner of Richmond
Rep. Lewis of Berlin.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 912. An act relating to the health care regulatory duties of the Green Mountain Care Board.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 913. An act relating to boards and commissions.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 917. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Proposal of Amendment; Third Reading Ordered

H. 919.

Senator Clarkson, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to workforce development.

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:

* * * Stakeholder Alignment, Coordination, and Engagement * * *

Sec. 1. STAKEHOLDER ALIGNMENT, COORDINATION, AND ENGAGEMENT PROCESS; VISION; GOALS

(a) Stakeholder alignment, coordination, and engagement. The State Workforce Development Board, in cooperation with the Department of Labor and the Agencies of Commerce and Community Development, of Education, of Human Services, of Agriculture, Food and Markets, of Natural Resources, and of Transportation shall:

(1) conduct a stakeholder alignment, coordination, and engagement process, consistent with 20 C.F.R. §§ 679.100 and 679.130 and 10 V.S.A. § 541a, to ensure and promote better coordination and agreement around the State's vision and shared goals for meeting Vermont's 21st-century workforce education, training, recruitment, and retention needs;

(2) design the stakeholder alignment, coordination, and engagement process to inform workforce-related aspects of other State strategic plans and reports, including the Workforce Innovation and Opportunity Act State Plan, the State Economic Development Marketing Plan, and the Statewide Comprehensive Economic Development Strategy; and

(3) solicit the perspectives of job seekers, incumbent workers, employers, industry representatives, program administrators, and workforce service delivery providers.

(b) Action plan. In adopting an action plan, the State Workforce Development Board shall:

(1) on or before February 1, 2020, describe the State's collective workforce development goals, which shall serve as the basis for an action plan to revitalize Vermont's workforce development system;

(2) post online the vision, goals, and any findings or recommendations; and

(3) provide advance notice to the Chair and Vice Chair of the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs if the recommendations may require legislative action during the 2020 legislative session.

(c) Regional delivery systems. The State Workforce Development Board shall review how functions performed by local workforce investment boards, career technical education regional advisory boards, regional planning commissions, regional development corporations, and other regional economic development and workforce-related boards could be more equitably executed from region to region and recommend structures that would foster better regional collaboration, alignment, and employer participation.

(d) Information sharing. The Department of Labor, with assistance from the State Workforce Development Board, shall facilitate the sharing of information among workforce development and training-delivery organizations during and following the stakeholder alignment, coordination, and engagement process so they may stay current with initiatives and plans related to building an effective workforce development system.

(e) Board authority; permissive activities. The State Workforce Development Board may:

(1) create a workforce development network map of workforce service delivery providers, employers, workforce program administrators, and industry representatives to:

(A) develop baseline data in conformance with the Workforce Innovation and Opportunity Act about how individuals, including new Americans, and organizations, both within and outside State government, are involved with workforce development and training around the State;

(B) analyze the relative level of connectivity of people and programs managed inside and outside State government; and

(C) identify opportunities to strengthen connectivity to achieve greater program alignment toward, and realize the Board's vision for, the State's workforce development and training system;

(2) identify the resources necessary to maintain the network map over time and track changes in levels of connectivity and alignment across the stakeholder community;

(3) recommend strategies to improve:

(A) how employer-outreach positions in each of the State-funded field offices might be shared;

(B) what type of coordination is needed between the State-level employer-outreach staff and local workforce organizations, including staff of the regional development corporations and regional planning commissions, to better serve employers;

(C) whether establishing a One-Stop American Job Center in each region to provide comprehensive customer-driven services for employers and job seekers could better serve businesses, improve responsiveness to the needs of emerging sectors, and increase access to qualified, available workers through direct outreach and recruitment;

(D) scaling or expanding pilot projects that link experts who have career and industry knowledge directly with middle schools or high schools, or both, to foster career readiness and exploration;

(E) ways to share data and information collected from employers among parties who implement workforce development programs; and

(F) what knowledge and education employers may require better to respond to their employees as workers and as members of a family; and

(4) following the stakeholder alignment, coordination, and engagement process outlined in subsection (a) of this section, make recommendations to align relevant funding sources to promote:

(A) employer-driven workforce education and training opportunities;

(B) results-based outcomes;

(C) innovative and effective initiatives, pilots, or demonstration programs that can be scaled to the rest of the State;

(D) access to federal resources that enable more innovative programs and initiatives in Vermont;

(E) equitable access to employment and training opportunities for women and underrepresented populations in Vermont; and

(F) best practices aligned with a two-generation approach to eliminating poverty, as identified by the Vermont Work Group on Whole Family Approach to Jobs.

Sec. 2. 10 V.S.A. § 541a is amended to read:

§ 541a. STATE WORKFORCE DEVELOPMENT BOARD

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 3111, the Governor shall establish ~~a~~ the State Workforce Development Board to assist the Governor in the execution of his or her duties under the Workforce Innovation and Opportunity Act of 2014 and to assist the Commissioner of Labor as specified in section 540 of this title.

(b) Additional duties; planning; process.

(1) ~~In order to~~ To inform its ~~decision-making~~ decision making and to provide effective assistance under subsection (a) of this section, the Board shall:

~~(1)~~(A) conduct an ongoing public engagement process throughout the State that brings together employers and potential employees, including students, the unemployed, and incumbent employees seeking further training, to provide feedback and information concerning their workforce education and training needs; and

~~(2)~~(B) maintain familiarity and promote alignment with the federal, State, and regional Comprehensive Economic Development Strategy (CEDS) and other economic development planning processes~~,~~ and coordinate workforce and education activities in the State, including the development and implementation of the State plan required under the Workforce Innovation and Opportunity Act of 2014, with economic development planning processes occurring in the State, as appropriate.

(2) To ensure that State-funded and federally funded workforce development and training efforts are of the highest quality and aligned with the State's workforce and economic goals, the Board shall regularly:

(A) review and approve State-endorsed Career Pathways that reflect a shared vision across multiple sectors and agencies for improving employment outcomes, meeting employers' and workers' needs, and leveraging available State and federal funding; and

(B) publicize the State-endorsed Career Pathways, including on websites managed by the Agency of Education, Department of Labor, and Department of Economic Development.

(3) The Board shall have the authority to approve State-endorsed and industry-recognized credentials and certificates, excluding high school diplomas and postsecondary academic degrees, that are aligned with the Career Pathways.

* * *

Sec. 3. RESERVATION OF FUNDS; IMPLEMENTATION

In fiscal year 2019, the Department of Labor shall reserve the amount of $40,000.00 from the Workforce Development Council Fund and the amount of $40,000.00 of federal Workforce Innovation and Opportunity Act funds reserved by the Governor for statewide workforce investment activities, subject to permissible use, to assist the State Workforce Development Board in performing the duties specified in this act.

* * * CTE and Adult Technical Education; Career Pathways * * *

Sec. 4. CAREER PATHWAYS

(a) Definition. As used in this section, "career pathways" means a combination of rigorous and high-quality educational, training, and other experiences and services, beginning not later than seventh grade, that:

(1) at the secondary level, integrates the academic and technical skills required for postsecondary success;

(2) is developed in partnership with business and industry and aligns with the skill needs of industries in the local, regional, and State economies;

(3) prepares an individual to transition seamlessly from secondary to postsecondary or adult technical education experiences and be successful in any of a full range of secondary, postsecondary, or adult technical education options, including registered apprenticeships;

(4) includes career counseling and work-based learning experiences to support an individual in achieving the individual's educational and career goals;

(5) includes, as appropriate, education offered concurrently with, and in the same context as, workforce preparation activities and training for a specific occupation or occupational cluster;

(6) organizes educational, training, and other experiences and services, with multiple entry and exit points along a training progression, to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(7) enables an individual to gain a secondary-school diploma or its recognized equivalent and allow postsecondary credit and industry certifications to be earned in high school; and

(8) prepares an individual to enter, or to advance within, a specific occupation or occupational cluster.

(b) Development of career pathways. The Agency of Education shall implement a process for developing career pathways that considers:

(1) State and local labor market demands;

(2) the recommendations of regional career technical education advisory boards or other employer-based boards;

(3) alignment with postsecondary education and training opportunities; and

(4) students' ability to gain credentials of value, dual enrollment credits, postsecondary credentials or degrees, and employment.

(c) Reporting. The Agency of Education shall report its progress in developing career pathways to the Board on an annual basis.

Sec. 5. CAREER READINESS; CTE PILOTS

(a) Collaboration. The Agency of Education shall promote collaboration among middle schools and regional career technical education (CTE) centers to engage in activities including:

(1) developing and delivering introductory CTE courses or lessons to middle school students that are part of broader career education, exploration, and development programs and that are connected to career pathways and CTE programs, as appropriate;

(2) increasing student exposure to local career opportunities through activities such as business tours, guest lectures, career fairs, and career-awareness days; and

(3) increasing student exposure to CTE programs through activities such as tours of regional CTE centers, virtual field trips, and CTE guest visits.

(b) Pilot projects. The Agency of Education shall approve up to four pilot projects in a variety of CTE settings. These pilot projects shall propose novel ways of integrating funding for CTE and general education and new governance structures for regional CTE centers, including unified governance structures between regional CTE centers and high schools, or both. Pilot projects shall require both high school and regional CTE center involvement, and shall be designed to enhance the delivery of educational experiences to

both high school students and CTE students while addressing the current competitive nature of funding CTE programs.

(1) A pilot project shall extend not longer than two years.

(2) The Agency shall establish guidelines, proposal submission requirements, and a review process to approve pilot projects.

(3) On or before January 15, 2020, the Agency shall report on the outcomes of the pilot projects to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs.

(c) Recommendation on CTE pre-tech programs. On or before January 15, 2020, the Agency of Education shall recommend to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development flexible and student-centered policies that support equitable access and opportunity to participate in CTE pre-tech foundation and exploratory programs for students in grades 9 and 10. This recommendation shall include building such activities into students' personalized learning plans when appropriate, so that students are exposed to a wide variety of career choices in their areas of interest. In making its recommendation, the Agency shall consider:

(1) the existing practices of regional CTE centers currently offering CTE pre-tech foundation and exploratory programs for students in grades 9 and 10;

(2) the results of the collaborative efforts made between regional CTE centers and middle schools as required under subsection (a) of this section; and

(3) the results of the pilot projects under subsection (b) of this section.

(d) Technical assistance.

(1) The Agency of Education shall provide technical assistance to schools to help them develop career education, exploration, and development, beginning in middle school, and introduce opportunities available through the regional CTE centers.

(2) The Agency of Education shall offer technical assistance so that regional CTE centers provide rigorous programs of study to students that are aligned with approved career pathways. Such programs of study may be combined with a registered apprenticeship program when the registered apprenticeship program is included in a student's personalized learning plan.

(3) The Agency of Education shall offer technical assistance to local education agencies to ensure that each high school student has the opportunity to experience meaningful work-based learning when included in the student's personalized learning plan, and that high schools coordinate effectively with regional CTE centers to avoid unnecessary duplication of programs of student placements and study already provided by the centers.

(e) Definition. As used in this section, "career pathways" shall have the same meaning as in Sec. 4 of this act.

Sec. 6. ADULT TRAINING PROGRAMS

(a) Effective use of State investments. The Department of Labor shall ensure that the State's investments in adult training programs are part of a system that is responsive to labor-market demands, provides equitable access to a broad variety of training opportunities, and provides to those jobseekers with barriers to employment the accommodations or services they need to be successful.

(b) Delivery of training programs. Training programs delivered by regional CTE centers, nonprofit and private entities, and institutions of higher education shall be included in the system.

(c) Technical assistance. The Agency of Education shall provide technical and programmatic guidance and assistance, as appropriate, to the Department of Labor to ensure alignment between secondary and postsecondary programs, policies, funding, and institutions.

Sec. 7. ADULT CAREER TECHNICAL EDUCATION

(a) Regional career technical education (CTE) centers. Vermont's regional CTE centers shall offer adult CTE programs that:

(1) develop technical courses for adults, aligned with a career pathway when possible, that support the occupational training needs of Vermonters seeking to up-skill, re-skill, and obtain credentials leading to employment;

(2) ensure that new and existing training responds to local or Statewide labor market demands;

(3) coordinate with State and regional partners, including other CTE centers, high schools, postsecondary educational institutions, and private training providers, to ensure quality, consistency, efficiency, and efficacy of State and federally funded training opportunities;

(4) support expansion of adult work-based learning experiences, such as registered apprenticeships, by providing related instruction, as appropriate; and

(5) maximize use of federal and State funds by aligning with the State's goals, priorities, and strategies outlined in Vermont's Workforce Innovation and Opportunity Act Unified plan.

(b) Evaluation of technical and occupational training. The State Workforce Development Board shall review how technical and occupational training is delivered to adults throughout the State and consider how adult CTE programs, delivered through the regional CTE centers, contribute to this system. The Board shall make recommendations on:

(1) staffing levels and structures that best support a strong adult technical education system;

(2) optimal hours of operation and facility availability for adult programs; and

(3) any other issues it finds relevant to enhancing support for adult technical education.

(c) Reporting. On or before January 15, 2019, the Board shall report its findings and recommendations to the House Committees on Education and on Commerce and Economic Development and the Senate Committees on Education and on Economic Development, Housing and General Affairs.

(d) Partnering with employers. Nothing in this section shall prevent an adult CTE program or regional CTE center from partnering directly with employers to design and deliver programs meeting specific needs of employers or provide additional courses that meet a State or community need.

(e) Definition. As used in this section, "career pathways" shall have the same meaning as in Sec. 4 of this act.

* * * Workforce Training * * *

Sec. 8. STRENGTHENING AND ALIGNING WORKFORCE TRAINING PROGRAMS

The State Workforce Development Board shall:

(1) create a process for identifying, monitoring, and evaluating occupational trainings and industry-recognized credentials, which may include a mechanism for endorsing programs that offer credentials or certificates in order to facilitate targeted investments in programs that meet industry needs, ensuring that:

(A) business and industry are participants and are engaged early in the process;

(B) the credential review process involves relevant stakeholders;

(C) credentials are differentiated based on rigor and industry demand; and

(D) systems are designed to be responsive to the changing needs of industry;

(2) create and periodically review publicly available documents that list:

(A) current industry-recognized, State-recognized, and federally recognized credentials;

(B) the requirements to obtain these credentials;

(C) training programs that lead to these credentials; and

(D) the cost of training and educational programs required to obtain the credential; and

(3) work with the Office of Professional Regulation:

(A) to increase recognition of professional skills and credentialing across states; and

(B) to support professional paths that involve more than one industry-recognized, State-recognized, or federally recognized credential and rules adopted by the Office.

Sec. 9. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created the Workforce Education and Training Fund in the Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Department shall use the Fund for the following purposes:

(1) training for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another;

(2) internships to provide students with work-based learning opportunities with Vermont employers;

(3) apprenticeship, preapprenticeship, and industry-recognized credential training; ~~and~~

(4) assistance to small businesses for recruiting, including building connections with secondary and postsecondary institutions and others to locate, hire, and retain workers from among Vermont's students and graduates; and

(5) other workforce development initiatives related to current and future job opportunities in Vermont as determined by the Commissioner of Labor.

* * *

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce Development Board, shall develop award criteria and may grant awards to the following:

* * *

(2) Vermont ~~Strong~~ Internship Program. Funding for eligible internship programs and activities under the Vermont ~~Strong~~ Internship Program established in section 544 of this title.

(3) Vermont ~~Strong~~ Returnship Program. Funding for eligible returnship programs and activities under the Vermont ~~Strong~~ Returnship Program established in section 545 of this title.

(4) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

~~(4)~~(5) Career Focus and Planning programs. In collaboration with the Agency of Education, funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

(g) Career Pathways. Programs that are funded under this section resulting in a credit, certificate, or credential shall demonstrate alignment with a Career Pathway.

(h) Expanding offerings. A regional career and technical education center that develops an adult technical education program of study using funding under this section shall:

(1) make the program materials available to other regional career and technical education centers and adult technical education programs;

(2) to the extent possible, align the program with subsequent programs offered through the Vermont State College System, the University of Vermont and State Agricultural College, or an accredited independent college located in Vermont; and

(3) respond to current or projected occupational demands.

* * *

* * * Growing the Workforce and Increasing Workforce Participation * * *

Sec. 10. 10 V.S.A. § 544 is amended to read:

§ 544. VERMONT ~~STRONG~~ INTERNSHIP PROGRAM

(a)(1) The Department of Labor, in consultation with the Agency of Education, shall develop, and the Department shall implement, a statewide Vermont ~~Strong~~ Internship Program for students who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont ~~Strong~~ Internship Program may be used to build and administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that:

(A) do not replace or supplant existing positions;

(B) expose students to the workplace or create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate participants through work-based learning opportunities with Vermont employers;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; or

(F) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) As used in this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, State-funded postsecondary

educational institutions, the State Workforce Development Board, and other State agencies and departments that have workforce education and training and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont ~~Strong~~ Internship Program;

(2) collect data and establish program goals and performance measures that demonstrate program results for internship programs funded through the Vermont ~~Strong~~ Internship Program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the State in the Vermont Internship Program to expand internship opportunities with State government and with entities awarded State contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the State.

Sec. 11. 10 V.S.A. 545 is added to read:

§ 545. VERMONT RETURNSHIP PROGRAM

(a) As used in this section, "returnship" means:

(1) an on-the-job learning experience working with an employer where an individual may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these; and

(2) is targeted to Vermonters who are returning to the workforce after an extended absence or are seeking a limited-duration on-the-job work experience in a different occupation or occupational setting.

(b)(1) The Department of Labor shall develop and implement the statewide Vermont Returnship Program.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for returnship programs and opportunities that match experienced workers with Vermont employers.

(3) Funding awarded through the Program may be used to build and administer coordinated and cohesive programs and to provide participants with a stipend during the returnship, based on need. Funds may be made available only to programs or projects that:

(A) do not replace or supplant existing positions;

(B) expose individuals to real and meaningful workplace experiences;

(C) provide a process that measures progress toward mastery of hard and soft professional skills and other factors that indicate a likelihood of success in the workplace;

(D) are designed to motivate and educate participants through work-based learning opportunities with Vermont employers; or

(E) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for individuals to continue to work and live in Vermont.

(c) The Department of Labor shall:

(1) identify new and existing funding sources that may be allocated to the Program;

(2) collect data and establish program goals and performance measures that demonstrate program results for returnship programs funded through the Program;

(3) engage appropriate agencies and departments of the State in the Program to expand returnship opportunities within State government and with entities awarded State contracts; and

(4) work with other public and private entities to develop and enhance returnship programs, opportunities, and activities throughout the State.

Sec. 12. VERMONT RETURNSHIP PROGRAM; APPROPRIATIONS

In fiscal year 2019 the amount of $100,000.00 is appropriated from the General Fund to the Department of Labor for the Vermont Returnship Program created in 10 V.S.A. § 545.

Sec. 13. GROWING THE SIZE AND QUALITY OF THE WORKFORCE

(a) Increasing participation. The Department of Labor and the Agencies of Commerce and Community Development, of Education, and of Human Services, in partnership with the State Workforce Development Board, shall:

(1) increase Vermonters' labor force participation by creating multitiered engagement, training, and support activities that help working-age Vermonters who are able to participate or to participate to a greater degree in the workforce;

(2) recruit and relocate new workers and employers to Vermont; and

(3) assist businesses in locating and retaining qualified workers.

(b) Methods. The Department of Labor and the Agencies of Commerce and Community Development, of Education, and of Human Services shall:

(1) engage regional and statewide stakeholders, including regional CTE centers, regional development corporations, and regional planning commissions, to identify needs and strategies, and define success;

(2) identify targets and methods of recruitment, relocation, retraining, and retention;

(3) leverage resources available in current State and federal programs to support more workers from within and outside Vermont entering and staying in the Vermont workforce;

(4) create metrics for tracking the success of outreach efforts and economic impact; and

(5) develop policies and identify tools that support a two-generation approach to successful employment, addressing the needs of children in the lives of working adults.

(c) Relocation assistance unit.

(1) The Department of Labor may develop a relocation assistance unit to assist resident jobseekers and prospective new Vermont workers with finding and securing employment opportunities in Vermont.

(2) If the Department develops the relocation assistance unit:

(A) In addition to providing employment matching and career navigation services, dedicated specialists shall provide individualized assistance and support to individuals looking to relocate to Vermont for employment.

(B) Support services may include specific assistance in researching, accessing, or making referrals to resources, information, or services related to the labor market, employment, training, transportation, housing, childcare, economic services, education, safety, or recreation.

(C) The Department shall access existing tools, resources, and organizations such as the State or local Chambers of Commerce, Parent Child Centers, Regional Development Corporations, the Vermont National Guard, and other One-Stop American Job Center Network partners to assist in providing relocation information and support.

(D) The Department shall offer the services available under this subsection to Vermont customers as it would to a nonVermont citizen customer.

(E)(i) The Department shall use State funds provided under this section to leverage federal Wagner-Peyser funds, and any other relevant source of federal funds, to deliver employment and relocation services.

(ii) The Department shall ensure that functions provided under this section do not jeopardize the use and continued eligibility for federal funding under the Workforce Innovation and Opportunity Act (WIOA).

(F) The Department shall ensure that the Agency of Commerce and Community Development has access to information, data, and customer feedback so that the Agency may better understand the impact of its recruitment efforts, messaging, and any other ThinkVermont MOVE activity it implements.

(d) Board authority; identifying potential incentives. The State Workforce Development Board may identify incentives to enable and encourage targeted populations to participate in the labor force, including unemployment insurance waivers, income tax reductions, exemption of State tax on Social Security, housing and transportation vouchers, greater access to mental health and addiction treatment, and tuition and training reimbursements. The Board shall notify the House Committees on Commerce and Economic Development and on Human Services of any findings or recommendations, as appropriate.

Sec. 14. 10 V.S.A. § 540 is amended to read:

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State~~,~~ and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Development Board:

* * *

(G) design and implement criteria and performance measures for workforce education and training activities; ~~and~~

(H) establish goals for the integrated workforce education and training system; and

(I) with the assistance of the Secretaries of Commerce and Community Development, of Human Services, of Education, of Agriculture, Food and Markets, and of Transportation and of the Commissioner of Public Safety, develop and implement a coordinated system to recruit, relocate, and train workers to ensure the labor force needs of Vermont's businesses are met.

* * *

(8) Coordinate intentional outreach and connections between students graduating from Vermont's colleges and universities and employment opportunities in Vermont.

* * *

* * * Accountability; Data Collection and Monitoring; Reporting * * *

Sec. 15. RESULTS-BASED MONITORING

(a)(1) The Department of Labor, with the assistance of the Government Accountability Committee and the State Workforce Development Board, shall develop a framework to evaluate workforce education, training, and support programs and services.

(2) The Department shall apply the framework to the State's workforce system inventory and shall distinguish programs and services based on method of delivery, customer, program administrator, goal, or other appropriate category.

(3) The framework shall:

(A) establish population-level indicators based on desired outcomes for the workforce development delivery system;

(B) along with workforce development network mapping work that the Board may pursue, support program and service alignment of State-grant-funded projects with the State Workforce Innovation and Opportunity Act Plan;

(C) align with the Board's vision;

(D) note performance measures that already exist in the workforce system and identify where State-specific measures would help monitor progress in achieving the State's goals; and

(E) identify gaps in service delivery and areas of duplication in services.

(b) The State Workforce Development Board shall:

(1) consider whether the information and data currently collected and reported throughout the workforce development system are useful;

(2) identify what information and data are not available or not readily accessible;

(3) make its findings publicly available; and

(4) recommend a process to improve the collection and reporting of data.

(c) The State Workforce Development Board may:

(1) create a process and a timeline to collect program-level data for the purposes of updating the State's workforce system inventory; and

(2) develop tools for program and service delivery providers that support continuous improvement using data-driven decision making, common information-sharing systems, and a customer-focused service delivery system.

Sec. 16. REPORTING

(a) On or before January 15, 2019, the State Workforce Development Board shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report that specifically addresses the implementation of each section of this act.

(b) On or before January 15, 2019, the Department of Labor, in collaboration with the Agency of Education and the State Workforce Development Board, shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning:

(1) how to encourage more businesses to offer apprenticeships;

(2) how to encourage more labor force participation in apprenticeships; and

(3) of the myriad federal and private apprenticeship opportunities available, what additional opportunities in what industry sectors should be offered or enhanced in Vermont.

* * * WIOA Youth Funds * * *

Sec. 17. PROCESS FOR AWARDING WIOA YOUTH FUNDS

(a) On or before December 1, 2018, the Department of Labor shall review the current delivery of youth workforce investment activities funded by WIOA Youth Funds and consider whether more youth might be better served through awards or grants to youth service providers, consistent with section 123 of the federal Workforce Innovation and Opportunity Act.

(b)(1) If the Department decides not to provide directly some or all of the youth workforce investment activities, the State Workforce Development Board shall award grants or contracts for specific elements or activities on a competitive basis, consistent with 20 CFR 681.400.

(2) The providers of youth services shall meet criteria established in the State Plan and be able to meet performance accountability measures for the federally established primary indicators of performance for youth programs.

Sec. 18. TARGETED ENHANCED YOUTH WORKFORCE READINESS PROGRAM

(a) In fiscal year 2019 the amount of $100,000.00 is appropriated from the General Fund to the Department of Labor for the first year of a three-year project to contract with the Vermont Youth Conservation Corps for the purpose of enhancing its workforce preparedness and on-the-job training programs, with special attention for at-risk youth 18 to 24 years of age.

(b) The programs funded through this section shall include classroom training at Vermont Technical College and shall focus on vocations where the Department and Vermont employers have identified a shortage of workers.

* * * Promoting Remote Workers and Remote Work Arrangements * * *

Sec. 19. 32 V.S.A. chapter 151, subchapter 11P is added to read:

Subchapter 11P. New Remote Worker Tax Credit

§ 5930pp. NEW REMOTE WORKER TAX CREDIT

(a) As used in this section:

(1) "New resident remote worker" means an individual who:

(A) is a full-time employee of a business with its domicile or primary place of business outside Vermont;

(B) becomes a full-time resident of this State on or after January 1, 2019; and

(C) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(2) "New Vermont remote worker" means an individual who:

(A) becomes a full-time employee of a business with its domicile or primary place of business in this State on or after January 1, 2019; and

(B) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(3) "Qualifying remote worker expenses" means the actual costs incurred by a new Vermont remote worker or a new resident remote worker for one or more of the following that are necessary to perform his or her employment duties:

(A) relocation to this State;

(B) computer software and hardware;

(C) broadband access or upgrade; and

(D) membership in a co-working or similar space.

(b)(1) A new Vermont remote worker and a new resident remote worker shall be eligible for a nonrefundable credit against the income tax liability imposed under this chapter for qualifying remote worker expenses in an amount not to exceed $2,000.00 per year for five years, and not to exceed $10,000.00 per worker.

(2)(A) The Agency of Commerce and Community Development shall develop a process to certify new Vermont remote workers and new resident remote workers for eligibility for a credit under this section.

(B) Upon certifying that a new Vermont remote worker or new resident remote worker meets the eligibility requirements of this section and certifying his or her qualifying expenses incurred in the year, the Agency shall issue to the worker a credit certificate for the amount of his or her qualifying expenses, which the worker shall file with his or her tax return.

(3) The Agency shall have the authority to annually award not more than $500,000.00 in credit certificates to new Vermont remote workers and to new resident remote workers on a first-come, first-served basis, as follows:

(A) not more than $250,000.00 in total credits for new Vermont remote workers; and

(B) any remaining amount of the annual total for new resident remote workers.

(c) A new Vermont remote worker or new resident remote worker may:

(1) first claim a credit under this section in the year following the year in which he or she first qualifies as a new Vermont remote worker or new resident remote worker;

(2) claim an additional credit in each of the subsequent four tax years, provided he or she remains a resident of this State and a full-time remote worker; and

(3) carry forward the amount of any unused credit for five tax years.

(d) The Agency of Commerce and Community Development shall:

(1) promote awareness of the tax credit authorized in this section; and

(2) adopt measurable goals, performance measures that demonstrate results, and an audit strategy to assess the utilization and performance of the credit authorized in this section.

Sec. 20. IMPROVING INFRASTRUCTURE AND SUPPORT FOR REMOTE WORK IN VERMONT; STUDY; REPORT

(a) The Secretary of Commerce and Community Development, in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services and other interested stakeholders, shall identify and examine the infrastructure improvements and other support needed to enhance the ability of businesses to establish a remote presence in Vermont and to allow Vermonters and businesses developing from maker spaces, co-working spaces, remote work hubs, and innovation spaces to work and provide services remotely.

(b) Based on his or her findings, and in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services and other interested stakeholders, the Secretary shall design a program to address the needs identified pursuant to subsection (a) of this section.

(c) Specifically, the program shall:

(1) address the infrastructure needs of remote workers and businesses developing from generator spaces;

(2) promote and facilitate the use of remote worksites and maker spaces, co-working spaces, remote work hubs, and innovation spaces;

(3) encourage out-of-state companies to use remote workers in Vermont;

(4) reduce the administrative and regulatory burden on businesses employing remote workers in Vermont;

(5) increase the ease of start-up companies finding remote work or maker spaces, co-working spaces, remote work hubs, and innovation spaces in the State; and

(6) support the interconnection of current and future maker spaces, co-working spaces, remote work hubs, and innovation spaces in this State.

(d) On or before January 15, 2019, the Secretary shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a written report detailing:

(1) his or her findings, program, and any recommendations for legislative action to implement the program; and

(2) any additional policy changes to improve the climate for remote workers, including zoning measures, insurance and liability issues, workforce training needs, broadband access, access to co-working spaces, and an assessment of environmental implications of working remotely.

Sec. 21. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

(a) The Secretary of Administration, in consultation with the Secretary of Commerce and Community Development and the Commissioner of Buildings and General Services, shall examine the potential for the State to establish remote worksites that are available for use by both State employees and remote workers in the private sector.

(b) The Secretary shall examine the feasibility of and potential funding models for the worksites, including the opportunity to provide at low or no cost co-working space within State buildings that are currently vacant or underutilized.

(c) On or before January 15, 2019, the Secretary shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs detailing his or her findings and any recommendations for legislative action.

Sec. 22. BROADBAND AVAILABILITY FOR REMOTE WORKERS

On or before January 15, 2019, the Director of Telecommunications and Connectivity, in consultation with the Agency of Commerce and Community Development, shall submit with the annual report required by 30 V.S.A. § 202e findings and recommendations concerning:

(1) the current availability of broadband service in municipal downtown centers that do, or could at reasonable cost, support one or more co-working spaces or similar venues for remote workers and small businesses; and

(2) strategies for expanding and enhancing broadband availability for such spaces.

* * * Workforce Development in Particular Sectors;
Television and Film Production * * *

Sec. 23. WORKFORCE DEVELOPMENT; FILM AND TELEVISION TRADES

(a) The Vermont Department of Labor, in partnership with the Vermont Film Institute, Vermont Technical College, and local institutes of higher education shall explore and pursue opportunities to access current federal ApprenticeshipUSA funds to develop and offer registered apprenticeships in the film and television production trades industry, including electrical work, lighting, set building, and art direction.

(b) Related instruction that is developed and administered as part of a registered apprenticeship program shall also provide the registered apprentice

with college credit that is recognized by an accredited post-secondary institution in Vermont.

(c) The Department of Labor, in partnership with the Agency of Education and Agency of Commerce and Community development, shall:

(1) promote other work-based learning experiences, including internships, job shadowing, returnships, and on-the-job training, in the film and television production trades industry;

(2) build connections with and among industry professionals; and

(3) conduct outreach to middle school, high school, and postsecondary students.

* * * Workforce Development in Particular Sectors; Green Energy and Technology * * *

Sec. 24. WORKFORCE DEVELOPMENT; GREEN ENERGY AND TECHNOLOGY

The Department of Labor, in partnership with the Agency of Education, the Agency of Commerce and Community Development, the Agency of Natural Resources, and interested stakeholders, shall:

(1) develop career pathways, beginning in middle school, that lead to employment in the green energy sector;

(2) work with employers in the green energy sector to explore opportunities to create registered apprenticeships,

(3) identify certifications and credentials that support workforce expansion in the green energy sector; and

(4) collaborate, to the extent possible, to create, fund, and offer instruction that leads to industry recognized credentials in the green energy sector.

* * * Effective Date * * *

Sec. 25. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendments thereto:

First: By striking out Sec. 3 in its entirety.

Second: By striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 to read as follows:

Sec. 9. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

* * *

(g) Career Pathways. Programs that are funded under this section resulting in a credit, certificate, or credential shall demonstrate alignment with a Career Pathway.

(h) Expanding offerings. A regional career and technical education center that develops an adult technical education program of study using funding under this section shall:

(1) make the program materials available to other regional career and technical education centers and adult technical education programs;

(2) to the extent possible, align the program with subsequent programs offered through the Vermont State College System, the University of Vermont and State Agricultural College, or an accredited independent college located in Vermont; and

(3) respond to current or projected occupational demands.

Third: By striking out Secs. 11 and 12 in their entirety.

Fourth: In Sec. 13 by striking out subsection (c) in its entirety and redesignating subsection (d) as subsection (c)

Fifth: By striking out Sec. 18 in its entirety and inserting in lieu thereof a new Sec. 18 to read as follows:

Sec. 18. TARGETED ENHANCED YOUTH WORKFORCE READINESS PROGRAM

(a) The Department of Forests, Parks and Recreation (DFPR) shall coordinate with the Department of Labor when granting to the Vermont Youth Conservation Corps the amounts appropriated to DFPR in fiscal year 2019 from the Tobacco Litigation Settlement Fund.

(b) The Departments shall ensure that the Vermont Youth Conservation Corps uses the funds to enhance its workforce preparedness and on-the-job training programs, with special attention for at-risk youths 18 to 24 years of age.

(c) Programs funded pursuant to this section may include classroom training at Vermont Technical College that focuses on vocations where the Department and Vermont employers have identified a shortage of workers.

And by renumbering the sections of the bill to be numerically correct.

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 the recommendation of proposal of amendment of the Committee on Economic Development, Housing and General Affairs was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Economic Development, Housing and General Affairs, as amended, was agreed to and third reading of the bill was ordered.

House Proposal of Amendment Concurred In with Amendment

S. 262.

House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access.

Was taken up.

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

* * * Medicaid for Working Persons with Disabilities * * *

Sec. 1. 33 V.S.A. § 1902 is amended to read:

§ 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

(a) In determining whether a person is medically indigent, the Secretary of Human Services shall prescribe and use an income standard and requirements for eligibility ~~which~~ that will permit the receipt of federal matching funds under Title XIX of the Social Security Act.

(b) Workers with disabilities whose income is less than 250 percent of the federal poverty level shall be eligible for Medicaid. The income also must not exceed the Medicaid protected income level for one or the Supplemental Security Income (SSI) payment level for two, whichever is higher, after disregarding ~~all~~ the earnings of the working individual with disabilities~~, any;~~ Social Security disability insurance benefits, ~~and~~ including Social Security retirement benefits converted automatically from Social Security Disability Insurance (SSDI), if applicable; any veteran's disability benefits; and, if the

working individual with disabilities is married, all income of the spouse. Earnings of the working individual with disabilities shall be documented by evidence of Federal Insurance Contributions Act tax payments, Self-Employment Contributions Act tax payments, or a written business plan approved and supported by a third-party investor or funding source. The resource limit for this program shall be $10,000.00 for an individual and $15,000.00 for a couple at the time of enrollment in the program. Assets attributable to earnings made after enrollment in the program shall be disregarded.

* * * Eligibility for Health Vermonters and VPharm * * *

Sec. 2. 2013 Acts and Resolves No. 79, Sec. 53(d), as amended by 2014 Acts and Resolves No. 179, Sec. E.307, 2015 Acts and Resolves No. 58, Sec. E.307, 2016 Acts and Resolves No. 172, Sec. E.307.3, and 2017 Acts and Resolves No. 85, Sec. E.307, is further amended to read:

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Agency of Human Services may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but not later than ~~December 31, 2018~~ the implementation of Vermont's Integrated Eligibility system.

* * * Increasing Income Threshold for Dr. Dynasaur Premiums * * *

Sec. 3. 33 V.S.A. § 1901(c) is amended to read:

(c) The Secretary may charge a monthly premium, in amounts set by the General Assembly, per family for pregnant women and children eligible for medical assistance under Sections 1902(a)(10)(A)(i)(III), (IV), (VI), and (VII) of Title XIX of the Social Security Act, whose family income exceeds ~~185~~ 195 percent of the federal poverty level, as permitted under section 1902(r)(2) of that act. Fees collected under this subsection shall be credited to the State Health Care Resources Fund established in section 1901d of this title and shall be available to the Agency to offset the costs of providing Medicaid services. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the General Assembly.

* * * Provider Taxes * * *

Sec. 4. 33 V.S.A. § 1958 is amended to read:

§ 1958. APPEALS

(a) Any health care provider may submit a written request to the Department for reconsideration of the determination of the assessment within

20 days of notice of the determination. The request shall be accompanied by written materials setting forth the basis for reconsideration. If requested, the Department shall hold a hearing within ~~20~~ 90 days from the date on which the reconsideration request was received. The Department shall mail written notice of the date, time, and place of the hearing to the health care provider at least ~~10~~ 30 days before the date of the hearing. On the basis of the evidence submitted to the Department or presented at the hearing, the Department shall reconsider and may adjust the assessment. Within 20 days ~~of~~ following the hearing, the Department shall provide notice in writing to the health care provider of the final determination of the amount it is required to pay based on any adjustments made by it. Proceedings under this section are not subject to the requirements of 3 V.S.A. chapter 25.

* * *

Sec. 5. 33 V.S.A. § 1959(a)(3) is amended to read:

(3) Ambulance agencies shall remit the assessment amount to the Department annually on or before ~~March 31, beginning with March 31, 2017~~ June 1.

* * * Medicaid; Asset Verification * * *

Sec. 6. 33 V.S.A. § 403 is added to read:

§ 403. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION

(a) As used in this section:

(1) "Bank" shall have the same meaning as in 8 V.S.A. § 11101.

(2) "Broker-dealer" shall have the same meaning as in 9 V.S.A. § 5102.

(3) "Credit union" shall have the same meaning as in 8 V.S.A. § 30101.

(4) "Financial institution" means any financial services provider, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(5) "Investment advisor" shall have the same meaning as in 9 V.S.A. § 5102.

(6) "Mutual fund" shall have the same meaning as in 8 V.S.A. § 3461.

(b) A financial institution, when requested by the Commissioner of Vermont Health Access, shall furnish to the Commissioner or to an agent of the Department of Vermont Health Access information in the possession of the financial institution with reference to any person or his or her spouse who is applying for or is receiving assistance or benefits from the Department of Vermont Health Access. The Department of Vermont Health Access shall

issue instructions to the financial institution detailing the nature of the request and the information necessary to satisfy the request.

(c) A financial institution shall not be subject to criminal or civil liability for actions taken in accordance with subsection (b) of this section.

Sec. 7. ASSET VERIFICATION; NOTICE TO APPLICANTS AND BENEFICIARIES

(a)(1) Each application for assistance under the Medicaid Long-Term Care or Medicaid for the Aged, Blind, and Disabled program shall contain a form of authorization, executed by the applicant or beneficiary, granting authority for the Department of Vermont Health Access and its agents to obtain financial information about the applicant's or beneficiary's assets from financial institutions in order to verify the applicant's or beneficiary's eligibility for the applicable program. The Department or its agent shall obtain the applicant's or beneficiary's authorization prior to requesting his or her financial information from any financial institution.

(2) The Department of Vermont Health Access shall collaborate with the Office of the Health Care Advocate to ensure that applicants to and beneficiaries of the Medicaid Long-Term Care and Medicaid for the Aged, Blind, and Disabled programs receive notice written in plain and accessible language explaining the Department's electronic asset verification system.

(b) In the event that the financial information of an applicant's or beneficiary's spouse is required in order to determine the applicant's or beneficiary's eligibility for the Medicaid Long-Term Care or Medicaid for the Aged, Blind, and Disabled program, the Department of Vermont Health Access shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain his or her financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant or beneficiary to be ineligible for Medicaid if the applicant's or beneficiary's spouse refuses to provide, or revokes, his or her consent.

Sec. 8. 33 V.S.A. § 404 is added to read:

§ 404. STATE AGENCIES TO FURNISH INFORMATION

(a) Any governmental official or agency in the State, when requested by the Department of Vermont Health Access, shall furnish to the Department information in the official's or agency's possession with reference to aid given or money paid or to be paid to any person or person's spouse who is applying for or is receiving assistance or benefits from the Department of Vermont Health Access.

(b) The Commissioner of Taxes, when requested by the Commissioner of Vermont Health Access, and unless otherwise prohibited by federal law, shall compare the information furnished by an applicant or recipient of assistance with the State income tax returns filed by such person and shall report his or her findings to the Commissioner of Vermont Health Access. Each application for assistance shall contain a form of consent, executed by the applicant, granting permission to the Commissioner of Taxes to disclose such information to the Commissioner of Vermont Health Access.

(c) On the first day of each month, each unit of the Superior Court shall provide to the Commissioner of Vermont Health Access a list of all estates, including testate, intestate, and small estates, opened during the previous calendar month within the jurisdiction of that unit's Probate Division. The list shall contain the following information for each estate:

(1) the decedent's full name;

(2) the decedent's date of birth;

(3) the decedent's date of death;

(4) the docket number;

(5) the date on which the estate was opened; and

(6) the full name and contact information for the executor or administrator or his or her legal representative.

Sec. 9. RULEMAKING

The Vermont Supreme Court may promulgate rules under 12 V.S.A. § 1 to implement the provisions of Sec. 8, 33 V.S.A. § 404, of this act.

Sec. 10. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(26) Disclosure of information sought by the Department of Vermont Health Access or its agents pursuant to the Department's authority and obligations under 33 V.S.A. § 403.

* * * Maximum Out-of-Pocket Prescription Drug Limit for Bronze Plans * * *

Sec. 11. 2016 Acts and Resolves No. 165, Sec. 6(f), as amended by 2017 Acts and Resolves No. 25, Sec. 3, is further amended to read:

(f)~~(1)~~ The Director of Health Care Reform in the Agency of Administration, in consultation with the Department of Vermont Health Access and the Office of Legislative Council, shall determine whether the Secretary of the U.S. Department of Health and Human Services has the authority under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152 (ACA), to waive annual limitations on out-of-pocket expenses or actuarial value requirements for bronze-level plans, or both. On or before October 1, 2016, the Director shall present information to the Health Reform Oversight Committee regarding the authority of the Secretary of the U.S. Department of Health and Human Services to waive out-of-pocket limits and actuarial value requirements, the estimated costs of applying for a waiver, and alternatives to a waiver for preserving the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

~~(2) If the Director of Health Care Reform determines that the Secretary has the necessary authority, then on or before March 1, 2019, the Commissioner of Vermont Health Access, with the Director's assistance, shall apply for a waiver of the cost-sharing or actuarial value limitations, or both, in order to preserve the availability of bronze-level qualified health benefit plans that meet Vermont's out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.~~

Sec. 12. 33 V.S.A. § 1814 is added to read:

§ 1814. MAXIMUM OUT-OF-POCKET LIMIT FOR PRESCRIPTION DRUGS IN BRONZE PLANS

(a)(1) Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Green Mountain Care Board may approve modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for one or more bronze-level plans.

(2) The Department of Vermont Health Access shall certify at least two standard bronze-level plans that include the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i, as long as the plans comply with federal requirements. Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Department may certify one or more bronze-level qualified health benefit plans with modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

(b)(1) For each individual enrolled in a bronze-level qualified health benefit plan for the previous two plan years who had out-of-pocket prescription drug expenditures that met the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for the most recent plan year for which information is available, the health insurer shall, absent an alternative plan selection or plan cancellation by the individual, automatically reenroll the individual in a bronze-level qualified health plan for the forthcoming plan year with an out-of-pocket prescription drug limit at or below the limit established in 8 V.S.A. § 4089i.

(2) Prior to reenrolling an individual in a plan pursuant to subdivision (1) of this subsection, the health insurer shall notify the individual of the insurer's intent to reenroll the individual automatically in a bronze-level qualified health plan for the forthcoming plan year with an out-of-pocket prescription drug limit at or below the limit established in 8 V.S.A. § 4089i unless the individual contacts the insurer to select a different plan and of the availability of bronze-level plans with higher out-of-pocket prescription drug limits. The health insurer shall collaborate with the Department of Vermont Health Access and the Office of the Health Care Advocate as to the notification's form and content.

* * * Human Services Board; Fair Hearings * * *

Sec. 13. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

* * *

(e)(1) The Board shall give written notice of its decision to the person applying for fair hearing and to the Agency.

(2) 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, 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~~ after the request for hearing.

(3) Notwithstanding any provision of subsection (c) or (d) or subdivision (1) of this subsection (e) to the contrary, in the case of an expedited Medicaid fair hearing, the Board shall delegate both its fact-finding and final decision-making authority to a hearing officer, and the hearing officer's written findings and order shall constitute the Board's decision and order in accordance with timelines set forth in federal law.

* * *

(h)(1) Notwithstanding subsections (d) and (f) of this section, the Secretary shall review all Board decisions and orders concerning TANF, TANF-EA, Office of Child Support Cases, Medicaid, and the Vermont Health Benefit Exchange. 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~~ misinterprets or misapplies State or federal policy or rule~~.~~; and

(B) issue a written decision setting forth the legal, factual, or policy basis for reversing or modifying a Board decision or order.

* * *

(i) In the case of an appeal of a Medicaid covered service decision made by the Department of Vermont Health Access or any entity with which the Department of Vermont Health Access enters into an agreement to perform service authorizations that may result in an adverse benefit determination, the right to a fair hearing granted by subsection (a) of this section shall be available to an aggrieved beneficiary only after that individual has exhausted, or is deemed to have exhausted, the Department of Vermont Health Access's internal appeals process and has received a notice that the adverse benefit determination was upheld.

Sec. 14. APPEAL OF MEDICAID COVERED SERVICE DECISIONS; FAIR HEARING; RULEMAKING

The Agency of Human Services shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing a process by which the Agency shall ensure that a Medicaid beneficiary who files a request for a fair hearing with the Human Services Board prior to exhausting the Department of Vermont Health Access's internal appeals process receives consideration by the Department as though the beneficiary had properly filed an internal appeal and, if the internal appeal results in an adverse determination, that the Department shall provide to the beneficiary appropriate assistance with filing a timely request for a fair hearing with the Human Services Board if the beneficiary wishes to do so.

* * * Repeal * * *

Sec. 15. REPEAL

33 V.S.A. § 2010 (actual price disclosure and certification of prescription drugs) is repealed.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 5 (ambulance agency provider tax) shall take effect on passage and apply retroactively to January 1, 2018; and

(2) In Sec. 8, 33 V.S.A. § 404(c) (monthly list of new probate estates) shall take effect on October 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Ayer and Sirotkin moved that the Senate concur in the House proposal of amendment with further proposal of amendment as follows:

First: In Sec. 12, 33 V.S.A. § 1814, by striking out subdivision (a)(1) and inserting a new subdivision (a)(1) to read as follows:

(a)(1) Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Green Mountain Care Board may approve modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for one or more bronze-level plans, as long as the Board finds that the offering of such plans will not adversely impact the plan options available to consumers with high prescription drug needs who benefit from the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

Second: By adding a reader assistance heading and a new section to be Sec. 14a to read as follows:

* * * Membership of Health Reform Oversight Committee * * *

Sec. 14a. 2 V.S.A. § 691 is amended to read:

§ 691. COMMITTEE CREATION

There is created the legislative Health Reform Oversight Committee. The Committee shall be composed of the following eight members:

* * *

(8) ~~the Chair of the Senate Committee on Economic Development, Housing and General Affairs~~ one member of the Senate appointed by the Committee on Committees.

Which was agreed to.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 571.

House bill entitled:

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

Was taken up.

Thereupon, pending third reading of the bill, Senator Clarkson moved to amend the Senate proposal of amendment in Sec. 113, 13 V.S.A. § 2143, by striking out the section in its entirety and inserting in lieu thereof a new Sec. 113 to read:

Sec. 113. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a)(1) Notwithstanding the provisions of this chapter~~, a~~:

(A) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and an individual may participate in lotteries, raffles, or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, ~~and~~ or civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated.

(B)(i) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and a member of that organization may participate in, lotteries, raffles, or other games of chance in which, except as otherwise provided pursuant to subdivision (ii)(IV) of this subdivision (B), all of the proceeds are awarded as prizes to the members who participated.

(ii) Lotteries, raffles, and other games of chance organized under this subdivision (B) shall be limited as follows:

(I) an individual who is not a member of the nonprofit organization shall not be allowed to participate;

(II) a nonprofit organization shall not charge more than $100.00 for an entry or ticket;

(III) a member of the nonprofit organization shall not purchase more than one entry or ticket per day; and

(IV) a nonprofit organization shall not offer or award any prize worth more than $250.00 unless not less than 25 percent of the proceeds raised is used in charitable, religious, educational, or civic undertakings or used by

fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated.

(2) Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be ~~utilized~~ used under authority of this section.

* * *

(d) Casino events shall be limited as follows:

* * *

(4) As used in this subsection, "casino event" means an event held during any 24-hour period at which ~~any game of chance is~~ casino table games, such as baccarat, blackjack, craps, poker, or roulette are conducted ~~except those~~. Games of chance prohibited by subdivision 2135(a)(1) or (2) of this title~~.~~ shall not be permitted at a "casino event." A "casino event" shall not include a fair, bazaar, field days, agricultural exposition, or similar event that ~~utilizes~~ uses a wheel of fortune, chuck-a-luck, or other ~~such~~ games commonly conducted at such events, or break-open tickets, bingo, a lottery, or a raffle.

* * *

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Bill Passed in Concurrence with Proposal of Amendment

H. 663.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to municipal land use regulation of accessory on-farm businesses.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 707.

House bill entitled:

An act relating to the prevention of sexual harassment.

Was taken up.

Thereupon, pending third reading of the bill, Senator Balint moved to amend the Senate proposal of amendment as follows:

First: In Sec. 1, 21 V.S.A. § 495h, in subdivision (i)(2), in the last sentence, after the words "to provide an annual education and training program that satisfies the provisions of", by striking out "subsection (f) of this section" and inserting in lieu thereof subdivision (4) of this subsection

Second: In Sec. 1, 21 V.S.A. § 495h, in subsection (i), after subdivision (3), by inserting a subdivision (4) to read:

(4) If required by the Attorney General or Human Rights Commission pursuant to subdivision (2) of this subsection, an employer shall conduct:

(A) an annual education and training program for all employees that includes at a minimum all the information outlined in this section; and

(B) an annual education and training program for supervisory and managerial employees that includes at a minimum all the information outlined in this section, the specific responsibilities of supervisory and managerial employees, and the actions that these employees must take to ensure immediate and appropriate corrective action in addressing sexual harassment complaints.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment, on a roll call, Yeas 30, Nays 0.

Senator Sirotkin 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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Bill Passed in Concurrence with Proposal of Amendment

H. 728.

House bill of the following title:

An act relating to bail reform.

Was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 30, Nays 0.

Senator Ashe 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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Bill Passed in Concurrence with Proposal of Amendment

H. 731.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to miscellaneous workers' compensation and occupational safety amendments.

Bill Passed in Concurrence with Proposal of Amendment

H. 764.

House bill of the following title:

An act relating to data brokers and consumer protection.

Was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 30, Nays 0.

Senator Sirotkin 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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Bill Passed in Concurrence with Proposal of Amendment

H. 777.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to the Clean Water State Revolving Loan Fund.

Bill Passed in Concurrence

H. 916.

House bill of the following title was read the third time and passed in concurrence:

An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority.

Committees of Conference Appointed

S. 179.

An act relating to community justice centers.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Nitka
Senator Sears
Senator Flory

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 192.

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Pearson
Senator Collamore
Senator White

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 273.

An act relating to miscellaneous law enforcement amendments.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator White
Senator Collamore
Senator Clarkson

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 911.

An act relating to changes in Vermont's personal income tax and education financing system.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Cummings
Senator MacDonald
Senator Brock

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 150, S. 179, S. 192, S. 262, S. 273, H. 562, H. 571, H. 663, H. 707, H. 728, H. 731, H. 764, H. 777, H. 911, H. 916.

Adjournment

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

WEDNESDAY, MAY 9, 2018

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. 66

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House proposal of amendment to Senate bill entitled:

S. 281. An act relating to the mitigation of systemic racism.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses.

The Speaker appointed as members of such Committee on the part of the House:

Rep. Gannon of Wilmington
Rep. Harrison of Chittenden
Rep. Weed of Enosburgh

The House has considered Senate proposals of amendment to House bill of the following title:

H. 764. An act relating to data brokers and consumer protection.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Botzow of Pownal
Rep. Marcotte of Coventry
Rep. O'Sullivan of Burlington

Consideration Resumed; Third Reading Ordered

H. 636.

Consideration was resumed on House bill entitled:

An act relating to miscellaneous fish and wildlife subjects.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as moved by Senator Rodgers?, Senator Rodgers requested and was granted leave to withdraw his proposal of amendment.

Thereupon, pending third reading, Senator Rodgers moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 16a with a reader assistance heading to read as follows:

*** Large Capacity Ammunition Feeding Devices ***

Sec. 16a. 13 V.S.A. § 4021 is amended to read:

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

* * *

(c)(1)(A) The prohibition on possession of large capacity ammunition feeding devices established by subsection (a) of this section shall not apply to a large capacity ammunition feeding device lawfully possessed on or before the

effective date of this section, or to the transfer from one immediate family member to another immediate family member by a lawfully executed will of a large capacity ammunition feeding device lawfully possessed on or before the effective date of this section.

(B) As used in this subdivision, "immediate family member" shall have the same meaning as in subsection 4019(a) of this title.

* * *

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Rodgers? Senator Pearson raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Rodgers was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator Rodgers was *not germane* to the bill since it was not relevant, appropriate and in a natural or logical sequence to the subject matter of the original proposal of amendment - but rather unduly expands the subject matter of the bill and deals with the different topic or subject.

The President thereupon declared that the proposal of amendment offered by Senator Rodgers could *not* be considered by the Senate and the proposal of amendment was ordered stricken.

Thereupon, the Senator Rodgers moved that a non-germane amendment be made germane, which was disagreed to on a roll call, Yeas 15, Nays 14. (The necessary 3/4ths majority not having been attained)

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, Branagan, Brock, Collamore, Flory, Kitchel, MacDonald, Mazza, Nitka, Rodgers, Sears, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Lyons, McCormack, Pearson, Pollina, Sirotkin.

The Senator absent or not voting was: Ashe (presiding).

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

House Proposal of Amendment Concurred In with Amendment

H. 908.

House proposal of amendment to Senate bill entitled:

An act relating to the Administrative Procedure Act.

Was taken up.

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

In Sec. 2, 3 V.S.A. chapter 25, in § 838 (filing of proposed rules), in subsection (b) (economic impact analysis; rules affecting small businesses and school districts), in subdivision (2) (small businesses), in the first sentence, by striking out the following: ,when appropriate,

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators White, Ayer, Clarkson, Collamore and Pearson moved that the Senate concur in the House proposal of amendment with an amendment as follows:

In Sec. 2, 3 V.S.A. chapter 25, in § 838 (filing of proposed rules), in subsection (b) (economic impact analysis; rules affecting small businesses and school districts), in subdivision (2) (small businesses):

in the first sentence, after "the agency shall include" by inserting , when appropriate,

and, after the first sentence, by inserting a new sentence before subdivision (A) to read: When an agency determines that such an evaluation is not appropriate, the economic impact statement shall briefly explain the reasons for this determination.

Which was agreed to.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 907.

House bill entitled:

An act relating to improving rental housing safety.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the Senate proposal of amendment by in Sec. 5, in 18 V.S.A. § 603(a) by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read:

(2) A written inspection report shall:

(i) contain findings of fact that serve as the basis of one or more violations;

(ii) specify the requirements and timelines necessary to correct a violation;

(iii) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(iv) provide notice in plain language that the landlord and agents of the landlord must have access to the rental unit to make repairs as ordered by the health officer consistent with the access provisions in 9 V.S.A. § 4460.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 410.

House bill entitled:

An act relating to adding products to Vermont's energy efficiency standards for appliances and equipment.

Was taken up.

Thereupon, pending third reading of the bill, Senators Bray, Campion, MacDonald and Pearson moved to amend the Senate proposal of amendment in Sec. 13 (reports; electric generation constraints), by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a) As used in this section, "SHEI" means the Sheffield-Highgate Export Interface.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Bray moved to amend the Senate proposal of amendment in Sec. 15, 23 V.S.A. § 1104, by striking out subdivision (a)(3)(C) in its entirety and inserting in lieu thereof the following:

(C) at any place where official signs restrict parking and the vehicle violates the restrictions.

Thereupon, pending the question, Shall the bill be amended as proposed by Senator Bray?, Senators Sears and Ashe moved to substitute the proposal of amendment as follows:

In Sec. 15, 23 V.S.A. § 1104, by striking out subdivision (a)(3)(C) in its entirety and inserting in lieu thereof the following:

(C) at any place where official signs restrict parking at an electric vehicle charging station and the vehicle violates the restrictions.

Which was agreed to.

Thereupon, the question, Shall the bill be amended as recommended by Senator Bray, as substituted, was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 25, Nays 4.

Senator Bray 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, Baruth, Benning, Branagan, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: Brock, Collamore, Flory, Soucy.

The Senator absent or not voting was: Ashe (presiding).

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 554. An act relating to the regulation of dams.

H. 639. An act relating to banning cost-sharing for all breast imaging services.

H. 675. An act relating to conditions of release prior to trial.

H. 684. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 727. An act relating to the admissibility of a child's hearsay statements in a proceeding before the Human Services Board.

H. 919. An act relating to workforce development.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 901.

House bill entitled:

An act relating to health information technology and health information exchange.

Was taken up.

Thereupon, pending third reading of the bill, Senator White moved to amend the Senate proposal of amendment by adding a new section to be numbered Sec. 8a to read as follows:

Sec. 8a. 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

(a) Creation. There is created the Joint Information Technology Oversight Committee to oversee investments in and use of information technology in Vermont.

(b) Membership. The Committee shall be composed of six members as follows:

(1) three members of the House of Representatives, not all of whom shall be from the same political party, who shall be appointed by the Speaker of the House; and

(2) three members of the Senate, not all of whom shall be from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall oversee, evaluate, and make recommendations on the following:

(1) the State's current deployment, management, and oversight of information technology in the furtherance of State governmental activities, including data processing systems, telecommunications networks, and related technologies, particularly with regard to issues of compatibility among existing and proposed technologies;

(2) issues related to the storage of, maintenance of, access to, privacy of, and restrictions on use of computerized records;

(3) issues of public policy related to the development and promotion of the private, commercial, and nonprofit information infrastructure in the State, its relationship to the State government information infrastructure, and its integration with national and international information networks; and

(4) cybersecurity.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Meetings.

(1) The Speaker of the House and the Committee on Committees shall appoint one member from the House and one member of the Senate as co-chairs of the Committee.

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

(3) The Committee may meet when the General Assembly is in session or at the call of the Co-Chairs.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Proposal of Amendment; Third Reading Ordered

H. 739.

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

An act relating to energy productivity investments under the self-managed energy efficiency program.

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:

Sec. 1. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(j) Self-managed energy efficiency programs.

(1) There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The Commission, by order, shall enact this class of programs.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section that support energy efficiency programs performed by or on behalf of Vermont electric utilities. If an electric ratepayer approved to participate in this program class also is a customer of a natural gas utility, the ratepayer shall be exempt from all charges under subdivision (d)(3) of this section or contained within the rates charged by the natural gas utility to the ratepayer that support energy efficiency programs performed by or on behalf of that utility, provided that the ratepayer complies with this subsection.

(4) All of the following shall apply to a class of programs under this subsection:

(A) A member of the transmission or industrial electric rate class~~es~~ shall be eligible to apply to participate in the self-managed energy efficiency program class if the charges to the applicant, or to its predecessor in interest at the served property, under subdivision (d)(3) of this section were a minimum of:

(i) $1.5 million during calendar year 2008; or

(ii) $1.5 million during calendar year 2017.

(B) A cost-based fee to be determined by the Commission shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Commission and Department. The Commission shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section and, when determined to be cost-effective under subdivision (L) of this subdivision (4), with the requirements of ISO-New England for the forward capacity market (FCM) program.

(C) An applicant shall demonstrate to the Commission that it has a comprehensive energy management program with annual objectives. Achievement of certification of ISO standard 14001 shall be eligible to satisfy the requirements of having a comprehensive program.

(D) An applicant eligible pursuant to subdivision (A)(i) of this subdivision (j)(4) shall commit to an annual average ~~energy efficiency~~ investment in energy efficiency and energy productivity programs and measures during each three-year period that the applicant participates in the

program of ~~no~~ not less than $1 million. An applicant eligible pursuant to subdivision (A)(ii) of this subdivision (j)(4) shall commit to an annual average investment in energy efficiency and energy productivity programs and measures during each three-year period that the applicant participates in the program of not less than $500,000.00. To achieve the exemption from energy efficiency charges related to natural gas under subdivision (3) of this subsection (j), ~~the~~ an applicant shall make an additional annual energy efficiency investment in an amount not less than $55,000.00. As used in this subsection (j), "energy productivity programs and measures" means investments that reduce the amount of energy required to produce a unit of product below baseline energy use. Baseline energy use shall be calculated as the average amount of energy required to make one unit of the same product in the two years preceding implementation of the program or measure.

(E) Participation in the self-managed program includes efficiency and productivity programs and measures applicable to electric and other forms of energy. A participant may balance ~~efficiency~~ investments in such programs and measures across all types of energy or fuels without limitations.

(F) A participant shall provide to the Commission and Department annually an accounting of ~~energy~~ investments in energy efficiency and energy productivity programs and measures and the resultant energy savings in the form prescribed by the Commission, which may conduct reasonable audits to ensure the accuracy of the data provided.

(G) The Commission shall report to the General Assembly annually ~~by~~ on or before April 30 concerning the prior calendar year's class of self-managed energy efficiency programs. The report shall include identification of participants, their annual investments, and resulting savings, and any actions taken to exclude entities from the program.

(H) Upon approval of an application by the Commission, the applicant shall be able to participate in the class of self-managed energy efficiency programs.

(I) On a determination that, for a given three-year period, a participant in the self-managed efficiency program class did not meet or has not met the commitment required by subdivision ~~(4)~~(D) of this ~~subsection~~ subdivision (j)(4), the Commission shall terminate the participant's eligibility for the self-managed program class.

(i) On such termination, the former participant will be subject fully to the then existing charges applicable to its rate class without exemption under subdivision (3) of this subsection (j), and within 90 days ~~of~~ after such termination shall pay:

(I) the difference between the investment it made pursuant to the self-managed energy efficiency program during the three-year period of noncompliance and the full amount of the charges and rates related to energy efficiency it would have incurred during that period absent exemption under subdivision (3) of this subsection (j); and

(II) the difference between the investment it made pursuant to the program within the current three-year period, if different from the period of noncompliance, and the full amount of the charges and rates related to energy efficiency it would have incurred during the current period absent exemption under subdivision (3) of this subsection (j).

(ii) Payments under subdivision ~~(4)(I)~~(i) of this ~~subsection (j)~~ subdivision (4)(I) shall be made to the entities to which the full amount of charges and rates would have been paid absent exemption under subdivision (3) of this subsection (j).

(iii) A former participant may not reapply for membership in the self-managed program after termination under this subdivision (4)(I).

(J) A participant in the self-managed program class may request confidentiality of data it reports to the Commission if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is requested, the Commission shall disclose the data only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court orders otherwise.

(K) Any data not subject to a confidentiality request under subdivision ~~(4)~~(J) of this ~~subsection~~ subdivision (4) will be a public record.

(L) A participant in the self-managed program class ~~may~~ shall work with the Department of Public Service to determine whether it is cost-effective to submit projects to ~~the independent system operator of~~ ISO-New England~~, including through recognized independent aggregators,~~ for payments under ~~that operator's forward capacity market~~ the FCM program~~, and shall invest such payments in electric or fuel efficiency~~.

(i) As used in this subdivision (L), "cost-effective" requires that the estimated payments from the FCM program exceed the incremental cost of savings verification necessary for submission to that program.

(ii) If the Department determines the submission to be cost-effective, then an entity appointed to deliver electric energy efficiency services under subdivision (d)(2) of this section shall submit the project to the FCM program for payment and any resulting payments shall be remitted to the Electric Efficiency Fund for use in accordance with subdivision (e)(1)(A) of this section.

(M) A participant in the self-managed program class may receive funding from an energy program administered by a government or other entity ~~which~~ that is not the participant ~~but~~ and may ~~not~~ count such funds received as part of the annual commitment to its self-managed energy efficiency program.

* * *

Sec. 2. ENERGY SAVINGS ACCOUNT PARTNERSHIP PILOT

(a) Definitions. As used in this section:

(1) "ACCD" means the Agency of Commerce and Community Development under 3 V.S.A. chapter 47.

(2) "Commission" means the Public Utility Commission under 30 V.S.A. § 3.

(3) "Customer" means a commercial or industrial electric customer that is located in a service territory in which Efficiency Vermont delivers energy efficiency programs and measures and that does not qualify for SMEEP.

(4) "Customer EEC Funds" means a customer's EEC payments during the period of the ESA partnership project.

(5) "Department" means the Department of Public Service under 3 V.S.A. § 212 and 30 V.S.A. § 1.

(6) "EEC" means an energy efficiency charge on a customer's retail electric bill under 30 V.S.A. § 209(d).

(7) "Efficiency Vermont" or "EVT" means the EEU whose appointment under 30 V.S.A § 209(d)(2) includes the delivery of programs and measures to customers of multiple electric distribution utilities.

(8) "Energy efficiency utility" or "EEU" means an entity appointed to deliver energy efficiency and conservation programs and measures under 30 V.S.A. § 209(d)(2).

(9) "Energy productivity measures" means investments that reduce the amount of energy required to produce a unit of product below baseline energy use. Baseline energy use shall be calculated as the average amount of energy required to make one unit of the same product in the two years preceding implementation of the program or measure.

(10) "ESA" means an energy savings account under 30 V.S.A. § 209(d)(3)(B).

(11) "ESA Partnership Pilot" means the three-year pilot program established by this section.

(12) "Regulated fuel" shall have the same meaning as in 30 V.S.A. § 209(e).

(13) "SMEEP" means the self-managed energy efficiency program established under 30 V.S.A. § 209(j).

(14) "Standing committees of jurisdiction" means the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(15) "Unregulated fuel" shall have the same meaning as in 30 V.S.A. § 209(e).

(b) ESA Partnership Pilot; establishment. On or before July 1, 2019, the Commission by rule or order shall establish a three-year pilot program for customers to self-direct the use of their Customer EEC Funds, working with EVT. The total amount of Customer EEC Funds available in the pilot program each year shall not exceed $2 million. The pilot program established under this section shall be an expansion of the ESA option under which:

(1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B), the customer shall continue to pay its EEC and be able to receive an amount equal to 100 percent of its ESA account balance to pay for the full cost of projects that are eligible under subdivision (3) of this subsection; for technical assistance and other services from Efficiency Vermont; and for evaluation, measurement, and verification activity conducted by the Department or EVT.

(2) The customer may receive payments in advance of project completion from EVT based on the energy management plan submitted under subsection (e) of this section, estimated project costs, and projected energy savings. However, a customer shall not receive advance payments from EVT that exceed the amount of Customer EEC Funds the customer has already paid.

(3) Notwithstanding any contrary provision of 30 V.S.A. § 209, the Customer EEC Funds may be used for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility. In addition, for a customer who is a manufacturer and whose purchases of regulated fuel exceeded 600,000 thousand cubic feet (MCF) in 2017, the Funds may be used for thermal energy and process-fuel efficiency for regulated fuels, and any regulated fuel savings attributable to investment of Customer EEC Funds through the pilot program shall be counted towards EVT's performance indicators. EVT may allocate the cost of the pilot across regulated and unregulated fuel funding sources in a manner that avoids or reduces the need to adjust savings goals approved by the Commission.

(c) Methodology for evaluation, measurement, and verification. In its rule or order under subsection (b) of this section, the Commission shall establish a methodology for evaluation, measurement, and verification of projects implemented under the pilot that is consistent with the requirements of 30 V.S.A. § 218c and that includes cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development. As used in this subsection, "economic development" includes job creation, job retention, and capital investment.

(1) This methodology may be considered for future establishment of EEU performance criteria under 30 V.S.A. § 209(d).

(2) EVT and the Department shall evaluate and verify the electricity savings of each project funded under the ESA Partnership Pilot with no less rigor than is required by ISO-New England for its Forward Capacity Market (FCM) program.

(d) Competitive solicitation. A customer shall apply to participate in the ESA Partnership Pilot through a competitive solicitation process conducted jointly by EVT, the Department, and ACCD.

(1) Promptly after the Commission's rule or order under subsection (b) of this section becomes effective, EVT, the Department, and ACCD shall establish criteria for customer selection that are consistent with that rule or order and that take into account energy efficiency and economic development.

(2) On establishment of the selection criteria, EVT, the Department, and ACCD jointly shall issue a request for proposals (RFP) from customers seeking to participate in the ESA Partnership Pilot.

(3) EVT, the Department, and ACCD jointly shall select customers to participate in the ESA Partnership Pilot from among the customers that timely submit proposals in response to the RFP and shall notify the Commission of the selected customers.

(4) If EVT, the Department, and ACCD are unable to resolve an issue arising under this subsection, they shall bring the issue to the Commission for resolution.

(5) Customer selection under this subsection shall be completed before July 1, 2019.

(e) Energy management plans. Working with EVT, each customer selected for the ESA Partnership Pilot shall develop an energy management plan for the three-year period of the pilot with projects to be implemented, energy savings targets, and a timeline for projects and investments. A copy of each plan shall be submitted to the Commission, the Department, and ACCD.

(f) Other EEU services. A customer that participates in the ESA Partnership Pilot shall not be eligible for other EEU services, except for an EEU appointed to deliver natural gas efficiency programs and measures.

(g) Other funding. A customer that participates in the ESA Partnership Pilot may receive funding from an energy program administered by a government or other person that is not the participant, including an EEU appointed to deliver natural gas efficiency services, but shall not count such funds as part of the investment commitment of the ESA Partnership Pilot.

(h) Unused funds. At the end of the ESA Partnership Pilot, any Customer EEC Funds that have not been expended or committed under the pilot shall revert to use for systemwide energy efficiency programs and measures.

(i) Annual reports. On or before each November 1 from 2020 through 2022, the EVT and the selected customers jointly shall submit written progress reports to the Commission, the Department, and the standing committees of jurisdiction that include projects under the ESA Partnership Pilot and their associated energy and cost savings. A customer's projects under the pilot and the associated data and results shall be made public through this report. However, a customer may request that the Commission order customer-specific data to be used in preparing a report under this subsection be kept confidential if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the order shall be disclosed only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court directs otherwise.

(j) Evaluation; recommendation. On completion of the ESA Partnership Pilot, the Commission shall conduct or shall have a third party conduct an independent evaluation of the ESA Partnership Pilot.

(1) The evaluation shall analyze and compare, among pilot participants and companies of similar size outside the pilot: job creation and retention, energy savings, total energy cost reductions, energy productivity measures, amount of capital applied and leveraged, greenhouse gas reductions, and other criteria as defined by the Commission. The evaluation shall also study the effects of the pilot on other ratepayers.

(2) The evaluation shall provide electric system results for the ESA Pilot Program and compare them to the electric system results that would have been obtained had the Customer EEC Funds been expended pursuant to the electric energy efficiency programs otherwise authorized under 30 V.S.A. § 209(d). In this subdivision (2), "electric system results" means: total electric energy savings, total avoided cost of purchasing power, total avoided costs of

transmission and distribution improvements, and resulting FCM program revenues.

(3) After considering the results of that evaluation, the Commission shall submit a written recommendation to the standing committees of jurisdiction on whether to continue the program conducted under this section and, if so, under what recommended conditions and revisions, if any. The Commission shall submit this recommendation to the General Assembly on or before January 15, 2023.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

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 on a roll call Yeas 28, Nays 0.

Senator Collamore 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, Baruth, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent or not voting were: Ashe (presiding), Starr.

House Proposal of Amendment Concurred In

S. 197.

House proposal of amendment to Senate bill entitled:

An act relating to liability for toxic substance exposures or releases.

Was taken up.

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

Sec. 1. 12 V.S.A. chapter 219 is added to read:

CHAPTER 219. MEDICAL MONITORING DAMAGES

§ 7201. DEFINITIONS

As used in this chapter:

(1) "Disease" means any disease, ailment, or adverse physiological or chemical change linked with exposure to a toxic substance.

(2) "Exposure" means ingestion, inhalation, contact with the skin or eyes, or any other physical contact.

(3) "Facility" means all contiguous land, structures, other appurtenances, and improvements on the land where toxic substances are manufactured, processed, used, or stored. A facility may consist of several treatment, storage, or disposal operational units. A facility shall not include land, structures, other appurtenances, and improvements on the land owned by a municipality.

(4) "Farming" shall have the same meaning as in 10 V.S.A. § 6001.

(5) "Large user of toxic substances" means, at the time of the release, the owner or operator of a facility that employs 10 or more employees, has a Standard Industrial Classification (SIC) Code, and manufactures, processes, or otherwise uses, exclusive of sales or distribution, more than 1,000 pounds of one or more, or a combination of, toxic substances per year.

(6) "Medical monitoring damages" means the cost of medical tests or procedures and related expenses incurred for the purpose of detecting latent disease resulting from exposure.

(7) "Pesticide" shall have the same meaning as in 6 V.S.A. § 1101.

(8) "Release" means any intentional or unintentional, permitted or unpermitted, act or omission that allows a toxic substance to enter the air, land, surface water, or groundwater.

(9) "Sport shooting range" shall have the same meaning as in section 5227 of this title.

(10)(A) "Toxic substance" means any substance, mixture, or compound that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive

Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a "hazardous material" under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound; or

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159; or

(vi) the substance, when released, can be shown by expert testimony to pose a potential threat to human health or the environment.

(B) "Toxic substance" shall not mean:

(i) a pesticide when applied consistent with good practice conducted in conformity with federal, State, and local laws, rules, and regulations and according to manufacturer's instructions;

(ii) manure or nutrients applied to land by a person engaged in farming according to the requirements of 6 V.S.A. chapter 215; or

(iii) lead ammunition or components thereof discharged, used, or stored at a sport shooting range implementing a lead management plan approved by the Agency of Natural Resources.

§ 7202. MEDICAL MONITORING DAMAGES FOR EXPOSURE TO TOXIC SUBSTANCES

(a) A person with or without a present injury or disease shall have a cause of action for medical monitoring damages against a large user of toxic substances who released a substance, mixture, or compound that meets the definition of toxic substance under section 7201 of this title and all of the following are demonstrated by a preponderance of the evidence:

(1) The person was exposed to the toxic substance at greater than normal background concentration levels;

(2) The exposure was the result of tortious conduct by the large user of toxic substances who released the toxic substance, including conduct that constitutes negligence, battery, strict liability, trespass, or nuisance;

(3) As a proximate result of the exposure, the person has a greater risk than the general public of contracting a latent disease. A person does not need to prove that the latent disease is certain or likely to develop as a result of the exposure.

(4) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if a physician would prescribe testing for the purpose of detecting or monitoring the latent disease.

(5) Medical tests or procedures exist to detect the latent disease.

(b) A court shall place the award of medical monitoring damages into a court-supervised program administered by a medical professional.

(c) If a court places an award of medical monitoring damages into a court-supervised program pursuant to subsection (b) of this section, the court shall also award to the plaintiff reasonable attorney's fees and other litigation costs reasonably incurred.

(d) Nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy available under statute or common law, including the right of any person to recover for damages related to the manifestation of a latent disease. The remedies in this chapter are in addition to those provided by existing statutory or common law.

(e) This section does not preclude a court from certifying a class action for medical monitoring damages.

Sec. 2. WEBSITE; LINKS TO LIST OF TOXIC SUBSTANCES

The Commissioner of Health shall maintain on the Department of Health website a link to each of the lists of substances, mixtures, or compounds referenced in the definition of "toxic substance" under 12 V.S.A. § 7201.

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Senator Campion moved that Senator Sears remarks be journalized, which was agreed to.

****During debate of the measure, Senator Sears addressed the Chair in proposing his report for the House proposal of amendment, and on motion of Senator Campion, his remarks were ordered enter in the Journal, and are as follows:

"Mr. President:"

"To say that a Vermonter impacted by toxic contamination should have to pay these costs, instead of the business responsible for the contamination, simply means that a Vermont citizen will need to bear those costs instead - which could lead to the person draining their own personal bank account, or could mean them not getting the medical care they need if they can't afford it. If a Vermonter has been harmed by exposure to a toxic chemical in their body, to the extent that they can prove significant harm, those costs are being paid by someone. And either we believe a Vermonter who simply was unfortunate enough to live near a facility that used a toxic substance should bear those costs, or else we believe the entity that chose to use hazardous chemicals and profitted off the use of those chemicals should bear those costs. These lawsuits are still challenging to win, but S. 197 gives Vermonters a better chance of recovering those costs from the person responsible for causing the harm."

Appointment to Committee of Conference

S. 192.

The President announced the appointment of

Senator Ayer

as a replacement for

Senator White

as a member of the committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses upon House bill entitled:

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

Rules Suspended; Bills Messaged

On motion of Senator Balint, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 192, S. 197, H. 410, H. 554, H. 636, H. 639, H. 675, H. 684, H. 727, H. 901, H. 907, H. 908, H. 919.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o'clock and twenty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

House Proposal of Amendment Concurred In with Amendment

S. 180.

House proposal of amendment to Senate bill entitled:

An act relating to the Vermont Fair Repair Act.

Was taken up.

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

Sec. 1. FINDINGS

The General Assembly finds:

(1) The repair of modern electronic products, even for such minor repairs as replacing a battery or screen, often becomes difficult or impossible due to manufacturers' limitation of access to information or parts to effect those repairs.

(2) Manufacturers may limit access to only those customers who are under warranty; may refuse access for owners of older models; and may refuse to stock or sell parts at fair and reasonable prices. Consequently, consumers are often left with few options other than to buy new.

(3) Modern repairs involve electronics. Repairing those electronics requires information, parts, firmware access, and tooling specifications from the product designers.

(4) The knowledge and tools to repair and refurbish consumer electronic products should be distributed as widely and freely as the products themselves. In contrast to centralized manufacturing, reuse must be broadly distributed to achieve economies of scale.

(5) Many manufacturers have made commitments to sustainability, repair, and reuse, and the innovation economy of Vermont and the United States has had many positive economic and environmental impacts. Legislation that further promotes extending the lifespan of consumer electronic products can create jobs and benefit the environment.

(6) As demonstrated by Massachusetts's experience with a right to repair initiative concerning automobiles in 2014, which resulted in a compromise between manufacturers and independent repair providers to adopt a voluntary nationwide approach for providing diagnostic codes and repair data available in a common format by the 2018 model year, legislative action

to secure a right to repair can achieve positive benefits for manufacturers, independent businesses, and consumers.

Sec. 2. RIGHT TO REPAIR TASK FORCE; REPORT

(a) Creation. There is created the Right to Repair Task Force.

(b) Membership. The Task Force shall be composed of the following five members:

(1) one current member of the House of Representatives, appointed by the Speaker of the House;

(2) one current member of the Senate, appointed by the Committee on Committees;

(3) the Attorney General or designee;

(4) the Secretary of Commerce and Community Development or designee; and

(5) the Secretary of Digital Services or designee.

(c) Stakeholder engagement. The Task Force shall solicit testimony and participation in its work from representatives of relevant stakeholders, including authorized and independent repair providers, and business and consumer groups with an interest in consumer electronic products.

(d) Powers and duties. The Task Force shall review and consider the following issues relating to potential legislation designed to secure the right to repair consumer electronic products, including personal electronic devices such as cell phones, tablets, and computers:

(1) the scope of products to include;

(2) economic costs and benefits, including economic development and workforce opportunities;

(3) effects on the cost and availability to consumers of new and used consumer electronic products in the marketplace, including diminished availability of refurbished products for secondary users;

(4) environmental and economic costs of electronic waste;

(5) legal issues, including intellectual property and trade secrets, potential for alignment or conflict with federal law, and litigation risks;

(6) privacy and security features in electronic products; and

(7) any other issues the Task Force considers relevant and necessary to accomplish its work.

(e) Assistance. The Task Force shall have the administrative, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office. Relevant agencies and departments within State government shall provide their technical and other expertise upon request of the Task Force.

(f) Report. On or before January 15, 2019, the Task Force shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development with its findings and any recommendations for legislative action, including specific findings and recommendations concerning personal electronic devices such as cell phones, tablets, and computers.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Task Force to occur on or before August 15, 2018.

(2) The legislative members of the Task Force shall serve as co-chairs.

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

(4) The Task Force shall cease to exist on January 15, 2019.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Sirotkin, Balint, Baruth, Clarkson and Soucy moved that the Senate concur in the House proposal of amendment with further proposal of amendment in Sec. 2, by inserting a new subsection (e) to read:

(e) Scope. The Task Force may consider issues concerning the right to repair products beyond consumer electronic products if in the scope of its work it determines such consideration to be necessary and appropriate.

And by redesignating current subsections (e) through (h) to be alphabetically correct.

Which was agreed to.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 206.

House proposal of amendment to Senate bill entitled:

An act relating to business consumer protection for point-of-sale equipment leases.

Was taken up.

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

Sec. 1. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Credit Card Terminal Finance Leases

§ 2482h. SOLICITATION; MATERIAL MISREPRESENTATION

(a) As used in this subchapter, "credit card terminal" means physical equipment used at the point of sale to accept payment by a payment card, including a credit card, debit card, EBT card, prepaid card, or gift card.

(b) A person who solicits a finance lease for the use of a credit card terminal shall accurately disclose:

(1) the nature and scope of his or her relationship to the person or persons who own, lease, service, and finance the credit card terminal and, if known, provide related services, including whether he or she is an employee, independent contractor, or agent of one or more of those persons;

(2) the terms of a finance lease and whether oral statements or commitments he or she makes to the prospective lessee while soliciting a finance lease are included in the terms of the finance lease and enforceable against a party to a finance lease; and

(3) whether the consumer has an option to purchase the credit card terminal that is the subject of the finance lease.

§ 2482i. CREDIT CARD TERMINAL; FINANCE LEASE PROVISIONS

The following provisions apply to a finance lease for the use of a credit card terminal:

(1) Plain language. The party primarily responsible for drafting the finance lease shall use plain language designed to be understood by ordinary consumers, presented in a reasonable format, typeface, and font.

(2) Finance lease; costs; disclosure. The finance lease shall specify:

(A) the terms of the finance lease;

(B) the total price of the finance lease;

(C) the total monthly payment due, including any recurring monthly fees or charges; and

(D) any other penalties, charges, or fees and the conditions under which they may be incurred.

(3) Relationship to processing services and fees. If a lessee who enters into a finance lease for a credit card terminal also agrees to receive bundled services for the terminal, such as credit card processing services, from the lessor or a business affiliated with the lessor, either the finance lease or a separate agreement for the bundled services shall include an itemized statement of the terms, costs, fees, and potential penalties for each service, as specified in subdivision (2) of this section.

(4) Contact information. The finance lease shall clearly and conspicuously identify the lessor of the credit card terminal and the name, mailing address, telephone number, email address or website, and relationship to the lessor of:

(A) the person to whom the lessee is required to make payments for the credit card terminal;

(B) the person whom the lessee should contact with questions or problems concerning the credit card terminal;

(C) the person to whom the lessee should deliver the credit card terminal for return or repair; and

(D) the sales representative or other person acting with actual or apparent authority on behalf of the lessor to solicit the finance lease.

(5) Prohibited provisions.

(A) A provision of a finance lease that permits or requires a dispute to be resolved in a judicial forum that would not otherwise have jurisdiction over the lessee is against public policy and unenforceable.

(B) A lessor shall not collect any charge or fee for business personal property tax on the credit card terminal unless the tax is actually imposed.

(6) Duty to retain and provide finance lease; right to cancel.

(A) A lessor shall provide a copy of the executed finance lease to the lessee and shall retain a written or electronic copy of the finance lease for not less than four years after the lease terminates.

(B) A lessee shall have the right to cancel a finance lease not later than 45 days after the lessor provides a copy of the executed finance lease to the lessee.

(C) If the lessee exercises his or her right to cancel:

(i) the lessor may retain any payments made by the lessee after the lessor delivered a copy of the executed finance lease;

(ii) the lessor may impose a reasonable cancellation fee, not to exceed the total monthly payment amount specified in subdivision (2)(C) of this section.

§ 2482j. VIOLATIONS

A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sirotkin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 196.

House bill entitled:

An act relating to paid family leave.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the Senate proposal of amendment in Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in § 572(c)(1)(C), by striking out the following: "Annually on January 1" and inserting in lieu thereof the following: Beginning on January 1, 2020, and on each subsequent January 1

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

House Proposal of Amendment Concurred In with Amendment

S. 222.

House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous judiciary procedures.

Was taken up.

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

Sec. 1. 10 V.S.A. § 8007(c) is amended to read:

(c) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. The assurance of discontinuance shall be simultaneously filed with the Attorney General and the Environmental Division. The Secretary or the Natural Resources Board shall post a final draft assurance of discontinuance to its website and shall provide a final draft assurance of discontinuance to a person upon request. When signed by the Environmental Division, the assurance shall become a judicial order. Upon motion by the Attorney General made within ~~10~~ 14 days ~~of~~ after the date the assurance is signed by the Division and upon a finding that the order is insufficient to carry out the purposes of this chapter, the Division shall vacate the order.

Sec. 2. 12 V.S.A. § 1 is amended to read:

§ 1. RULES OF PLEADING, PRACTICE, AND PROCEDURE; FORMS

The Supreme Court is empowered to prescribe and amend from time to time general rules with respect to pleadings, practice, evidence, procedure, and forms for all actions and proceedings in all courts of this State. The rules thus prescribed or amended shall not abridge, enlarge, or modify any substantive rights of any person provided by law. The rules when initially prescribed or any amendments thereto, including any repeal, modification, or addition, shall take effect on the date provided by the Supreme Court in its order of promulgation, unless objected to by the ~~Joint~~ Legislative Committee on Judicial Rules as provided by this chapter. If objection is made by the ~~Joint~~ Legislative Committee on Judicial Rules, the initially prescribed rules in question shall not take effect until they have been reported to the General Assembly by the Chief Justice of the Supreme Court at any regular, adjourned, or special session thereof, and until after the expiration of 45 legislative days of that session, including the date of the filing of the report. The General Assembly may repeal, revise, or modify any rule or amendment thereto, and its action shall not be abridged, enlarged, or modified by subsequent rule.

Sec. 3. 12 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in sections 3 and 4 of this chapter:

(1) "Adopting authority" means the Chief Justice of the Supreme Court or the ~~administrative judge~~ Chief Superior Judge, where appropriate~~;~~.

(2) "Court" means the Supreme Court, except in those instances where the statutes permit rules to be adopted by the ~~administrative judge~~ Chief Superior Judge, in which case, the word "court" means the ~~administrative judge;~~ Chief Superior Judge.

* * *

Sec. 4. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a State's Attorney may summon a person who commits an offense to appear before Superior Court by a summons in such form as prescribed by the Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or State's Attorney and delivered to the person.

* * *

(d) ~~A person who does not so appear in response to a summons for a traffic offense as defined in 23 V.S.A. § 2201 shall be fined not more than $100.00.~~ [Repealed.]

Sec. 5. 12 V.S.A. § 3125 is amended to read:

§ 3125. PAYMENT OF TRUSTEE'S CLAIM BY CREDITOR

When it appears that personal property in the hands of a person summoned as a trustee is mortgaged, pledged, or liable for the payment of a debt due to him or her, the court may allow the attaching creditor to pay or tender the amount due to the trustee, and he or she shall thereupon deliver such property, as ~~hereinbefore~~ provided in this subchapter, to the officer holding the execution.

Sec. 6. 12 V.S.A. § 3351 is amended to read:

§ 3351. ATTACHMENT, TAKING IN EXECUTION, AND SALE

Personal property not exempt from attachment, subject to a mortgage, pledge, or lien, may be attached, taken in execution, and sold as the property of the mortgagor, pledgor, or general owner, in the same manner as other personal property, except as ~~hereinafter~~ otherwise provided in this subchapter.

Sec. 7. 18 V.S.A. § 4245 is amended to read:

§ 4245. REMISSION OR MITIGATION OF FORFEITURE

(a) On petition filed within 90 days ~~of~~ after completion of a forfeiture proceeding, ~~the claims commission established in 32 V.S.A. § 931~~ a court that issued a forfeiture order pursuant to section 4244 of this title may order that the forfeiture be remitted or mitigated. The petition shall be sworn~~,~~ and shall include all information necessary for its resolution or shall describe where such information can be obtained. Upon receiving a petition, the ~~claims commission~~ court shall investigate and may conduct a hearing if in its judgment it would be helpful to resolution of the petition. The ~~claims commission~~ court shall either grant or deny the petition within 90 days.

(b) The ~~claims commission~~ court may remit or mitigate a forfeiture upon finding that relief should be granted to avoid extreme hardship or upon finding that the petitioner has a valid, good faith interest in the property which is not held through a straw purchase, trust, or otherwise for the benefit of another and that the petitioner did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law.

Sec. 8. 18 V.S.A. § 4474g(b) is amended to read:

(b) Prior to acting on an application for a Registry identification card, the Department shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary owner, principal, and financier.

Sec. 9. REPEAL

2017 Acts and Resolves No. 11, Sec. 60 (amending 32 V.S.A. § 5412) is repealed.

Sec. 10. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer a juvenile court diversion project for the purpose of assisting juveniles charged with delinquent acts. ~~Rules which were adopted by the Vermont Commission on the Administration of Justice to implement the juvenile court diversion project shall be adapted by the Attorney General to the programs and projects established under this section.~~ In consultation with the diversion programs, the

Attorney General shall adopt a policies and procedures manual in compliance with this section.

(b) The diversion ~~project~~ program administered by the Attorney General shall ~~encourage the development~~ support the operation of diversion ~~projects~~ programs in local communities through grants of financial assistance to, or by contracting for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of project ~~grants~~ funding.

* * *

(i) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 11. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion program in all counties. ~~The program shall be operated through the juvenile diversion project. The~~ In consultation with diversion programs, the Attorney General shall adopt ~~only such rules as are necessary to establish an adult court diversion program for adults~~ a policies and procedures manual, in compliance with this section.

* * *

(c) The program shall ~~encourage the development~~ support the operation of diversion programs in local communities through grants of financial assistance to, or contracts for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of program ~~grants~~ funding.

* * *

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program

and the court of his or her intention to refer the person to diversion. The matter shall become confidential when notice is provided to the court. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the ~~Board~~ diversion program declines to accept the case;

(B) the person declines to participate in diversion;

(C) the ~~Board~~ diversion program accepts the case, but the person does not successfully complete diversion; or

(D) the prosecuting attorney recalls the referral to diversion.

* * *

(5) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not ~~require or~~ establish the identity of individual participants are allowed).

* * *

(7)(A) ~~The~~ Irrespective of whether a record was expunged, the adult court diversion program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

(i) name and date of birth;

(ii) offense charged and date of offense;

(iii) place of residence;

(iv) county where diversion process took place; and

(v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General, and directors of adult court diversion programs.

(C) Notwithstanding subdivision (B) of this subdivision (e)(7), the Attorney General shall, upon request, provide to a participant or his or her attorney sufficient documentation to show that the participant successfully completed diversion.

* * *

(g)(1) Within 30 days ~~of~~ after the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of record of the court's intention to order the ~~sealing~~ expungement of all court files and records, law enforcement records other than entries in the adult court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the ~~sealing~~ expungement of the records. The court shall ~~seal~~ expunge the records if it finds:

~~(1)~~(A) two years have elapsed since the successful completion of the adult diversion program by the participant and the dismissal of the case by the State's Attorney;

~~(2)~~(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; ~~and~~

~~(3)~~(C) rehabilitation of the participant has been attained to the satisfaction of the court; and

(D) the participant does not owe restitution related to the case under a contract executed with the Restitution Unit.

(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and

electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing this subsection (g).

(h) ~~Upon~~ Except as otherwise provided in this section, upon the entry of an order ~~sealing such~~ expunging files and records under this section, the proceedings in the matter ~~under this section~~ shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

(i) ~~Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein.~~ [Repealed.]

(j) The process of automatically ~~sealing~~ expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records ~~sealed~~ expunged. ~~Sealing~~ Expungement shall occur if the requirements of subsection (g) of this section are met.

* * *

(k) ~~Subject to the approval of the~~ The Attorney General, in consultation with the Vermont Association of Court Diversion Programs, may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.

(l) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. USE OF VIDEO

(a) Except as provided by subsection (b) of this section, proceedings governed by Rules 5 and 10 of the Vermont Rules of Criminal Procedure and chapter 229 of this title shall be in person and on the record, and shall not be performed by video conferencing or other electronic means until the Defender General and the Executive Director of the Department of Sheriffs and State's Attorneys execute a joint certification that the video conferencing program in use by the court at the site where the proceeding occurs adequately ensures attorney-client confidentiality and the client's meaningful participation in the proceeding.

(b) A proceeding at which subsection (a) of this section applies may be performed by video conferencing if counsel for the defendant or a defendant not represented by counsel consents.

Sec. 13. 13 V.S.A. § 2301 is amended to read:

§ 2301. MURDER-DEGREES DEFINED

Murder committed by means of poison, or by lying in wait, or by ~~wilful~~ willful, deliberate, and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, sexual assault, aggravated sexual assault, kidnapping, robbery, or burglary~~,~~ shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

Sec. 14. 15 V.S.A. § 554 is amended to read:

§ 554. DECREES NISI

(a) A decree of divorce from the bonds of matrimony in the first instance~~,~~ shall be a decree nisi and shall become absolute at the expiration of ~~three months~~ 90 days from the entry thereof but, in its discretion, the court ~~which~~ that grants the divorce may fix an earlier date upon which the decree shall become absolute. If one of the parties dies prior to the expiration of the nisi period, the decree shall be deemed absolute immediately prior to death.

(b) Either party may file any post-trial motions under the Vermont Rules of Civil Procedure. The time within which any such motion shall be filed shall run from the date of entry of the decree of divorce and not from the date the nisi period expires. The court shall retain jurisdiction to hear and decide the motion after expiration of the nisi period. A decree of divorce shall constitute a civil judgment under the Vermont Rules of Civil Procedure.

(c) If the stated term at which the decree nisi was entered has adjourned when a motion is filed, the presiding judge of the stated term shall have power

to hear and determine the matter and make new decree therein as fully as the court might have done in term time; but, in the judge's discretion, the judge may strike off the decree and continue the cause to the next stated term.

Sec. 15. 18 V.S.A. § 4230f(f) is amended to read:

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver or to a registered caregiver who provides marijuana to a registered patient pursuant to chapter 86 of this title.

Sec. 16. 20 V.S.A. § 3903 is amended to read:

§ 3903. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

(a) [Repealed.]

(b) Animal intake. An animal shelter or rescue organization ~~under this chapter shall not accept an animal unless the person transferring the animal to the shelter provides~~ as defined by section 3901 of this title shall make every effort to collect the following information about an animal it accepts: the name and address of the person transferring the animal and, if known, the name of the animal, its vaccination history, and other information concerning the background, temperament, and health of the animal.

(c) Nonprofit status. A rescue organization under this chapter shall be recognized and approved as a nonprofit organization under 26 U.S.C. § 501(c)(3).

(d) Immunity from liability. Notwithstanding section 3901a of this title, any animal shelter or rescue organization assisting law enforcement in an animal cruelty investigation or seizure that, in good faith, provides care and treatment to an animal involved in the investigation or seizure shall not be held liable for civil damages by the owner of the animal unless the actions of the shelter or organization constitute gross negligence.

Sec. 17. EARNED GOOD TIME; REPORT

On or before November 15, 2018, the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State's Attorneys, and the Defender General, shall report to the Senate and House Committees on Judiciary, the Senate Committee on Institutions, and the House Committee on Corrections and Institutions on the advisability and feasibility of reinstituting a system of earned good time for persons under the supervision of the Department of Corrections.

Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 15 shall take effect on July 2, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By adding Secs. 17a through 17e to read as follows:

Sec. 17a. 18 V.S.A. § 4474c is amended to read:

§ 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS REGARDING THE USE OF MARIJUANA FOR SYMPTOM RELIEF

* * *

(c) ~~A registered patient or registered caregiver who elects to grow marijuana to be used for symptom relief by the patient may do so only if the marijuana is cultivated in a single, secure indoor facility~~ Personal cultivation of marijuana by a patient or caregiver on behalf of a patient only shall occur:

(1) on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property; and

(2) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

(d) ~~A registered patient or registered caregiver may not transport marijuana in public unless it is secured in a locked container.~~ [Repealed.]

* * *

(g) The use of marijuana by a registered patient shall not be the sole factor disqualifying the patient from any needed medical procedure or treatment, including organ and tissue transplants.

Sec. 17b. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, test, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

* * *

(3)(A) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time ~~two~~ three mature marijuana plants, seven immature plants, and four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in a secure, locked facility which is either indoors or outdoors, but not visible to the public and that can only be accessed by the owners, principals, financiers, and employees of the dispensary who have valid Registry identification cards. An outdoor facility is not required to have a roof, provided all other requirements are met. The Department shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' Registry identification numbers to protect their confidentiality.

(2)(A) A registered patient or registered caregiver may obtain marijuana from the dispensary by appointment only.

(B) A dispensary may deliver marijuana to a registered patient or registered caregiver. The marijuana shall be transported in a locked container.

(3) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record-keeping.

(4) A dispensary shall submit the results of a financial audit to the Department of Public Safety ~~no~~ not later than ~~60~~ 90 days after the end of the dispensary's first fiscal year, and every other year thereafter. The audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The Department may also periodically require, within its discretion, the audit of a dispensary's financial records by the Department.

* * *

(n) Nothing in this subchapter shall prevent a dispensary from acquiring, possessing, cultivating, manufacturing, testing, transferring, transporting, supplying, selling, and dispensing hemp and hemp-infused products ~~for symptom relief~~. "Hemp" shall have the same meaning as provided in 6 V.S.A. § 562. A dispensary shall not be required to comply with the provisions of 6 V.S.A. chapter 34.

Sec. 17c. 18 V.S.A. § 4474g is amended to read:

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) ~~Except as provided in subsection (b) of this section, the~~ The Department shall issue each owner, principal, financier, and employee of a dispensary a Registry identification card or renewal card within 30 days ~~of~~ after receipt of the person's name, address, and date of birth and a fee of $50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to an owner, principal, financier, or employee. ~~A~~ Except as provided in subdivision (b)(2) of this section, a person shall not serve as an owner, principal, financier, or employee of a dispensary until that person has received a Registry identification card issued under this section. Each card shall specify whether the cardholder is an owner, principal, financier, or employee of a dispensary and shall contain the following:

(1) the name, address, and date of birth of the person;

(2) the legal name of the dispensary with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the Registry identification card; and

(5) a photograph of the person.

(b)(1) Prior to acting on an application for a Registry identification card, the Department shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(2) Once a Registry card application has been submitted, a person may serve as an owner, principal, financier, or employee of a dispensary pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Department shall issue a temporary permit

to the person for this purpose, which shall expire upon the issuance of the Registry card or disqualification of the person in accordance with this section.

* * *

Sec. 17d. 18 V.S.A. § 4474m is amended to read:

§ 4474m. ~~DEPARTMENT OF PUBLIC SAFETY;~~ PROVISION OF EDUCATIONAL AND SAFETY INFORMATION

The Department of Public Safety shall provide educational and safety information developed by the Vermont Department of Health, in consultation with dispensaries, to each registered patient upon registration pursuant to section 4473 of this title, and to each registered caregiver upon registration pursuant to section 4474 of this title.

Sec. 17e. AUTOMOBILE FINANCIAL RESPONSIBILITY; STUDY

The Commissioner of Financial Regulation shall review the minimum automobile insurance requirements in each of the states located in the northeastern region of the United States and shall report his or her findings and recommendations with respect to Vermont's minimum automobile insurance requirements to the General Assembly on or before November 1, 2018.

Which was agreed to.

Rules Suspended; House Proposal of Amendment Concurred In

H. 912.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to House bill entitled:

An act relating to the health care regulatory duties of the Green Mountain Care Board.

Was taken up for immediate consideration.

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

First: By striking out Sec. 18, 18 V.S.A. § 9374, and its reader assistance heading in their entireties and inserting in lieu thereof the following:

Sec. 18. [Deleted.]

Second: In Sec. 20, effective dates, by striking out subsection (b) in its entirety and redesignating subsection (c) to be subsection (b)

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested

H. 917.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

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

Was taken up for immediate consideration.

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

First: In Sec. 1, by striking out subdivision (b)(3) in its entirety and renumbering the remaining subdivision to be numerically correct

Second: By striking out Secs. 5 and 6 and the reader assistance headings thereto in their entireties and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

* * * Program Development—Roadway Program * * *

Sec. 6. PROGRAM DEVELOPMENT—ROADWAY PROGRAM

(a) The following project is added to the development and evaluation (D&E) list of the fiscal year 2019 Program Development—Roadway Program: construction of a roundabout at the intersection of VT 67A, Matteson Road, Silk Road, and College Drive in the town of Bennington.

(b) The Agency shall expend up to $50,000.00 of federal funds on development and evaluation of the project added under subsection (a) of this section, to the extent such funds become available as a result of the unanticipated delay of projects approved in the fiscal year 2019 Program Development Program or cost savings on such projects, or both.

Third: In Sec. 19, 19 V.S.A. § 306, by striking out subdivision (a)(1) in its entirety and inserting in lieu thereof the following:

(1) An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall increase ~~or decrease~~ over the previous fiscal year's appropriation by the same percentage as ~~any increase or decrease in~~ the following, whichever is less:

(A) the ~~Transportation~~ year-over-year increase in the Agency's total appropriations in the previous fiscal year funded by Transportation Fund revenues, excluding the ~~town highway appropriations~~ appropriation for town highways under this subsection (a) for that year; or

(B) the percentage increase in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) during the previous State fiscal year.

Fourth: By striking out Sec. 32 and the reader assistance heading thereto in their entireties and inserting in lieu thereof the following:

* * * Seatbelt Law for Adults; Primary Enforcement * * *

Sec. 32. 23 V.S.A. § 1259 is amended to read:

§ 1259. SAFETY BELTS; PERSONS ~~AGE~~ 18 YEARS OF AGE AND OVER

* * *

(e) ~~This section may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for another suspected traffic violation. An operator shall not be subject to the penalty established in this section unless the operator is required to pay a penalty for the primary violation.~~ [Repealed.]

* * *

Sec. 32a. PRIMARY ENFORCEMENT OF SEATBELT LAW; PUBLIC EDUCATION CAMPAIGN

(a) To inform highway users of the requirements of Sec. 32 of this act (primary enforcement of the seatbelt law for adults) and the October 1, 2018 effective date of Sec. 32, the Secretary of Transportation shall conduct a public education campaign to commence on or before July 1, 2018.

(b) At a minimum, the Secretary shall:

(1) notify media outlets throughout the State of the change in the law to primary enforcement of the adult seatbelt law and the October 1, 2018 effective date of the change in the law;

(2) update the website of the Agency of Transportation and the website of the Department of Motor Vehicles to provide notice of the change in the law and its effective date; and

(3) consistent with the Manual on Uniform Traffic Control Devices and any other applicable federal law, post messages on changeable message signs of the Agency that inform highway users of the change in the law and its effective date.

Fifth: By striking out Sec. 43 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 43. EFFECTIVE DATES

(a) This section and Secs. 2 (federal infrastructure funding), 16 (penalties

for furnishing alcoholic beverages to minors), 20 (transportation public-private partnerships), 23–24 (Green Mountain Transit Authority name update), 25 (PUC report; electric vehicle charging), and 32a (education campaign; primary enforcement) shall take effect on passage.

(b) Secs. 41–42 (motor vehicle inspections) shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, in Sec. 42, subsection (d) shall take effect retroactively on January 1, 2017.

(c) Sec. 32 (primary enforcement of adult seatbelt law) shall take effect on October 1, 2018.

(d) Secs. 30–31 (town highway weight limits) and 33–37 (aircraft fuel taxes) shall take effect on January 1, 2019.

(e) Sec. 29, 23 V.S.A. § 3513(a) (sunset of change to ATV fee and penalty allocation) shall take effect on July 1, 2023.

(f) All other sections shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Mazza, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Rules Suspended; House Proposals of Amendment Concurred In

H. 923.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

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

Was taken up for immediate consideration.

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

First: In Sec. 1, amending 2017 Acts and Resolves No. 84, Sec. 2, in subdivision (b)(13), by striking out "$2,281,094.00" and inserting in lieu thereof "$2,181,094.00", in (e)(2), in the first sentence, by striking out "may" and inserting in lieu thereof "shall" and by striking out all after subsection (g) and inserting in lieu thereof the following:

Appropriation – FY 2018	~~$27,857,525.00~~ $25,038,619.00
Appropriation – FY 2019	~~$27,853,933.00~~ $28,131,610.00
Total Appropriation – Section 2	~~$55,711,458.00~~ $53,170,229.00

Second: In Sec. 2, amending 2017 Acts and Resolves No. 84, Sec. 3, by striking out all after the ellipses and inserting in lieu thereof the following:

(b) ~~The sum of $300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in subsection (a) of this section.~~ The following sums are appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services:

(1) Statewide correctional facilities, cameras, locks, perimeter intrusion at correctional facilities: $300,000.00

(2) Chittenden County Regional Correctional Facility and Northwest State Correctional Facility, renovations, beds for therapeutic placement: $600,000.00

(3) Essex, Woodside Juvenile Rehabilitation Center, design and construction documents: $500,000.00

(4) Brattleboro, Brattleboro Retreat, renovation and fit-up: $4,500,000.00

(5) Serenity House, residential treatment center, addition and renovations: $300,000.00

(c) For the amount appropriated in subdivision (b)(2) of this section:

(1) it is the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and in the Northwest State Correctional Facility for persons in the custody of the Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten or more beds in the Alpha Unit at the Northwest State Correctional Facility.

(2) the Commissioner of Buildings and General Services may use up to $100,000.00 of the funds appropriated in subdivision (b)(1) of this section to support this project.

(d) For the amount appropriated in subdivision (b)(3) of this section, the Commissioner of Buildings and General Services shall consult with the Secretary of Human Services on the design and construction documents.

(e) For the amount appropriated in subdivision (b)(4) of this section:

(1) The use of funds shall be restricted to capital renovations and fit-up costs and shall not be used for any periodic lease payments, usage fees, or other operating expenses.

(2)(A) The State of Vermont shall execute an agreement with the Brattleboro Retreat for the renovation and fit-up project at the Brattleboro Retreat. The agreement shall include the following provisions:

(i) the Brattleboro Retreat shall provide access to a minimum of an additional 12 level-1 beds to the State for a period determined by the Secretary to be in the best interests of the State;

(ii) the Brattleboro Retreat shall target a completion date for the renovation and fit-up project of December 2019; and

(iii) terms and conditions that ensure the protection of State investment of capital appropriations, including:

(I) an initial strategic plan for long-term reuse of renovated facilities;

(II) authority for the Agency of Human Services to access Brattleboro Retreat's financials to ensure the success of the strategic plan described in subdivision (I) of this subdivision (2)(A)(iii); and

(III) a process for sharing information necessary to the Department of Mental Health for its statutory oversight responsibilities.

(B) Prior to execution, the State Treasurer shall approve the agreement described in subdivision (A) of this subdivision (2) to ensure that it is in compliance with applicable tax-exempt bond requirements.

(3) The Department of Buildings and General Services shall not expend funds until the Commissioner of Buildings and General Services and the Secretary of Human Services have notified the Commissioner of Finance and Management and the Chairs of the House Committees on Corrections and Institutions and on Health Care, and of the Senate Committees on Health and Welfare and on Institutions that the agreement described in subdivision (2)(A) of this subsection (e) has been executed.

(4) The Commissioner of Buildings and General Services and the Secretary of Human Services may also propose draft legislation to the House Committees on Corrections and Institutions and on Health Care, and the Senate Committees on Health and Welfare and on Institutions that may be necessary to fulfill the agreement.

(5)(A) On or before October 15, 2018, the Secretary of Human Services shall notify the Chairs of the House Committees on Corrections and Institutions and on Health Care, and of the Senate Committees on Health and Welfare and on Institutions if an agreement between the Brattleboro Retreat and the State of Vermont cannot be reached and shall submit to them an alternative proposal for the 12 beds. With approval of the Speaker of the

House and the President Pro Tempore of the Senate, as appropriate, the House Committees on Corrections and Institutions and on Health Care and the Senate Committees on Health and Welfare and on Institutions may meet up to two times when the General Assembly is not in session to evaluate, approve, or recommend alterations to the proposal. Members of the House Committees on Corrections and Institutions and on Health Care, and the Senate Committees on Health and Welfare and on Institutions shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

(B) The Secretary of Human Services shall submit a copy of the alternative proposal described in subdivision (A) of this subdivision (5) to the Joint Fiscal Committee.

Appropriation – FY 2018	$300,000.00
Appropriation – FY 2019	~~$300,000.00~~ $6,200,000.00
Total Appropriation – Section 3	~~$600,000.00~~ $6,500,000.00

Third: In Sec. 4, amending 2017 Acts and Resolves No. 84, Sec. 5, by striking out all after subsection (c) and inserting in lieu thereof the following:

(d) The following sums are appropriated in FY 2019 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Lake Champlain Maritime Museum:

(A) Underwater preserves: $30,000.00

(B) Schooner Lois McClure project, repairs and upgrades: $25,000.00

(2) Placement and replacement of roadside historic markers: ~~$15,000.00~~ $29,000.00

(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping: $125,000.00

(4) Civil War Heritage Trail, signs: $30,000.00

(e) The amounts appropriated in subdivisions (a)(2) ~~and~~, (a)(3), (d)(1)(B), and (d)(4) of this section shall be used as a one-to-one matching grant. The funds shall become available after the Agency notifies the Department that the funds have been matched.

(f) It is the intent of the General Assembly that any requests for capital funds be submitted to the Agency of Commerce and Community Development for inclusion in the Governor's annual consolidated capital budget request, pursuant to 32 V.S.A. § 309.

Appropriation – FY 2018	$450,000.00
Appropriation – FY 2019	~~$370,000.00~~ $539,000.00
Total Appropriation – Section 5	~~$820,000.00~~ $989,000.00

Fourth: In Sec. 8, amending 2017 Acts and Resolves No. 84, Sec. 11, in subdivision (e)(1)(B), by striking out "$1,500,000.00" and inserting in lieu thereof "$1,400,000.00", in subdivision (f)(4), by striking out "subdivision (2)" and inserting in lieu thereof "subdivision (2)(A)", in subdivision (g)(1)(B), by striking out "$1,000,000.00" and inserting in lieu thereof "$1,100,000.00", and in subsection (m), by striking out "$200,000.00" and inserting in lieu thereof "$100,000.00"

Fifth: In Sec. 10, amending 2017 Acts and Resolves No. 84, Sec. 13, by striking out all after subsection (c) and inserting in lieu thereof the following:

(c)(1) The sum of $4,000,000.00 is appropriated in FY 2019 to the Department of Public Safety for the School Safety and Security Grant Program.

(2) It is the intent of the General Assembly that the amount appropriated in subdivision (1) of this subsection (c) shall be supported by an additional $1,000,000.00 in federal funds.

Appropriation – FY 2018	$1,927,000.00
Appropriation – FY 2019	~~$5,573,000.00~~ $11,458,000.00
Total Appropriation – Section 13	~~$7,500,000.00~~ $13,385,000.00

Sixth: In Sec. 12, adding 2017 Acts and Resolves No. 84, Sec. 16a, by striking out "$500,000.00" and inserting in lieu thereof "$400,000.00"

Seventh: By striking out Sec. 26 (amending 2017 Acts and Resolves No. 84, by adding Secs. 36a and 37a) in its entirety and inserting in lieu thereof a new Sec. 26 to read:

Sec. 26. 2017 Acts and Resolves No. 84, Secs. 36a-36c are added to read:

Sec. 36a. SCHOOL SAFETY AND SECURITY CAPITAL GRANT PROGRAM

(a) Creation. There is created the School Safety and Security Capital Grant Program to be administered by the Department of Public Safety to enhance safety and security in Vermont schools, as defined in 16 V.S.A. § 3447. The amount appropriated in Sec. 10 of this act, adding 2017 Acts and Resolves No. 84, Sec. 13(c)(1), shall be used to fund this Program.

(b) Use of funds. Capital grants authorized in subsection (a) of this section shall be used for the planning, delivery, and installation of equipment for

upgrades to existing school security equipment and for new school security equipment identified through threat assessment planning and surveys designed to enhance building security.

(c) Guidelines. The following guidelines shall apply to capital grants for school safety measures:

(1) Grants shall be awarded competitively to schools for capital-eligible expenses to implement safety and security measures identified in a security assessment. Capital-eligible expenses may include video monitoring and surveillance equipment, intercom systems, window coverings, exterior and interior doors, locks, and perimeter security measures.

(2) Grants shall only be awarded after a security assessment has been completed by the Agency of Education and Department of Public Safety.

(3) The Program is authorized to award capital grants of up to $25,000.00 per school. Each school shall be required to provide a 25 percent match to the grant amount. The required match shall be met through dollars raised and not in-kind services.

(d) Administration. The Department of Public Safety, in coordination with the Agency of Education, shall administer and coordinate capital grants made pursuant to this section. Grant funds shall not be used to administer the Program.

(e) Reporting. The Department of Public Safety shall provide notice of any capital grants awarded under this section to the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions.

* * * Sunset of School Security Grant Program * * *

Sec. 36b. REPEAL OF SCHOOL SECURITY GRANT PROGRAM

The School Safety and Security Grant Program established in Sec. 17 of this act shall be repealed on July 1, 2019.

* * * School Safety Advisory Group * * *

Sec. 36c. SCHOOL SAFETY ADVISORY GROUP; REPORT

(a) Creation. There is created the School Safety Advisory Group to develop statewide guidelines and best practices concerning school safety and the prevention of school shootings.

(b) Membership. The Advisory Group shall be composed of the following six members:

(1) the Secretary of Administration or designee;

(2) the Secretary of Education or designee;

(3) the Commissioner of Public Safety or designee;

(4) the Executive Director of the Vermont School Boards Association or designee;

(5) the President of the Vermont-National Education Association or designee; and

(6) a representative of the Vermont Principals' Association.

(c) Powers and duties. The Advisory Group shall study the following issues and develop specific guidelines and best practices for Vermont schools concerning them:

(1) improving security in and around school buildings and property;

(2) ensuring staff and students know what they should do in the event of a school shooting or other incident;

(3) training for staff and students, including the type and frequency of the training;

(4) sharing information with parents and community if an event occurs; and

(5) gathering information on security measures implemented in schools from corresponding state education and public safety departments in states where school shootings have occurred.

(d) Assistance. The Advisory Group shall have the administrative, technical, and legal assistance of the Agency of Education and the Department of Public Safety.

(e) Report. On or before July 1, 2018, the Advisory Group shall submit a written report to the General Assembly with its findings, including specific guidelines and best practices, and any recommendations for legislative action necessary to ensure that all schools in Vermont begin implementing those guidelines and best practices and have a plan for compliance before the beginning of the next school year.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Advisory Group.

(2) The Commissioner of Public Safety or designee shall be the Chair.

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

(4) The Advisory Group shall cease to exist on July 1, 2019.

(g) Compensation and reimbursement. Members of the Advisory 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 per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for meetings. These payments shall be made from monies appropriated to the General Assembly.

Eighth: In Sec. 27, by striking out all after subdivision (d)(1) and inserting in lieu thereof the following:

(2) On or before October 15, 2018, the Secretary shall present a prioritized list of eligible projects, if any, to the Secretary of Administration for inclusion in the Governor's annual consolidated capital budget request, pursuant to 32 V.S.A. § 309.

(e) Notwithstanding the grant program authorized in this section, State aid for school construction remains suspended pursuant to the terms of 2008 Acts and Resolves No. 200, Sec. 45 as amended by 2009 Acts and Resolves No. 54, Sec. 22, as further amended by 2013 Acts and Resolves No. 51, Sec. 45.

Ninth: By striking out all after Sec. 27, and inserting in lieu thereof the following:

* * * Corrections * * *

Sec. 28. 28 V.S.A. § 1354 is amended to read:

§ 1354. ARTICLE IV; THE STATE COUNCIL

(a) ~~A~~ The Vermont ~~state council for interstate adult offender supervision~~ State Council for Interstate Adult Offender Supervision is created. The ~~state council~~ State Council shall consist of ~~five~~ six members:

(1) ~~one representative of the legislative branch appointed by the general assembly pursuant to a process determined by the joint rules committee~~ one member of the House of Representatives, who shall be appointed by the Speaker, and one member of the Senate, who shall be appointed by the Committee on Committees;

(2) one representative of the ~~judicial branch~~ Judicial Branch appointed by the ~~chief justice~~ Chief Justice of the ~~supreme court~~ Supreme Court;

(3) one representative of the ~~executive branch~~ Executive Branch appointed by the ~~governor~~ Governor;

(4) one representative of a victims group appointed by the ~~governor~~ Governor; and

(5) one individual who in addition to serving as a member of the ~~council~~ Council shall serve as the compact administrator for this ~~state~~ State, appointed by the ~~governor~~ Governor after consultation with the ~~general assembly~~ General Assembly and the ~~supreme court~~ Supreme Court.

* * *

* * * Effective Date * * *

Sec. 29. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 29.

Appearing the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to decedents' estates.

Was taken up for immediate consideration.

Senator Flory, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

An act relating to decedents' estates.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and concur with the House proposal of amendment with further amendment as follows:

In Sec. 9, 14 V.S.A. chapter 75, in § 1651, by striking out subdivision (12) in its entirety.

MARGARET K FLORY
ALICE W. NITKA
JOSEPH C. BENNING

Committee on the part of the Senate

EILEEN "LYNN" G. DICKINSON
MAXINE JO GRAD
JANSSEN D. WILLHOIT

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Committees of Conference Appointed

S. 206.

An act relating to business consumer protection for point-of-sale equipment leases.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Soucy
Senator Pearson
Senator Baruth

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 281.

An act relating to the mitigation of systemic racism.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Pearson
Senator Collamore
Senator White

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 917.

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

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Mazza
Senator Westman
Senator Flory

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 29, S. 180, S. 206, S. 222, S. 281, H. 196, H. 912, H. 917, H. 923.

Recess

On motion of Senator Ashe the Senate recessed until 4:15 P.M.

Called to Order

The Senate was called to order by the President.

Rules Suspended; House Proposals of Amendment to Senate Proposal of Amendment Concurred In

H. 526.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to regulating notaries public.

Were taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with the following amendments thereto:

First: In Sec. 1, 26 V.S.A. chapter 103 (notaries public), by striking out § 5323 (rules) in its entirety and inserting in lieu thereof a new § 5323 to read as follows:

§ 5323. RULES

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking the commission of or otherwise disciplining a notary public and assuring the trustworthiness of an individual holding a commission as notary public;

(5) include provisions to prevent fraud or mistake in the performance of notarial acts; and

(6) prescribe standards for remote online notarization, including standards for credential analysis, the process through which a third person affirms the identity of an individual, the methods for communicating through a secure communication link, the means by which the remote notarization is certified, and the form of notice to be appended disclosing the fact that the notarization was completed remotely on any document acknowledged through remote online notarization.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records and remote online notarization may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records and remote online notarization, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records and remote online notarization promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that substantially enact this chapter; and

(3) the views of governmental officials and entities and other interested persons.

(c) Neither electronic notarization nor remote online notarization shall be allowed until the Secretary of State has adopted rules and prescribed standards in these areas.

Second: In Sec. 1, 26 V.S.A. chapter 103, by striking out § 5364 (personal appearance required) in its entirety and inserting in lieu thereof a new § 5364 to read as follows:

§ 5364. PERSONAL APPEARANCE REQUIRED

(a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

(b) The requirement for a personal appearance is satisfied if:

(1) the notary public and the person executing the signature are in the same physical place; or

(2) the notary public and the person are communicating through a secure communication link using protocols and standards prescribed in rules adopted by the Secretary of State pursuant to the rulemaking authority set forth in this chapter.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, were severally decided in the affirmative.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 224.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to co-payment limits for visits to chiropractors.

Was taken up for immediate consideration.

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

Sec. 1. 8 V.S.A. § 4088a is amended to read:

§ 4088a. CHIROPRACTIC SERVICES

(a)(1) A health insurance plan shall provide coverage for clinically necessary health care services provided by a chiropractic physician licensed in this State for treatment within the scope of practice described in 26 V.S.A. chapter 10, but limiting adjunctive therapies to physiotherapy modalities and rehabilitative exercises. A health insurance plan does not have to provide coverage for the treatment of any visceral condition arising from problems or dysfunctions of the abdominal or thoracic organs.

(2) A health insurer may require that the chiropractic services be provided by a licensed chiropractic physician under contract with the insurer or upon referral from a health care provider under contract with the insurer.

(3) Health care services provided by chiropractic physicians may be subject to reasonable deductibles, co-payment and co-insurance amounts, fee or benefit limits, practice parameters, and utilization review consistent with any applicable regulations published by the Department of Financial Regulation; provided that any such amounts, limits, and review shall not

function to direct treatment in a manner unfairly discriminative against chiropractic care~~,~~ and collectively shall be no more restrictive than those applicable under the same policy to care or services provided by other health care providers but allowing for the management of the benefit consistent with variations in practice patterns and treatment modalities among different types of health care providers.

(4) For silver- and bronze-level qualified health benefit plans and reflective silver plans offered pursuant to 33 V.S.A. chapter 18, subchapter 1, health care services provided by a chiropractic physician may be subject to a co-payment requirement, provided that any required co-payment amount shall be between 140 and 160 percent of the amount of the co-payment applicable to care and services provided by a primary care provider under the plan.

(5) Nothing ~~herein~~ contained in this section shall be construed as impeding or preventing either the provision or coverage of health care services by licensed chiropractic physicians, within the lawful scope of chiropractic practice, in hospital facilities on a staff or employee basis.

* * *

Sec. 2. 8 V.S.A. § 4088k is added to read:

§ 4088k. PHYSICAL THERAPY CO-PAYMENTS FOR CERTAIN PLANS

For silver- and bronze-level qualified health benefit plans and reflective silver plans offered pursuant to 33 V.S.A. chapter 18, subchapter 1, health care services provided by a licensed physical therapist may be subject to a co-payment requirement, provided that any required co-payment amount shall be between 140 and 160 percent of the amount of the co-payment applicable to care and services provided by a primary care provider under the plan.

Sec. 3. CHIROPRACTIC AND PHYSICAL THERAPY CO-PAYMENT LIMITS; IMPACT REPORTS

(a) On or before January 1, 2019, the Department of Vermont Health Access and the health insurance carriers offering qualified health benefit plans on the Vermont Health Benefit Exchange shall submit a report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board regarding the projected impact of the chiropractic and physical therapy co-payment limits for qualified health benefit plans and reflective silver plans required by Secs. 1 and 2 of this act on the plans' premium rates, on the plans' actuarial values, and on plan designs, including any impacts on the cost-sharing levels and amounts for other health care services. The information shall be reported separately for each provider type.

(b) On or before November 15, 2021, the Department of Vermont Health Access and the health insurance carriers offering qualified health benefit plans on the Vermont Health Benefit Exchange shall submit a report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board regarding the impact of the chiropractic and physical therapy co-payment limits for qualified health benefit plans and reflective silver plans on utilization of chiropractic and physical therapy services. The information shall be reported separately for each provider type.

Sec. 4. HEALTH INSURANCE COVERAGE FOR NON-OPIOID APPROACHES TO TREATING AND MANAGING PAIN; REPORT

(a) The Department of Vermont Health Access shall convene a working group to develop recommendations related to insurance coverage for non-opioid approaches, including nonpharmacological approaches, to treating and managing pain. The working group shall be composed of the following members:

(1) the Commissioner of Financial Regulation or designee;

(2) one representative of each health insurance carrier offering qualified health benefit plans on the Vermont Health Benefit Exchange;

(3) the Chief Health Care Advocate or designee; and

(4) a pain management clinician selected by the Vermont Medical Society.

(b) The Department of Vermont Health Access shall provide the working group with the clinical approaches to non-opioid treatments for pain that the Department is developing with stakeholders. Using the model being developed by the Department, the working group shall consider issues related to health insurance coverage for non-opioid approaches, including nonpharmacological approaches, to treating and managing pain, including whether health insurance plans should cover certain non-opioid approaches, including nonpharmacological approaches, to treating and managing pain and an appropriate level of cost-sharing that should apply to chiropractic care, physical therapy, and any other non-opioid or nonpharmacological modalities for treating and managing pain that the working group recommends for insurance coverage.

(c) On or before January 15, 2019, the working group shall provide its recommendations to the House Committees on Health Care and on Human Services and the Senate Committees on Health and Welfare and on Finance.

Sec. 5. EFFECTIVE DATES

(a) Secs. 1 (8 V.S.A. § 4088a) and 2 (8 V.S.A. § 4088k) shall take effect on January 1, 2020 and shall apply to all health insurance plans issued on and after January 1, 2020 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2021.

(b) The remaining sections shall take effect on passage.

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

An act relating to co-payment limits for chiropractic care and physical therapy.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Cummings, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment

H. 739.

Pending entry on the Calendar for action tomorrow, on motion of Senator Ashe, the rules were suspended and House bill entitled:

An act relating to energy productivity investments under the self-managed energy efficiency program.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposals of amendment, on a roll call, Yeas 25, Nays 2.

Senator Starr 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, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Lyons, Mazza, Nitka, Pearson, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: MacDonald, McCormack.

Those Senators absent and not voting were: Baruth, Kitchel, Pollina.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

The nomination of

Humbert, Alicia Sacerio of Northfield - Magistrate, Family Court - March 14, 2018 to March 31, 2019.

Was confirmed by the Senate on a roll call, Yeas 26, Nays 0.

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, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Baruth, Kitchel, Pollina, Rodgers.

Shafritz, Megan J. of South Burlington - Superior Judge - March 21, 2018 to March 31, 2019.

Was confirmed by the Senate on a roll call, Yeas 28, Nays 0.

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, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: Baruth, Pollina.

Appointment Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointment was confirmed by the Senate, without report given by the Committee to which it was referred and without debate:

The nomination of

Hathaway, Andrew of Waterbury - Member, Children and Family Council for Prevention Programs - March 1, 2018 to February 28, 2021.

Was confirmed by the Senate.

Committees of Conference Appointed

S. 224.

An act relating to co-payment limits for visits to chiropractors.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Sirotkin
Senator Ayer
Senator Campion

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 143.

An act relating to automobile insurance requirements and transportation network companies.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Sears
Senator Benning
Senator Ingram

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 593.

An act relating to miscellaneous consumer protection provisions.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Ashe
Senator Sirotkin
Senator Balint

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 764.

An act relating to data brokers and consumer protection.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Baruth
Senator Balint
Senator Soucy

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 224, H. 143, H. 526, H. 593, H. 739, H. 764.

Adjournment

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

THURSDAY, MAY 10, 2018

The Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by Reverend and Senator Deborah Ingram of Chittenden District.

Message from the House No. 67

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 40. An act relating to increasing the minimum wage.

S. 204. An act relating to the registration of short-term rentals.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 150. An act relating to automated license plate recognition systems.

And has concurred therein.

The House has considered Senate proposals of amendment to House proposals of amendment to Senate bill of the following title:

S. 262. An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access.

And has concurred therein.

The House has considered Senate proposals of amendment to House bill of the following title:

H. 571. An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Stevens of Waterbury
Rep. Walz of Barre City
Reps. Gonzalez of Winooski and Hill of Wolcott

The House has considered Senate proposals of amendment to House bill of the following title:

H. 919. An act relating to workforce development.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Botzow of Pownal
Rep. Marcotte of Coventry
Rep. Ancel of Calais

The House has considered Senate proposal of amendment to House proposal of amendment to the following bill:

H. 897. An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Message from the House No. 68

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 244. An act relating to repealing the guidelines for spousal maintenance awards.

S. 276. An act relating to rural economic development.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 69

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 917. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Brennan of Colchester
Rep. Potter of Clarendon
Rep. Corcoran of Bennington

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 206. An act relating to business consumer protection for point-of-sale equipment leases.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Marcotte of Coventry
Rep. Hill of Wolcott
Rep. Sheldon of Middlebury

Message from the House No. 70

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to the request of the Senate for a Committee of Conference the Speaker appointed the following members on the part of the House:

S. 273. An act relating to miscellaneous law enforcement amendments.

Rep. Brumsted of Shelburne
Rep. Harrison of Chittenden
Rep. LaClair of Barre Town

Pursuant to the request of the Senate for a Committee of Conference the Speaker appointed the following members on the part of the House:

S. 179. An act relating to community justice centers.

Rep. Emmons of Springfield
Rep. Shaw of Pittsford
Rep. Taylor of Colchester

Message from the House No. 71

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 224. An act relating to co-payment limits for visits to chiropractors.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Lippert of Hinesburg
Rep. Houghton of Essex
Rep. Jickling of Randolph

Proposal of Amendment; Third Reading Ordered

H. 576.

Senator Pearson, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to stormwater management.

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:

* * * Three-Acre Stormwater Permit * * *

Sec. 1. FINDINGS

For the purposes of Secs. 1–3 of this act, the General Assembly finds that:

(1) As part of the total maximum daily load (TMDL) plan for Lake Champlain and the implementation plan for the TMDL, the Agency of Natural Resources (ANR) and the U.S. Environmental Protection Agency (EPA) agreed to obtain most of the required pollutant reduction for Lake Champlain from developed lands and nonpoint sources of phosphorus.

(2) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64 (Act 64) to provide ANR with the statutory authority needed to implement the point source and nonpoint source controls of phosphorus agreed to by ANR and EPA.

(3) After enactment of Act 64, EPA finalized the TMDL for Lake Champlain and listed within the accountability framework for the plan all of the point source and nonpoint source control measures that would be implemented in order to provide reasonable assurances, as required by EPA guidance, that the plan will achieve the load reductions necessary to clean up Lake Champlain.

(4) One provision of Act 64 included in the accountability framework for the Lake Champlain TMDL is the requirement that ANR issue by January 1, 2018 a general permit for discharges of stormwater from impervious surface of three or more acres in size when the discharge previously was not permitted or was permitted under standards in place prior to 2002.

(5) ANR did not issue the three-acre permit by January 1, 2018.

(6) As a result, private property owners who would be subject to the three-acre permit lack certainty as to when their property will be required to be permitted and what the permit will require.

(7) ANR's failure to adopt the three-acre permit and its failure to comply with statutory requirements are not accepted by the General Assembly and the citizens of Vermont.

Sec. 2. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

* * *

(b) Definitions. As used in this section:

* * *

(8) "Offset" means a State-permitted or ~~-approved~~ State-approved action or project ~~within a stormwater-impaired water, Lake Champlain, or a water that contributes to the impairment of Lake Champlain that a discharger or a third person may complete to mitigate~~ that mitigates the impacts that a discharge of regulated stormwater runoff has on ~~the stormwater-impaired water, or the impacts of phosphorus on Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ receiving waters.

* * *

(11) "Stormwater impact fee" means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff ~~to a stormwater-impaired water or for the discharge of phosphorus to Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ in order to mitigate ~~a sediment load level, hydrologic impact, or other impact~~ impacts that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

* * *

(f) Rulemaking. On or before December 31, 2017, the Secretary shall adopt rules to manage stormwater runoff. At a minimum, the rules shall:

* * *

(g) General permits.

(1) The Secretary may issue general permits for classes of stormwater runoff that shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title.

* * *

(3) ~~On or before January 1, 2018,~~ Within 120 days after the adoption by the Secretary of the rules required under subsection (f) of this section, the Secretary shall issue a general permit under this section for discharges of stormwater from impervious surface of three or more acres in size, when the

stormwater discharge previously was not permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual. Under the general permit, the Secretary shall:

(A) Establish a schedule for implementation of the general permit by geographic area of the State. The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under this subdivision (3) ~~of this section~~. The schedule established by the Secretary shall require an owner of impervious surface subject to permitting under this subdivision to obtain coverage by the following dates:

(i) for impervious surface located within the Lake Champlain watershed, the Lake Memphremagog watershed, ~~no later than~~ or the watershed of a stormwater impaired water on or before October 1, 2023; ~~and~~

(ii) for impervious surface located within all other watersheds of the State, no later than October 1, ~~2028~~ 2033.

(B) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface subject to permitting under this subdivision (3).

(C) Require that a discharge of stormwater from impervious surface subject to the requirements of this section comply with the standards of subsection (h) of this section for redevelopment of or renewal of a permit for existing impervious surface.

(D) Allow the use of stormwater impact fees, offsets, and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

* * *

(h) Permit requirements. An individual or general stormwater permit shall:

(1) Be valid for a period of time not to exceed five years.

(2) For discharges of regulated stormwater to a ~~stormwater impaired~~ stormwater-impaired water, for discharges of phosphorus to Lake Champlain or Lake Memphremagog, or for discharges of phosphorus to a water that contributes to the impairment of Lake Champlain or Lake Memphremagog:

(A) In which no TMDL, watershed improvement permit, or water quality remediation plan has been approved, require that the discharge shall comply with the following discharge standards:

(i) A new discharge or the expanded portion of an existing discharge shall satisfy the requirements of the Stormwater Management Manual and shall not increase the pollutant load in the receiving water for stormwater.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the discharge shall satisfy on-site the water quality, recharge, and channel protection criteria set forth in the Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency, and the discharge shall not increase the pollutant load in the receiving water for stormwater.

(B) In which a TMDL or water quality remediation plan has been adopted, require that the discharge shall comply with the following discharge standards:

(i) For a new discharge or the expanded portion of an existing discharge, the discharge shall satisfy the requirements of the Stormwater Management Manual, and the Secretary shall determine that there are sufficient pollutant load allocations for the discharge.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the Secretary shall determine that there are sufficient pollutant load allocations for the discharge, and the Secretary shall include any requirements that the Secretary deems necessary to implement the TMDL or water quality remediation plan.

(3) Contain requirements necessary to comply with the minimum requirements of the rules adopted under this section, the Vermont water quality standards, and any applicable provision of the Clean Water Act.

* * *

(k) Report on treatment practices. As part of the report required under section 1389a of this title, the Secretary annually shall report the following:

(1) whether the phosphorus load from new development permitted under this section by the Secretary in the Lake Champlain watershed in the previous calendar year is achieving at least a 70 percent average phosphorus load reduction;

(2) the estimated total phosphorus load reduction from new development, redevelopment, and retrofit of impervious surface permitted under this section in the previous calendar year; and

(3) the number of projects and the percentage of projects as a whole that implemented Tier 1 stormwater treatment practices, Tier 2 stormwater treatment practices, or Tier 3 stormwater treatment practices in the previous

calendar year.

Sec. 3. STORMWATER MANAGEMENT RULE; SUBMISSION TO GENERAL ASSEMBLY

The Secretary of Natural Resources shall not file under 3 V.S.A. § 841 the final proposal of the stormwater management rule required by 10 V.S.A. § 1264(f) (stormwater management rule) until on or after February 1, 2019. On or before January 15, 2019, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife a draft of the stormwater management rule that the Secretary intends to file under 3 V.S.A. § 841.

* * * Half-Acre Permitting Threshold for Stormwater Discharges * * *

Sec. 4. 10 V.S.A. § 1264(c) is amended to read:

(c) Prohibitions.

(1) A person shall not commence the construction or redevelopment of ~~one~~ one-half of an acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring coverage for its municipal separate storm sewer system ~~may~~ shall not discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or of less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), "municipality" means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3) of this section, a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

Sec. 5. APPLICABILITY OF AGENCY RULES

All Agency of Natural Resources rules applicable to the construction of one acre or more of impervious surface shall be applicable to the construction or redevelopment of one-half of an acre or more of impervious surface.

Sec. 6. TRANSITION

The construction or redevelopment of less than one acre of impervious surface shall not require a permit under 10 V.S.A. § 1264(c)(1)(A) provided that:

(1) except for applications for permits issued pursuant to 10 V.S.A. § 1264(c)(4), complete applications for all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been submitted as of July 1, 2022, the applicant does not subsequently file an application for a permit amendment that would have an adverse impact on water quality, and substantial construction of the project commences within two years from July 1, 2022;

(2) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been obtained as of July 1, 2022, and substantial construction of the project commences within two years from July 1, 2022;

(3) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), no local, State, or federal permits related to the regulation of land use or a discharge to waters of the State are required, and substantial construction of the project commences within two years from July 1, 2022; or

(4) the construction, redevelopment, or expansion is a public transportation project, and as of July 1, 2022, the Agency of Transportation or the municipality principally responsible for the project has initiated right-of-way valuation activities or determined that right-of-way acquisition is not

necessary, and substantial construction of the project commences within five years from July 1, 2022.

* * * Stormwater Permit Fees * * *

Sec. 7. 3 V.S.A. 2822(j)(2)(B)(iv)(X) is added to read:

(X) Individual or general operating permits authorizing discharges of stormwater runoff from new development or redevelopment of less than one acre of impervious surface permitted after July 1, 2022 pursuant to 10 V.S.A. § 1264(c)(1) shall be exempt from the fees imposed by subdivisions (I) and (II) of this subdivision.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 1–3 (three-acre stormwater permit; rule) and 7 (permit fees) shall take effect on passage.

(b) Secs. 4–6 (half-acre operational threshold) shall take effect on July 1, 2022.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Campion, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Pearson moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, as follows:

First: By striking out Sec. 3 (submission of stormwater rule) in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. [Deleted.]

Second: In Sec. 6 (transition), in the first sentence, by striking out the following: "1264(c)(1)(A)" where it appears and inserting in lieu thereof the following: § 1264(c)(1)

Third: In Sec. 8, (effective dates), by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) This section and Secs. 1-2 (three-acre stormwater permit) and 7 (permit fees) shall take effect on passage.

Which was agreed to.

President Assumes the Chair

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.

Proposals of Amendment; Consideration Interrupted by Adjournment

H. 922.

Senator Cummings, for the Committee on Finance, to which was referred House bill entitled:

An act relating to making numerous revenue changes.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: After Sec. 2, by inserting a reader assistance heading and four new sections to be Secs. 2a, 2b, 2c, and 2d to read as follows:

* * * Assessment on Manufacturers of Prescription Opioids Dispensed in Vermont * * *

Sec. 2a. 18 V.S.A. § 4754 is added to read:

§ 4754. SUBSTANCE USE DISORDER PREVENTION, TREATMENT, AND RECOVERY FUND

(a) The Substance Use Disorder Prevention, Treatment, and Recovery Fund is established as a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5. Into the Fund shall be deposited all revenue from the ratable shares assessed to manufacturers of prescription opioids dispensed in Vermont pursuant to 32 V.S.A. chapter 221.

(b) The Fund shall be administered by the Agency of Human Services and shall be used for the following purposes:

(1) preventing opioid addiction and other substance use disorders;

(2) providing substance use disorder treatment to individuals with a dependency on or addiction to opioids, other controlled substances, prescription drugs, or a combination thereof; and

(3) providing individuals with opportunities to recover safely from substance use disorder.

(c) The Commissioner of Finance and Management may anticipate receipts to the Fund and issue warrants based thereon.

Sec. 2b. 32 V.S.A. chapter 221 is added to read:

CHAPTER 221. ASSESSMENT ON MANUFACTURERS OF OPIOIDS DISPENSED IN VERMONT

§ 9001. DEFINITIONS

As used in this chapter:

(1) "Manufacturer" means any entity that is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription opioids, or a combination thereof, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription opioids. The term does not include a wholesale distributor of prescription opioids, a retailer, or a pharmacist licensed under 26 V.S.A. chapter 36.

(2) "Morphine milligram equivalent" or "MME" means the conversion factor used to calculate the strength of an opioid using morphine dosage as the comparative unit of measure.

(3) "Opiate" means a drug derived from the dried, condensed juice of a poppy, Papaver somniferum, that has a narcotic, soporific, analgesic, or astringent effect, or a combination thereof.

(4) "Opioid" means an opiate or any synthetic or semisynthetic narcotic that has opiatelike activities but is not derived from opium and has effects similar to natural opium alkaloids, and any derivatives thereof.

(5) "Prescription opioid" means an opiate or opioid that is a controlled substance under 21 C.F.R. Part 1308.

(6) "Ratable share" means the proportional amount of the total amount to be assessed across all manufacturers of prescription opioids that shall be paid by each manufacturer whose prescription opioids were dispensed in Vermont.

(7) "Vermont Prescription Monitoring System" means the program established pursuant to 18 V.S.A. chapter 84A.

§ 9002. ASSESSMENT ON OPIOID MANUFACTURERS

(a)(1) There is hereby imposed an assessment upon manufacturers of prescription opioids dispensed in this State as set forth in this section.

(2) The annualized amount of revenue to be generated by the assessment each fiscal year shall be $3,100,000.00, provided that that amount may be modified at any time by the General Assembly based on the State's estimated funding needs for substance use disorder prevention, treatment, and recovery programs and activities.

(b)(1) The ratable share of the total assessment amount for each manufacturer of prescription opioids shall be determined by the Department of Taxes, in consultation with the Department of Health, based on the proportional share of MMEs for each manufacturer's prescription opioids dispensed in Vermont during the previous calendar quarter, using information from the Vermont Prescription Monitoring System, to the total amount of MMEs for all prescription opioids dispensed in Vermont over the same period.

(2) The Department of Taxes shall send an invoice to each manufacturer for the assessment amount due pursuant to this section quarterly. Manufacturers of prescription opioids shall pay the assessment amount within 30 days following the date of the invoice.

(3) Manufacturers of prescription opioids dispensed in this State shall not increase the wholesale or retail price of any prescription opioid to recover or offset the cost of the assessment.

(c) The following shall be exempt from the assessment imposed under this chapter:

(1) opioids used in medication-assisted treatment for substance use disorder; and

(2) any assessment that the State is prohibited from imposing by federal law, the U.S. Constitution, or the Vermont Constitution.

(d) All revenue from the assessment imposed under this chapter, including penalties and interest, shall be deposited in the Substance Use Disorder Prevention, Treatment, and Recovery Fund established by 18 V.S.A. § 4754.

§ 9003. ADMINISTRATION OF ASSESSMENT

(a) The Commissioner of Taxes shall administer and enforce this chapter and the assessment. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) Except as otherwise provided in section 9004 of this title, all of the administrative provisions of chapter 151 of this title shall apply to the assessment imposed by this chapter as if it were a tax. In addition, the provisions of chapter 103 of this title, including those relating to the imposition of interest and penalty for failure to pay the assessment, shall apply to the assessment imposed by this chapter as if it were a tax.

§ 9004. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR INTEREST

(a) Within 60 days after the mailing of a notice of deficiency, denial, or reduction of a refund claim, or assessment of penalty or interest, a manufacturer may petition the Commissioner in writing for a determination of that deficiency, refund, or assessment. The Commissioner shall thereafter grant a hearing upon the matter and notify the manufacturer in writing of his or her determination concerning the deficiency, penalty, or interest. This is the exclusive remedy of a manufacturer with respect to these matters.

(b) Any hearing granted by the Commissioner under this section shall be subject to and governed by 3 V.S.A. chapter 25.

(c) Any aggrieved manufacturer may, within 30 days after a determination by the Commissioner concerning a notice of deficiency, an assessment of penalty or interest, or a claim to refund, appeal that determination to the Washington Superior Court or to the Superior Court for any county in this State in which the manufacturer has a place of business.

§ 9005. MME DATA TO BE PROVIDED TO COMMISSIONER OF TAXES

(a) The Department of Health shall provide to the Commissioner of Taxes or designee reports of data available to the Department of Health through the Vermont Prescription Monitoring System that are necessary to determine the total amount of morphine milligram equivalents dispensed in this State during any specified time period, the amount of the dispensed morphine milligram equivalents attributable to each manufacturer of prescription opioids, and the ratable share of the total assessment amount owed by each manufacturer of prescription opioids pursuant to this chapter.

(b) The Department of Health and the Department of Taxes shall enter into a memorandum of understanding regarding the terms by which the Department of Health shall provide the information described in subsection (a) of this section, including the timing and frequency of the data sharing, the format in which the data will be provided, and the measures to be established to ensure the confidentiality of the information provided to the Department of Taxes.

Sec. 2c. 18 V.S.A. § 4284(b)(2) is amended to read:

(2) The Department shall provide reports of data available to the Department through the VPMS only to the following persons:

* * *

(H) The Commissioner of Taxes or designee, for the purpose of determining the total amount of morphine milligram equivalents dispensed in this State during any specified time period, the amount of the dispensed

morphine milligram equivalents attributable to each manufacturer of prescription opioids, and the ratable share of the total assessment amount owed by each manufacturer of prescription opioids pursuant to 32 V.S.A. chapter 221.

Sec. 2d. FISCAL YEAR 2019 APPROPRIATIONS; LEGISLATIVE INTENT FOR FUTURE FUNDING

(a) The following sums are appropriated from the Substance Use Disorder Prevention, Treatment, and Recovery Fund in fiscal year 2019:

(1) $188,000.00 to the Department for Children and Families to support and maintain mentoring and afterschool programs for children. It is the intent of the General Assembly to increase the funding for this purpose to $376,000.00 in fiscal year 2020.

(2) $215,000.00 to the Department of Health to support needle exchange programs and the distribution of naloxone. It is the intent of the General Assembly to increase the funding for this purpose to $430,000.00 in fiscal year 2020.

(3) $137,500.00 to the Agency of Human Services to fund two positions and the operating costs of the Governor's Opioid Coordination Council to support its efforts to reduce the demand for opioids, provide adequate and effective treatment and recovery opportunities, and reduce the supply of opioids through prevention of opioid abuse and diversion. In fiscal year 2019, the sum of $137,500.00 in federal matching funds is also appropriated to the Agency of Human Services, providing a total funding level of $275,000.00 for the Governor's Opioid Coordination Council.

(4) $400,000.00 to the Department of Corrections for expansion of medication-assisted treatment in correctional facilities. It is the intent of the General Assembly to increase the funding for this purpose to $800,000.00 in fiscal year 2020.

(b) In addition to the amounts identified for funding in fiscal year 2020 in subsection (a) of this section, it is also the intent of the General Assembly that, to the extent additional funds are available after fully funding the priorities specified in subdivisions (a)(1)–(4) of this section, those additional funds should be appropriated to the Agency of Human Services to increase the availability of substance use treatment services in underserved regions of the State.

(c) In order to implement any system changes needed to administer the assessment established in Sec. 2 (32 V.S.A. chapter 221), the Department of Taxes shall allocate one-time systems implementation funds as needed from the special funds appropriated in 2018 Acts and Resolves No. 87, Sec. 49 and

shall allocate any additional resources needed from the funds appropriated to the Department of Taxes in the fiscal year 2019 budget. The Department of Taxes shall identify any ongoing funding required to administer the assessment in its fiscal year 2020 budget request.

Second: In Sec. 7, after the section heading "REPORT ON NONPOSTSECONDARY USE OF HIGHER EDUCATION INVESTMENT PLAN FUNDS" by striking out the word "The" and inserting in lieu thereof the following: As far as practicable, the

Third: After Sec. 7, by inserting a reader assistance heading and two new sections to be Secs. 7a and 7b to read as follows:

* * * Federal Income Tax Link and Report on Federal Tax Reform * * *

Sec. 7a. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect ~~for taxable year 2016~~ on December 31, 2017, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 7b. FEDERAL TAX REFORM

On or before November, 15, 2018, the Office of Legislative Council, with the assistance of the Joint Fiscal Office and the Department of Taxes, shall report to the Joint Fiscal Committee, the Senate Committee on Finance, and the House Committee on Ways and Means on the federal and State implementation of changes necessitated by the Tax Cut and Jobs Act and shall identify potential areas for legislative or administrative reactions.

Fourth: In Sec. 11, amending 32 V.S.A. § 9202(10)(D), after ""Taxable meal" shall not include:", by striking out the following:

"* * *

(ii) Food or beverage, including that described in subdivision (10)(C) of this section:

(I) served or furnished on the premises of a nonprofit corporation or association organized and operated exclusively for religious or charitable purposes, in furtherance of any of the purposes for which it was organized; with the net proceeds of the food or beverage to be used exclusively for the purposes of the corporation or association; provided, however, if the organization or association is a fire department, as defined in 24 V.S.A. § 1951, or provides emergency medical services or first responder services, as defined under 24 V.S.A. § 2651, it is not necessary that the meal be served on

the premises of the organization to qualify as an exclusion from "taxable meal" under this subdivision;"

Fifth: After Sec. 13, by inserting a reader assistance heading and two new sections to be Secs. 13a and 13b to read as follows:

* * * Publicly Traded Partnerships Income Tax Withholding Exemption * * *

Sec. 13a. 32 V.S.A. § 5920(h) is amended to read:

(h)(1) Notwithstanding any provisions in this section, a publicly traded partnership as defined in 26 U.S.C. § 7704(b), that is treated as a partnership for the purposes of the Internal Revenue Code, is exempt from any income tax liability and any compliance and payment obligations under ~~subsection~~ subsections (b) and (c) of this section, if information required by the Commissioner under subdivision (2) of this subsection is provided by the due date of the partnership's return. ~~This information includes the name, address, taxpayer identification number, and annual Vermont source of income greater than $500.00 for each partner who had an interest in the partnership during the tax year. This information shall be provided to the Commissioner in an electronic format, according to rules or procedures adopted by the Commissioner.~~

(2) Publicly traded partnerships shall provide to the Commissioner in an electronic format, according to rules or procedures adopted by the Commissioner, an annual return that includes the name, address, taxpayer identification number, and other information requested by the Commissioner for each partner with Vermont source income in excess of $500.00.

(3) A lower-tier pass-through entity of a publicly traded partnership may request from the Commissioner an exemption from the compliance and payment obligations specified in subsections (b) and (c) of this section. The request for the exemption must be in writing and contain:

(A) the name, the address, and the account number or federal identification number of each of the lower-tier pass-through entity's partners, shareholders, members, or other owners; and

(B) information that establishes the ownership structure of the lower-tier pass-through entity and the amount of Vermont source income.

(4) The Commissioner may request additional documentation before granting an exemption to a lower-tier pass-through entity. As used in this subsection, a "lower-tier pass-through entity" means a pass-through entity for purposes of the Internal Revenue Code, which can include a partnership, S-Corp, disregarded entity, or limited liability company and which allocates income, directly or indirectly, to a publicly traded partnership. The exemption

under subdivision (3) of this subsection shall only apply to income allocated, directly or indirectly, to a publicly traded partnership.

(5) If granted, the exemption for the lower-tier pass-through entity shall be effective for three years following the date the exemption is granted. At the end of the three-year period, the lower-tier pass-through entity of a publicly traded partnership shall submit a new exemption request to continue the exemption. The Commissioner may revoke the exemption for the lower-tier pass-through entity if the Commissioner determines that the lower-tier pass-through entity is not satisfying its tax payment and reporting obligations to the State with respect to income allocated, directly or indirectly, to nonresident partners or members that are not publicly traded partnerships.

Sec. 13b. 32 V.S.A. § 3102(e)(20) is added to read:

(20) To a publicly traded partnership as defined in subdivision 5920(h)(1) of this title and to lower-tier pass-through entities of a publicly traded partnership as defined in subdivision 5920(h)(4) of this title for the purpose of reviewing, granting, or denying exemption requests from the requirements of section 5920 of this title.

Sixth: By striking out Sec. 19, 32 V.S.A. § 5402, in its entirety and inserting in lieu thereof the following:

[Deleted.]

Seventh: By striking out Sec. 21, 32 V.S.A. § 5405, in its entirety and inserting in lieu thereof the following:

[Deleted.]

Eighth: By striking out Sec. 31, Effective Dates, in its entirety and inserting in lieu thereof a new Sec. 31 to read as follows:

Sec. 31. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 27 (short-term rental platform reporting) shall take effect retroactively on July 1, 2017.

(2) Notwithstanding 1 V.S.A. § 214, Sec. 7a (income tax link to the federal tax statutes) shall take effect retroactively on January 1, 2018 and apply to taxable years beginning on January 1, 2017 and after.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 3–6 (Vermont higher education investment plan credit), 12 (solar energy investment tax credit), 13 (minimum corporate income tax), and 30(2) (repeal of business solar energy tax credit) shall take effect retroactively on January 1, 2018 and apply to taxable years beginning on January 1, 2018 and thereafter.

(4) Secs. 1 (municipal stormwater fees), 2 (Green Mountain Care Board billback formula), 2a (18 V.S.A. § 4754), 2c (18 V.S.A. § 4284), 2d (Substance Use Disorder Prevention, Treatment, and Recovery Fund appropriations), 7b (tax reform report), 8 (first time homebuyer program), 9 (downtown and village center tax credit), 10–10a (tax on e-cigarettes), and 11 (taxable meal exclusion) shall take effect on July 1, 2018.

(5) Secs. 14–21 (property tax sections) shall take effect on July 1, 2018 and apply to grand lists lodged after that date.

(6) Sec. 30(1) (repeal of land use change tax lien subordination) shall take effect on July 1, 2019.

(7) Sec. 2b (32 V.S.A. chapter 221) shall take effect on January 1, 2019, provided that the Department of Taxes may begin the rulemaking process prior to that date to ensure that on January 1, 2019 it is prepared to administer the assessment established in Sec. 2b.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Finance with the following amendments thereto:

First: In Sec. 2b, in 32 V.S.A. § 9002(b)(1), following the words "dispensed in Vermont during the", by striking out the words "previous calendar quarter" and inserting in lieu thereof the words same calendar quarter of the previous year

Second: In Sec. 2b, in 32 V.S.A. § 9003(a), by striking out the second sentence in its entirety.

Third: In Sec. 2d, fiscal year 2019 appropriations; legislative intent for future funding, in subsection (a), by adding a subdivision (5) to read as follows:

(5) $75,000.00 to the Criminal Justice Training Council to provide law enforcement officers with specialized training related to opioid investigation and enforcement. It is the intent of the General Assembly to increase the funding for this purpose to $100,000.00 in fiscal year 2020.

Fourth: In Sec. 31, effective dates, by striking out subdivision (7) in its entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) Sec. 2b (32 V.S.A. chapter 221) shall take effect on October 1, 2018, with the Department of Taxes sending its first quarterly ratable share invoice

to manufacturers on or before January 15, 2019 based on each manufacturer's prescription opioids dispensed in Vermont during the period from October 1, 2017 through December 31, 2017.

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.

Thereupon, pending the question, Shall the proposals of amendment of the Committee on Finance be amended as recommended by the Committee on Appropriations?, Senator Ashe moved that the Senate adjourn until one o'clock and thirty minutes.

Which was agreed to.

Called to Order

The Senate was called to order by the President.

Bill Referred

Pursuant to Temporary Rule 44A the following bill having failed to meet cross-over and being referred to the Committee on Rules was referred to its respective committee of jurisdiction:

H. 716.

An act relating to approval of the adoption of the charter of the Edward Farrar Utility District and the merger of the Village of Waterbury into the District.

To the Committee on Government Operations.

Consideration Resumed; Bill Amended; Third Reading Ordered

H. 922.

Consideration was resumed on House bill entitled:

An act relating to making numerous revenue changes.

Thereupon, the recommendation of proposal of amendment of the Committee on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Finance, as amended?, Senator Brock moved to amend the proposal of amendment of the Committee on Finance, as amended, as follows:

First: By striking out Secs. 2a through 2d (assessment on manufacturers of opioids dispensed in Vermont) in their entirety.

Second: In Sec. 31, effective dates, by striking out subdivision (7) in its entirety.

Which was disagreed to, on a roll call, Yeas 6, Nays 24.

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Branagan, Brock, Collamore, Flory, Soucy.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Finance?,as amended, Senator Brock moved to amend the proposal of amendment of the Committee on Finance, as amended, in Sec. 2b, 32 V.S.A. chapter 221, in § 9002, by striking out subdivision (b)(3) in its entirety.

Which was disagreed to.

Thereupon, the proposals of amendment recommended by the Committee on Finance, as amended, were severally agreed to, on a roll call, Yeas 25, Nays 5.

Senator Brock 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, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, Westman, White.

Those Senators who voted in the negative were: Benning, Branagan, Brock, Collamore, Flory.

Thereupon, third reading of the bill was ordered.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 94.

House proposal of amendment to Senate bill entitled:

An act relating to promoting remote work.

Was taken up.

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

* * * ThinkVermont Innovation Initiative * * *

Sec. 1. THINKVERMONT INNOVATION INITIATIVE

(a) Purpose.

(1) The ThinkVermont Innovation Initiative is created to respond to the growth needs of Vermont small businesses with 20 or fewer employees by funding innovative strategies that accelerate small business growth and meet the project criteria specified in this section.

(2) The Initiative shall enable the State to invest in projects with grants that can be accessed more quickly and with fewer restrictions than traditional federal initiatives.

(b) Process; grant distribution.

(1) The Secretary of Commerce and Community Development, in consultation with the Vermont Economic Progress Council shall:

(A) adopt a schedule and process for accepting, reviewing, and approving grant proposals on a competitive basis;

(B) distribute grants across geographic areas of the State; and

(C) distribute grants across diverse industries, sectors, and business types, including for-profit and nonprofit organizations.

(2)(A) A grant shall provide funding in only one fiscal year.

(B) A recipient shall be eligible for a grant through the Initiative in not more than two fiscal years.

(c) Funding; matching requirements.

(1) The Secretary shall reserve not less than 10 percent of the funding through the Initiative for microgrants of not more than $10,000.00.

(2) The Secretary shall require a grant recipient to provide matching funds for a grant as follows:

(A) for a microgrant reserved under subdivision (3) of this subsection, a funding match of 25 percent of the value of the grant; and

(B) for all other grants, a funding match of 100 percent of the value of the grant.

(d) Eligibility criteria. To be eligible for a grant, a project shall:

(1) provide workforce training that is not eligible for funding through another State or federal program and that serves an immediate employer need to fill one or more job vacancies;

(2) enable a business to attract, retain, or support remote workers in Vermont;

(3) establish or enhance a facility that attracts small companies or remote workers, or both, including generator and maker spaces, co-working spaces, remote work hubs, and innovation spaces, with special emphasis on facilities that promote colocation of nonprofit, for-profit, and government entities;

(4) enable or support deployment of broadband telecommunications connectivity;

(5) leverage economic development funding outside State government, including the federal New Market Tax Credit program and Small Business Innovation Research grants;

(6) support growth in Vermont's aerospace, aviation, or aviation technology sectors; or

(7) provide technical assistance to support small business growth.

(e) Outcomes; measures. The Secretary shall adopt measures to evaluate a grant to determine its impact, including job growth measured at one-, three-, and five-year intervals.

(f) Appropriation. In fiscal year 2019, the amount of $400,000.00 is appropriated from the General Fund to the Agency of Commerce and Community Development to implement the ThinkVermont Innovation Initiative pursuant to this section.

* * * Promoting Remote Work, Maker, and Innovation Spaces * * *

Sec. 2. IMPROVING INFRASTRUCTURE AND SUPPORT FOR REMOTE WORK IN VERMONT; STUDY; REPORT

(a) The Secretary of Commerce and Community Development, in consultation with the Commissioners of Labor, of Public Service, and of

Buildings and General Services and other interested stakeholders, shall identify and examine the infrastructure improvements and other support needed to:

(1) enable workers and businesses to establish or enhance a remote presence in Vermont;

(2) build capacity throughout the State to increase access to maker spaces, co-working spaces, remote work hubs, and innovation spaces; and

(3) support the interconnection of current and future maker spaces, co-working spaces, remote work hubs, innovation spaces, and regional technical centers.

(b) On or before January 15, 2019, the Secretary shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a written report detailing his or her findings and recommendations.

Sec. 3. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

(a) The Secretary of Administration, in consultation with the Secretary of Commerce and Community Development and the Commissioner of Buildings and General Services, shall examine the potential for the State to establish remote worksites that are available for use by both State employees and remote workers in the private sector.

(b) The Secretary shall examine the feasibility of and potential funding models for the worksites, including the opportunity to provide at low- or no-cost co-working space within State buildings that is currently vacant or underutilized.

(c) On or before January 15, 2019, the Secretary shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs detailing his or her findings and any recommendations for legislative action.

Sec. 4. BROADBAND AVAILABILITY FOR REMOTE WORKERS

On or before January 15, 2019, the Director of Telecommunications and Connectivity, in consultation with the Agency of Commerce and Community Development, shall submit with the annual report required by 30 V.S.A. § 202e findings and recommendations concerning:

(1) the current availability of broadband service in municipal downtown centers that do, or could at reasonable cost, support one or more co-working spaces or similar venues for remote workers and small businesses; and

(2) strategies for expanding and enhancing broadband availability for such spaces.

* * * Municipalities; Village Center Designation; Electronic Filings * * *

Sec. 5. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation ~~every five~~ four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

* * *

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

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(d) The State Board shall review a village center designation every ~~five~~ eight years and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the village center no longer meets the standards for designation established in subsection (a) of this section, it may take any of the following actions:

* * *

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

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

* * *

(d) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a new town center designation ~~every five~~ four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. The State Board may adjust the schedule of review under this subsection to coincide with the review of a related growth center. If at any time the State Board determines the new town center no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

* * *

Sec. 8. 24 V.S.A. § 4345b is amended to read:

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

(a)(1) Prior to exercising the authority granted under this section, a regional planning commission shall:

(A) draft bylaws specifying the process for entering into, method of withdrawal from, and method of terminating service agreements with municipalities; and

(B) hold one or more public hearings within the region to hear from interested parties and citizens regarding the draft bylaws.

(2) At least 30 days prior to any hearing required under this subsection, notice of the time and place and a copy of the draft bylaws, with a request for comments, shall be delivered to the chair of the legislative body of each municipality within the region, which may be done electronically, provided the sender has proof of receipt. The regional planning commission shall make copies available to any individual or organization requesting a copy.

* * *

Sec. 9. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered physically or electronically with proof of receipt~~,~~ or sent by certified mail, return receipt requested, to each of the following:

(1) the chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the Department of Housing and Community Development within the Agency of Commerce and Community Development;

(4) business, conservation, low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned; and

(5) the Agency of Natural Resources and the Agency of Agriculture, Food and Markets.

* * *

(e) The regional planning commission may make revisions to the proposed plan or amendment at any time not less than 30 days prior to the final public hearing held under this section. If the proposal is changed, a copy of the proposed change shall be delivered~~,~~ physically or electronically with proof of receipt or by certified mail, return receipt requested, to the ~~chairperson~~ chair of the legislative body of each municipality within the region, and to any individual or organization requesting a copy, at least 30 days prior to the final hearing.

* * *

Sec. 10. 24 V.S.A. § 4352 is amended to read:

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE; ENHANCED ENERGY PLANNING

* * *

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail or electronically with proof of receipt to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination in writing within two months ~~of~~ after the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

* * *

Sec. 11. 24 V.S.A. § 4384 is amended to read:

§ 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING COMMISSION

* * *

(e) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered physically or electronically with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following:

(1) the ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that municipality;

(2) the executive director of the regional planning commission of the area in which the municipality is located;

(3) the ~~department of housing and community affairs~~ Department of Housing and Community Development within the ~~agency of commerce and community development~~ Agency of Commerce and Community Development; and

(4) business, conservation, ~~low income~~ low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.

* * *

Sec. 12. 24 V.S.A. § 4385 is amended to read:

§ 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY LEGISLATIVE BODY

* * *

(c) A plan of a municipality or an amendment thereof shall be adopted by a majority of the members of its legislative body at a meeting which is held after the final public hearing. If, however, at a regular or special meeting of the voters duly warned and held as provided in 17 V.S.A. chapter 55, a municipality elects to adopt or amend municipal plans by Australian ballot, that procedure shall then apply unless rescinded by the voters at a regular or special meeting similarly warned and held. If the proposed plan or amendment is not adopted so as to take effect within one year ~~of~~ after the date of the final hearing of the planning commission, it shall be considered rejected by the municipality. Plans and amendments shall be effective upon adoption~~, and~~.

Copies of newly adopted plans and amendments shall be provided to the regional planning commission and to the ~~commissioner of housing and community affairs~~ Commissioner of Housing and Community Development within 30 days ~~of~~ after adoption, which may be done electronically, provided the sender has proof of receipt. If a municipality wishes its plan or plan amendment to be eligible for approval under the provisions of section 4350 of this title, it shall request approval. The request for approval may be before or after adoption of the plan by the municipality, at the option of the municipality.

* * *

Sec. 13. 24 V.S.A. § 4424 is amended to read:

§ 4424. SHORELANDS; RIVER CORRIDOR PROTECTION AREAS; FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING BYLAWS

(a) Bylaws; flood and other hazard areas; river corridor protection. Any municipality may adopt freestanding bylaws under this chapter to address particular hazard areas in conformance with the municipal plan or, for the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6. Such freestanding bylaws may include the following, which may also be part of zoning or unified development bylaws:

(1) Bylaws to regulate development and use along shorelands.

(2) Bylaws to regulate development and use in flood areas, river corridor protection areas, or other hazard areas. The following shall apply if flood or other hazard area bylaws are enacted:

* * *

(D)(i) Mandatory provisions. Except as provided in subsection (c) of this section, all flood and other hazard area bylaws shall provide that no permit for new construction or substantial improvement shall be granted for a flood or other hazard area until after both the following:

(I) A copy of the application is mailed or delivered by the administrative officer or by the appropriate municipal panel to the Agency of Natural Resources or its designee, which may be done electronically, provided the sender has proof of receipt.

(II) Either 30 days have elapsed following the mailing or the Agency or its designee delivers comments on the application.

(ii) The Agency of Natural Resources may delegate to a qualified representative of a municipality with a flood hazard area bylaw or ordinance or

to a qualified representative for a regional planning commission the Agency's authority under this subdivision (a)(2)(D) to review and provide technical comments on a proposed permit for new construction or substantial improvement in a flood hazard area. Comments provided by a representative delegated under this subdivision (a)(2)(D) shall not be binding on a municipality.

* * *

Sec. 14. 24 V.S.A. § 4441 is amended to read:

§ 4441. PREPARATION OF BYLAWS AND REGULATORY TOOLS; AMENDMENT OR REPEAL

* * *

(e) At least 15 days prior to the first hearing, a copy of the proposed bylaw, amendment, or repeal and the written report shall be delivered physically or electronically with proof of receipt~~,~~ or mailed by certified mail, return receipt requested, to each of the following:

(1) The ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in a municipality, the clerk of that abutting municipality.

(2) The executive director of the regional planning commission of the area in which the municipality is located.

(3) The ~~department of housing and community affairs~~ Department of Housing and Community Development within the ~~agency of commerce and community development~~ Agency of Commerce and Community Development.

* * *

Sec. 15. 24 V.S.A. § 4445 is amended to read:

§ 4445. AVAILABILITY AND DISTRIBUTION OF DOCUMENTS

Current copies of plans, bylaws, and capital budgets and programs shall be available to the public during normal business hours in the office of the clerk of any municipality in which those plans, bylaws, or capital budgets or programs have been adopted. The municipality shall provide all final adopted bylaws, amendments, or repeals to the regional planning commission of the area in which the municipality is located and to the ~~department of housing and community affairs~~ Department of Commerce and Community Development, which may be done electronically, provided the sender has proof of receipt.

* * *

* * * Wastewater and Potable Water Lending * * *

Sec. 16. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(13) "Potable water supply ~~facilities~~" ~~means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps, and attendant facilities necessary to develop a source of water and to treat and convey it in proper quantity and quality for public use within a municipality~~ has the same meaning as in 10 V.S.A. § 1972.

* * *

(17) "Designer" means a person authorized to design wastewater systems and potable water supplies as identified in 10 V.S.A. § 1975.

Sec. 17. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to $275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited ~~on an annual basis~~ into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of $275,000.00 exists for each fiscal year.

* * *

Sec. 18. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only ~~one single-family residence on its own lot~~ single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer

to have a high probability of failing, the Secretary of Natural Resources may lend monies to ~~the owner of the residence~~ an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) ~~loans~~ a loan may only be made to ~~households with~~ an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) ~~loans~~ a loan may only be made to ~~households where the recipient of the loan resides in the residence~~ an owner who resides in one of the residences served by the failed supply or system on a year-round basis;

(3) ~~loans~~ a loan may only be made ~~if the owner of the residence~~ to an owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;

(4) when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

(5) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

~~(5)~~(6) all funds from the repayment of loans made under this section shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

* * * Rural Economic Development Districts * * *

Sec. 19. 24 V.S.A. § 5704 is amended to read:

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

(a) Governing board. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of a district shall be vested in a governing board, except as otherwise specifically provided in this chapter.

(b) Composition. The ~~first~~ governing board of the district shall consist of ~~four to eight~~ members appointed in equal numbers by the legislative bodies of the underlying municipalities. ~~It~~ The board shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing and removing members to the ~~permanent governing~~ board, including nonvoting, at-large board members. The bylaws shall require that ~~a majority of the board shall be appointed annually by~~ the legislative bodies of the underlying municipalities appoint board members and fill board member vacancies. Board members appointed by the underlying municipalities may appoint additional, nonvoting, at-large board members and fill at-large board member vacancies. Board members, including at-large members, are not required to be residents of an underlying municipality. However, a majority of the board shall be residents of an underlying municipality. Board members shall serve staggered, three-year terms~~,~~ and shall be eligible to serve successive terms. ~~The legislative bodies of the municipalities in which the district is located shall fill board vacancies, and may remove board members at will.~~ At-large board members shall serve one-year terms, and shall be eligible to serve successive terms. Any bylaws developed by the governing board under this subsection shall be submitted for approval to the legislative bodies of the municipalities within the district and shall be considered duly adopted 45 days ~~from~~ after the date of submission, provided none of the legislative bodies disapprove ~~of~~ the bylaws.

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. ~~Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted.~~ The board shall elect from among its members a chair, vice chair, clerk, and treasurer. The board shall establish the fiscal year of the district and shall adopt rules of parliamentary procedure.

Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

(d) Annual and special meetings. Unless otherwise established by the voters, the annual district meeting shall be held on the second Monday in January and shall be warned by the clerk or, in the clerk's absence or neglect, by a member of the board. Special meetings shall be warned in the same manner on application in writing by five percent of the voters of the district. A warning for a district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted.

(e) Annual report. The district shall report annually to the legislative bodies and the citizens of the municipalities in which the district is located on the results of its activities in support of economic growth, job creation, improved community efficiency, and any other benefits incident to its activities.

(f) Definition. For purposes of this section and section 5709 of this chapter, after a district has been established pursuant to section 5702 of this chapter, "voter" means a board member or subscriber or customer of a service provided by the district. "Voter" does not mean an at-large board member unless the vote is taken at an annual or special meeting and the at-large board member is a subscriber or customer of a service provided by the district.

Sec. 20. 24 V.S.A. § 5705 is amended to read:

§ 5705. OFFICERS

(a) Generally. The ~~district~~ board shall elect at its first meeting and at each annual meeting thereafter a chair, vice chair, clerk, and treasurer, who shall hold office until the next annual meeting and until others are elected. The board may fill a vacancy in any office.

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) Vice chair. During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair, and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities given to or imposed upon the chair. During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board

shall elect from among its members an acting vice chair who shall have the powers and be subject to all the responsibilities given to or imposed upon the vice chair.

(d) Clerk. The clerk shall keep a record of the meetings, votes, and proceedings of the district for the inspection of its inhabitants.

(e) Treasurer. The treasurer of the district shall be ~~appointed~~ elected by the board~~,~~ and shall serve at its pleasure. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When warrants are authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment made. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. Upon the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to his or her successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sirotkin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment Concurred In

S. 234.

House proposal of amendment to Senate bill entitled:

An act relating to adjudicating all teenagers in the Family Division, except those charged with a serious violent felony.

Was taken up.

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

* * * Findings * * *

Sec. 1. 33 V.S.A. § 5101a is added to read:

§ 5101a. JUVENILE JUSTICE LEGISLATIVE FINDINGS

(a) The General Assembly finds and declares as public policy that an effective juvenile justice system: protects public safety; connects youths and young adults to age-appropriate services that reduce the risk of reoffense; and, when appropriate, shields youths from the adverse impact of a criminal record.

(b) In order to accomplish these goals, the system should be based on the implementation of data-driven evidence-based practices that offer a broad range of alternatives, such that the degree of intervention is commensurate with the risk of reoffense.

(c) High-intensity interventions with low-risk offenders not only decrease program effectiveness, but are contrary to the goal of public safety in that they increase the risk of recidivism. An effective youth justice system includes pre-charge options that keep low-risk offenders out of the criminal justice system altogether.

* * * Expungement * * *

Sec. 2. 13 V.S.A. § 7609 is added to read:

§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN INDIVIDUAL 18-21 YEARS OF AGE

(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18-21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution has been paid in full.

(b) Exceptions.

(1) A criminal record that includes both qualifying and nonqualifying offenses shall not be eligible for expungement pursuant to this section.

(2) The Vermont Crime Information Center shall retain a special index of sentences for sex offenses that require registration pursuant to chapter 167, subchapter 3 of this title. This index shall only list the name and date of birth of the subject of the expunged files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the expungement. The special index shall be confidential and shall be accessed only by the Director of the Vermont Crime Information Center and an individual designated for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a.

(c) Petitions. An individual who was 18-21 years of age at the time the individual committed a qualifying crime may file a petition with the court requesting expungement of the criminal history record related to the qualifying crime after 30 days have elapsed since the individual completed the terms and conditions for the sentence for the qualifying crime. The court shall grant the petition and issue an order sealing or expunging the record if it finds that sealing or expunging the record serves the interest of justice.

Sec. 3. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

* * *

(d)(1) The court ~~may~~ shall keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to ~~section 7602 or 7603 of this title~~ this chapter. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case ~~or by the court if the court finds that inspection of the documents is necessary to serve the interest of justice~~. The Administrative Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) All other court documents in a case that are subject to an expungement order shall be destroyed.

(5) The Court Administrator shall establish policies for implementing this subsection.

(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that "NO RECORD EXISTS."

Sec. 4. 33 V.S.A. § 3309 is added to read:

§ 3309. COMPLIANCE WITH THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

The Department for Children and Families, within the Agency of Human Services, is the State agency designated for supervising the preparation and administration of the Juvenile Justice and Delinquency Prevention Act State Plan and is also designated as the State agency responsible for monitoring and data collection for purposes of compliance with the Juvenile Justice and Delinquency Prevention Act.

Sec. 5. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The Family Division of the Superior Court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

* * *

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child ~~who has been adjudicated delinquent~~ with a pending delinquency may be extended until six months beyond the child's 19th birthday if the child was 16 or 17 years of age when he or she committed the offense.

(B) In no case shall custody of a child 18 years of age or older be retained by or transferred to the Commissioner for Children and Families.

(C) Jurisdiction over a child in need of care or supervision shall not be extended beyond the child's 18th birthday.

(D) [Repealed.]

* * *

* * * Juvenile Delinquency Proceedings * * *

Sec. 6. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

(a) Preliminary hearing. A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing. Counsel for the child shall be assigned prior to the preliminary hearing.

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(3) If a charge is brought in the Family Division, the risk level result shall be provided to the child's attorney. ~~Except on agreement of the parties, the results shall not be provided to the court until after a merits finding has been made.~~

(c) ~~Counsel for the child shall be assigned prior to the preliminary hearing.~~ Referral to diversion. Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice. If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the

provider, the child's case shall return to the State's Attorney for charging consideration.

(d) Guardian ad litem. At the preliminary hearing, the court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's parent, guardian, or custodian. On its own motion or motion by the child's attorney, the court may appoint a guardian ad litem other than a parent, guardian, or custodian.

(e) Admission; denial. At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the court may proceed directly to disposition, provided that the juvenile, the custodial parent, the State's Attorney, the guardian ad litem, and the Department agree.

(f) Conditions. The court may order the child to abide by conditions of release pending a merits or disposition hearing.

Sec. 7. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under 18 years of age at the time the offense charged was alleged to have been committed and the offense charged is ~~a misdemeanor, that court shall forthwith transfer the case to the Family Division of the Superior Court under the authority of this chapter~~ an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant ~~was under 18 years of age at the time a felony offense not specified in subsection 5204(a) of this title was alleged to have been committed, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act~~ had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

* * *

* * * Youthful Offender Proceedings * * *

Sec. 8. 33 V.S.A. § 5280 is amended to read:

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

(d) Within 15 days after the commencement of a youthful offender proceeding pursuant to subsection (a) of this section, the youth shall be offered a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and needs screenings. The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the Family Division shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days.

(1) The Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney.

(2) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk and needs screening may be used in subsequent proceedings.

(e) If a youth presents a low to moderate risk to reoffend based on the results of the risk and needs screening, the State's Attorney shall refer a youth directly to court diversion unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice. If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.

Sec. 9. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the ~~case is transferred to the Family Division or a youthful offender petition is filed in the Family Division,~~ youth has completed the risk and needs screening pursuant to section 5280 of this title, unless the court extends the period for good cause shown, the Department for Children and Families shall file a report with the Family Division of the Superior Court.

* * *

Sec. 10. 33 V.S.A. § 5285(d) is amended to read:

(d) If a youth's status as a youthful offender is revoked and the case is transferred to the Criminal Division pursuant to subdivision (c)(2) of this section, the court shall hold a sentencing hearing and impose sentence. Unless it serves the interest of justice, the case shall not be transferred back to the Family Division pursuant to section 5203 of this title. When determining an appropriate sentence, the court may take into consideration the youth's degree of progress toward or regression from rehabilitation while on youthful offender status. The Criminal Division shall have access to all Family Division records of the proceeding.

Sec. 11. 33 V.S.A. § 5801 is amended to read:

§ 5801. WOODSIDE JUVENILE REHABILITATION CENTER

(a) The Woodside Juvenile Rehabilitation Center in the town of Essex shall be operated by the Department for Children and Families as a residential treatment facility that provides in-patient psychiatric, mental health, and substance abuse services in a secure setting for adolescents who have been adjudicated or charged with a delinquency or criminal act.

(b) The total capacity of the facility shall not exceed 30 beds.

(c) The purpose or capacity of the Woodside Juvenile Rehabilitation Center shall not be altered except by act of the General Assembly following a study recommending any change of use by the Agency of Human Services.

(d) No person who has reached his or her 18th birthday may be placed at Woodside. Notwithstanding any other provision of law, a person under ~~the age of~~ 18 years of age may be placed at Woodside, provided that he or she meets the admissions criteria for treatment as established by the Department for Children and Families. Any person already placed at Woodside may voluntarily continue receiving treatment at Woodside beyond his or her 18th birthday, provided that he or she continues to meet the criteria established by the Department for continued treatment. The Commissioner shall ensure that a child placed at Woodside has the same or equivalent due process rights as a child placed at Woodside in its previous role as a detention facility ~~prior to the enactment of this act~~.

Sec. 12. DEPARTMENT FOR CHILDREN AND FAMILIES; EXPANDING JUVENILE JURISDICTION; REPORT

(a) The Department for Children and Families, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Court Administrator, and the Commissioner of Corrections, shall:

(1) consider the implications, including necessary funding, of expanding juvenile jurisdiction under 33 V.S.A. chapter 52 to encompass persons 18 and 19 years of age beginning in fiscal year 2021;

(2) on or before November 1, 2018, report to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Oversight Committee on the status and plan for the expansion, including necessary funding, measures necessary to avoid a negative impact on the State's child protection response, and specific milestones related to operations and policy, including:

(A) identification of and a timeline for structural and systemic changes within the juvenile justice system for the Family Division, the Department for Children and Families, the Department of Corrections, the Department of State's Attorneys and Sheriffs, and the Office of the Defender General;

(B) an operations and business plan that defines benchmarks, including possible changes to resource allocations; and

(C) a clearly defined path for geographic consistency and court alternatives and training needs; and

(3) provide status update reports to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Oversight Committee on or before November 1, 2019, November 1, 2020, and November 1, 2021.

(b) The Joint Legislative Justice Oversight Committee and Joint Legislative Child Protection Oversight Committee shall review the November 1, 2018 report, the plan for expansion, the necessary funding, and the subsequent status reports as required by subsection (a) of this section to determine whether adequate funding and supports are in place to implement the expansion of juvenile jurisdiction to encompass persons 18 and 19 years of age in accordance with the effective dates of this act, and shall:

(1) on or before December 1, 2019, December 1, 2020, and December 1, 2021, issue findings as to whether the milestones identified in subdivision (a)(2) of this section related to operations and policy have been met and whether an appropriate funding plan has been developed; and

(2) on or before December 1, 2018, December 1, 2019, December 1, 2020, and December 1, 2021, recommend legislation to amend the timeline for the rollout of the expansion unless adequate funding and supports for the expansion are available and milestones related to policy and operations have been met.

* * * Effective July 1, 2020 * * *

Sec. 13. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in section 5203 of this title; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed ~~a misdemeanor~~ any offense other than those specified in subsection 5204(a) of this title before attaining ~~18~~ 19 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(e) ~~Any proceeding concerning a child who is alleged to have committed a felony offense other than those specified in subsection 5204(a) of this title before attaining 18 years of age shall originate in the Family Division of the Superior Court provided that jurisdiction may be transferred in accordance with this chapter.~~ [Repealed.]

(f) If the State requests that custody of the child be transferred to the Department, a temporary care hearing shall be held as provided in subchapter 3 of this chapter.

(g) A petition may be withdrawn by the State's Attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.

Sec. 14. 33 V.S.A. § 5202 is amended as follows:

§ 5202. ORDER OF ADJUDICATION; NONCRIMINAL

(a)(1) An order of the Family Division of the Superior Court in proceedings under this chapter shall not:

(A) be deemed a conviction of crime;

(B) impose any civil disabilities sanctions ordinarily resulting from a conviction; or

(C) operate to disqualify the child in any civil service application or appointment.

(2) Notwithstanding subdivision (1) of this subsection, an order of delinquency in proceedings ~~transferred under subsection 5203(b) of this title, where the offense charged in the initial criminal proceedings was~~ concerning a child who is alleged to have committed a violation of those sections ~~of Title 23~~ specified in ~~subdivision~~ 23 V.S.A. § 801(a)(1)~~,~~ shall be an event in addition to those specified therein, enabling the Commissioner of Motor Vehicles to require proof of financial responsibility under 23 V.S.A. chapter 11.

(b) The disposition of a child and evidence given in a hearing in a juvenile proceeding shall not be admissible as evidence against the child in any case or proceeding in any other court except after a subsequent conviction of a felony in proceedings to determine the sentence.

Sec. 15. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~18~~ 19 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not

specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~18~~ 19 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 16. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~18~~ 19 years of age at the time the act was alleged to have occurred and the delinquent act set

forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

(1) arson causing death as defined in 13 V.S.A. § 501;

(2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

(3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);

(4) aggravated assault as defined in 13 V.S.A. § 1024;

(5) murder as defined in 13 V.S.A. § 2301;

(6) manslaughter as defined in 13 V.S.A. § 2304;

(7) kidnapping as defined in 13 V.S.A. § 2405;

(8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

(9) maiming as defined in 13 V.S.A. § 2701;

(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

(11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or

(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

* * *

* * * Effective July 1, 2022 * * *

Sec. 17. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in subsection (c) of this section; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

* * *

Sec. 18. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~19~~ 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 19. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~19~~ 20 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

(1) arson causing death as defined in 13 V.S.A. § 501;

(2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

(3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);

(4) aggravated assault as defined in 13 V.S.A. § 1024;

(5) murder as defined in 13 V.S.A. § 2301;

(6) manslaughter as defined in 13 V.S.A. § 2304;

(7) kidnapping as defined in 13 V.S.A. § 2405;

(8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;

(9) maiming as defined in 13 V.S.A. § 2701;

(10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);

(11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or

(12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

* * *

* * * Appropriation * * *

Sec. 20. FUNDING

To the extent the sum of $200,000.00 is appropriated in fiscal year 2019 from the General Fund to the Department for Children and Families, the Department shall prepare for the expansion of services to juvenile offenders 18 and 19 years of age pursuant to 33 V.S.A. chapters 52 and 52A beginning in fiscal year 2021, and shall carry forward any unexpended funds.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 4 (compliance with the juvenile justice and delinquency prevention act), 5 (jurisdiction), 7 (transfer from other courts), and 20 (funding) shall take effect on passage.

(b) Secs. 1–3, 6, and 8–12 shall take effect on July 1, 2018.

(c) Secs. 13–16 shall take effect on July 1, 2020.

(d) Secs. 17–19 shall take effect on July 1, 2022.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative on a roll call, Yeas 29, Nays 0.

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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Westman.

House Proposal of Amendment Concurred In with Amendment

S. 285.

House proposal of amendment to Senate bill entitled:

An act relating to universal recycling requirements.

Was taken up.

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

* * * Solid Waste Management Facility Requirements * * *

Sec. 1. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

(A) the treatment facility does not ~~utilize~~ use a process to ~~further~~ reduce pathogens further in order to qualify for marketing and distribution; and

(B) the facility is not a drying bed, lagoon, or nonconcrete bunker; and

(C) the owner of the facility has submitted a sludge and septage management plan to the Secretary and the Secretary has approved the plan. Noncompliance with an approved sludge and septage management plan shall constitute a violation of the terms of this chapter, as well as a violation under chapters 201 and 211 of this title.

(2) Certification shall be valid for a period not to exceed 10 years.

(b) Certification for a solid waste management facility, where appropriate, shall:

* * *

(3)(A) Specify the projected amount and types of waste material to be

disposed of at the facility, which, in case of landfills and incinerators, shall include the following:

~~(A)~~(i) if the waste is being delivered from a municipality that has an approved implementation plan, hazardous materials and recyclables shall be removed from the waste according to the terms of that implementation plan;

~~(B)~~(ii) except as provided in subdivision (B) of this subdivision (3), if the waste is being delivered from a municipality that does not have an approved implementation plan, leaf and yard residuals shall be removed from the waste stream, and 100 percent of each of the following shall be removed from the waste stream: mandated recyclables, hazardous waste from households, and hazardous waste from small quantity generators.

(B) If waste delivered to the facility is process residuals from a material recovery facility, the facility receiving the waste shall not be required to remove 100 percent of mandated recyclables from the process residuals if the facility receiving the waste has a plan approved by the Secretary to remove mandated recyclables from the process residuals to the maximum extent practicable.

* * *

(j) A facility certified under this section that offers the collection of municipal solid waste shall:

(1) Beginning on July 1, 2014, collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables. A facility shall not be required to accept mandated recyclables from a commercial hauler.

(2) Beginning on July 1, 2015, collect leaf and yard residuals between April 1 and December 15 separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(3) Beginning on July 1, 2017, collect food residuals separate from other solid waste and deliver food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

* * *

(l) ~~A facility certified under this section that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables.~~ A facility certified under this section may incorporate

the cost of the collection of mandated recyclables into the cost of the collection of municipal solid waste and may adjust the charge for the collection of municipal solid waste. A facility certified under this section may charge a separate fee for the collection of mandated recyclables, leaf and yard residuals, or food residuals. ~~If a facility collects mandated recyclables from a commercial hauler, the facility may charge a fee for the collection of those mandated recyclables.~~

* * *

* * * Commercial Hauler Requirements * * *

Sec. 2. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the State shall apply to the Secretary for a permit to do so~~,~~ by submitting an application on a form prepared for this purpose by the Secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years and shall be renewed annually. The application shall indicate the nature of the waste to be hauled. The Secretary may specify conditions that the Secretary deems necessary to assure compliance with State law.

(b) As used in this section:

(1) "Commercial hauler" means:

(A) any person that transports regulated quantities of hazardous waste; and

(B) any person that transports solid waste for compensation in a vehicle.

(2) The commercial hauler required to obtain a permit under this section is the legal or commercial entity that is transporting the waste, rather than the individual employees and subcontractors of the legal or commercial entity. In the case of a sole proprietorship, the sole proprietor is the commercial entity.

(3) The Secretary shall not require a commercial hauler to obtain a permit under this section, comply with the disclosure requirements of this section, comply with the reporting and registration requirements of section 6608 of this title, or pay the fee specified in 3 V.S.A. § 2822, if:

(A) the commercial hauler does not transport more than four cubic yards of solid waste at any time; and

(B) the solid waste transportation services performed are incidental to other nonwaste transportation-related services performed by the commercial hauler.

* * *

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste ~~shall~~:

(A) Beginning on July 1, 2015, shall offer to collect mandated recyclables ~~separated~~ separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) ~~Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.~~

~~(C)~~ Beginning on July 1, ~~2018,~~ 2020, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables~~, leaf and yard residuals,~~ or food residuals, a commercial hauler in that municipality is not required to comply with the requirements of subdivision (1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A commercial hauler is not required to comply with the requirements of subdivision (1)(A)~~, (B), or (C)~~ or (B) of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A) of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A)~~, (B), or (C)~~ or (B) of this subsection (g) are not required; and

(D) in the delineated area, alternatives to the services, including on-site management, required under subdivision (1)(A)~~, (B), or (C)~~ or (B) of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(4) A commercial hauler is not required to comply with the requirements of subdivision (1)(A)~~, (B), or (C)~~ or (B) of this subsection for mandated recyclables~~, leaf and yard residuals,~~ or food residuals collected as part of a litter collection.

(h) A commercial hauler certified under this section that offers the collection of municipal solid waste may not charge a separate line item fee on a bill to a residential customer for the collection of mandated recyclables, provided that a commercial hauler may charge a fee for all service calls, stops, or collections at a residential property and a commercial hauler may charge a tiered or variable fee based on the size of the collection container provided to a residential customer or the amount of waste collected from a residential customer. A commercial hauler certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of solid waste and may adjust the charge for the collection of solid waste. A commercial hauler certified under this section that offers the collection of solid waste may charge a separate fee for the collection of ~~leaf and yard residuals or~~ food residuals from a residential customer.

(i) A commercial hauler that operates a bag-drop or fast-trash site at a fixed location to collect municipal solid waste shall offer at the site all collection services required under 10 V.S.A. § 6605(j).

Sec. 3. UNIVERSAL RECYCLING STAKEHOLDER GROUP; COMMERCIAL HAULER SERVICES; FOOD RESIDUAL COLLECTION SERVICES

(a) The Agency of Natural Resources has convened a Universal Recycling Stakeholder Group to provide valuable input, advice, and assistance to the

Agency and the State in the implementation of 2012 Acts and Resolves No. 148 (Act 148). The work of the Stakeholder Group has been integral to the successful implementation of Act 148 and the work of the Stakeholder Group is commended by the General Assembly.

(b) As part of the ongoing Agency of Natural Resource's Universal Recycling Stakeholder Group, the Secretary of Natural Resources shall seek the input of the Stakeholder Group regarding the requirement under 10 V.S.A. § 6607a(g) that commercial solid waste haulers offer the service of collection of food residuals separate from other solid waste beginning July 1, 2020. The Secretary shall request that the Stakeholder Group review whether:

(1) the requirements under subsection 6607a(g) should be amended so that commercial haulers are only required to offer collection of food residuals:

(A) in municipalities, solid waste management districts, or other areas based on population, housing, or route density; or

(B) based on other appropriate criteria specified by the Working Group.

(2) sufficient regional capacity to process food residuals is available to allow for the collection of food residuals by all commercial solid waste haulers beginning on July 1, 2020.

(b) The Secretary of Natural Resources, after consultation with the Universal Recycling Stakeholder Group, shall include in the report the Agency shall submit under 6604(b) of this title recommendations addressing subdivisions (a)(1) and (2) of this section.

* * * Food Residual Management * * *

Sec. 4. 10 V.S.A. § 6605k(b) is amended to read:

(b) A person who produces more than an amount identified under subsection (c) of this section in food residuals ~~and is located within 20 miles of a certified organics management facility that has available capacity and that is willing to accept the food residuals~~ shall:

(1) ~~Separate~~ separate food residuals from other solid waste, provided that a de minimis amount of food residuals may be disposed of in solid waste when a person has established a program to separate food residuals and the program includes a component for the education of program users regarding the need to separate food residuals; and

(2) ~~Arrange~~ arrange for the transfer of food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions (a)(2)-(5) of this section or shall manage food residuals on site.

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

(a) This act shall take effect on passage, except that Sec. 4 (food residuals) shall take effect on July 1, 2020.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Bray moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By adding a new section to be numbered Sec. 4a and a reader assistance heading to read as follows:

* * * Unclaimed Beverage Container Deposits * * *

Sec. 4a. 10 V.S.A. § 1530 is added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND

(a) As used in this section, "deposit initiator" means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

(b) A deposit initiator shall open a separate interest-bearing account to be known as the deposit transaction account in a Vermont branch of a financial institution. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(c) Beginning on July 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the deposit transaction account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.

(d) Beginning on October 10, 2019, and quarterly thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding quarter. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

(1) the balance of the deposit transaction account at the beginning of the preceding quarter;

(2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;

(3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;

(4) the amount of refund payments made from the deposit transaction account in the preceding quarter;

(5) any income earned on the deposit transaction account in the preceding quarter;

(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and

(7) any additional information required by the Commissioner of Taxes.

(e)(1) On or before October 10, 2019, and quarterly thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:

(A) income earned on amounts on the deposit transaction account during that quarter; and

(B) the total amount of refund value paid out by the deposit initiator for beverage containers during that quarter.

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the funds that are or should be in the deposit initiator's deposit transaction account. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the funds in the deposit initiator's deposit transaction account are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection (e) during the preceding 12 months less amounts paid to the initiator pursuant to this subdivision (2) during that same 12-month period.

(f) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply

with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

Which was agreed to.

House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 287.

House proposal of amendment to Senate bill entitled:

An act relating to aquatic nuisance control.

Was taken up.

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

* * * Aquatic Nuisance and Rapid Response Control Activities * * *

Sec. 1. REPORT ON IMPLEMENTATION OF THE GENERAL PERMIT FOR NONCHEMICAL AQUATIC NUISANCE AND RAPID RESPONSE CONTROL ACTIVITIES

On or before January 15, 2019, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy a report regarding the implementation in 2018 of the general permit for the use of nonchemical aquatic nuisance and rapid response control activities issued under 10 V.S.A. § 1455(m) and 2017 Acts and Resolves No. 67, Sec. 9. The report shall include a summary of the implementation of the general permit, the process for approval of notices of intent for coverage under the general permit, the number of persons who applied for coverage under the general permit, the number of persons who were approved for coverage under the general permit, and any recommendations to improve the implementation of the general permit.

* * * Act 250 Corrective Actions * * *

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

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(x)(1) No permit or permit amendment is required for the construction of improvements for any one of the actions or abatements authorized in this subdivision:

(A) a remedial or removal action for which the Secretary of Natural Resources has authorized disbursement under section 1283 of this title;

(B) abating a release or threatened release, as directed by the Secretary of Natural Resources under section 6615 of this title;

(C) a remedial or removal action directed by the Secretary of Natural Resources under section 6615 of this title;

(D) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under section 6615b of this title;

(E) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under chapter 159, subchapter 3 of this title; or

(F) the management of "development soils," as that term is defined in subdivision 6602(39) of this title, under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

(2) Any development subsequent to the construction of improvements for any one of the actions or abatements authorized in subdivision (1) of this subsection shall not be exempt from the provisions of this chapter.

* * * Beverage Container Redemption * * *

Sec. 3. WAIVER OF BEVERAGE CONTAINER REDEMPTION REQUIREMENTS

After consultation with interested parties, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy recommended changes to the standards or criteria by which the Secretary of Natural Resources authorizes a retailer who sells beverage containers to refuse to redeem beverage containers. The Secretary shall submit the recommended changes as part of the report required under 10 V.S.A. § 6604(b).

Sec. 4. REPEAL; BEVERAGE CONTAINER REDEMPTION; REFUSAL TO REDEEM

Subsection 10-105(d) of the Agency of Natural Resources' Environmental Protection Regulations for the Deposit for Beverage Containers shall be repealed on July 1, 2018.

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

(a) This section and Sec. 2 (Act 250 corrective action plans) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018.

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

An act relating to aquatic nuisance control, Act 250 corrective actions, and beverage container redemption.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Bray, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In

H. 132.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to limiting landowner liability for posting the dangers of swimming holes.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment by striking out Secs. 2, 3, and 4 in their entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment to Senate Proposal of Amendment Concurred In with Amendment

H. 913.

House proposal of amendment to Senate bill entitled:

An act relating to boards and commissions.

Was taken up.

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

First: By striking out Sec. 9, 2 V.S.A. chapter 18 (Joint Information Technology Oversight Committee) in its entirety and inserting in lieu thereof the following:

Sec. 9. [Deleted.]

Second: In Sec. 14 (effective dates), following "This act shall take effect on July 1, 2018, except that" by striking out "Sec. 9. 2 V.S.A. chapter 18 shall take effect on passage and"

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Pearson and White moved that the Senate concur in the House proposal of amendment to the Senate proposal of amendment with the following amendments thereto:

First: By striking out Sec. 9 in its entirety and inserting in lieu thereof a new Sec. 9 and an accompanying reader assistance heading to read:

* * * Joint Information Technology Oversight Committee * * *

Sec. 9. 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

(a) Creation. There is created the Joint Information Technology Oversight Committee to oversee investments in and use of information technology in Vermont.

(b) Membership. The Committee shall be composed of six members as follows:

(1) three members of the House of Representatives, not all of whom shall be from the same political party, who shall be appointed by the Speaker of the House; and

(2) three members of the Senate, not all of whom shall be from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall oversee, evaluate, and make recommendations on the following:

(1) the State's current deployment, management, and oversight of information technology in the furtherance of State governmental activities, including data processing systems, telecommunications networks, and related technologies, particularly with regard to issues of compatibility among existing and proposed technologies;

(2) issues related to the storage of, maintenance of, access to, privacy of, and restrictions on use of computerized records;

(3) issues of public policy related to the development and promotion of the private, commercial, and nonprofit information infrastructure in the State, its relationship to the State government information infrastructure, and its integration with national and international information networks; and

(4) cybersecurity.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Meetings.

(1) The Speaker of the House and the Committee on Committees shall appoint one member from the House and one member of the Senate as co-chairs of the Committee.

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

(3) The Committee may meet when the General Assembly is in session or at the call of the Co-Chairs.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Second: After Sec. 13a, 2 V.S.A. § 691, by inserting a reader assistance heading and Sec. 13b to read:

* * * Labor Board Review Panel * * *

Sec. 13b. 3 V.S.A. § 921 is amended to read:

§ 921. CREATION; MEMBERSHIP, COMPENSATION

(a) There is hereby created a State Labor Relations Board composed of six members. The Governor shall appoint the members with the advice and consent of the Senate for a term of six years or for the member's unexpired term from a list of nominees presented by the Labor Board Review Panel. The appointments shall be made within 60 days of an expired term or vacancy.

(1) The Labor Board Review Panel shall be composed of five members to include the executive director of the Vermont Bar Association, the Commissioner of Labor, the State Court Administrator, and a ~~Representative~~ representative of ~~Labor~~ labor and a ~~Representative~~ representative of employers, both of whom shall be appointed for two-year terms by the Commissioner of Labor from names provided by labor organizations and employers in the State. The Commissioner shall request names of potential representatives of labor and employers from at least three Vermont labor organizations and three Vermont employer organizations, respectively.

(2) The Labor Board Review Panel shall:

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

(B)(i) Consider the experience, knowledge, character, integrity, judgment, and ability to act in a fair and impartial manner of each nominee in compiling a list of nominees for ~~board~~ Board membership. The Review Panel shall consider the skills, perspectives, and experience of the nominees and ensure a continuing balance on the Board of labor, management, and neutral backgrounds in determining those nominees qualified to be forwarded to the Governor under subsection (c) of this section.

(ii) For each individual that the Panel is considering forwarding to the Governor under subsection (c) of this section, the Panel shall interview the individual and contact at least one individual who can serve as a reference for the individual under consideration.

(iii) "Nominees with neutral backgrounds" means individuals in high standing not connected with any labor organization or management position, and who can be reasonably considered to be able to serve as an impartial individual.

~~(2)~~(3) To be eligible for appointment to the Board an individual shall be a citizen of the United States and resident of the State of Vermont for one year immediately preceding appointment. A member of the Board may not hold any other State office.

~~(3)~~(4) Each case that comes before the Board for a hearing shall be heard and decided by a panel of three or five members appointed by the Board Chair. Two members of a three-member panel and three members of a five-member panel shall constitute a quorum with authority to conduct a hearing, provided that all members of the Panel shall review the record and participate in the Panel's decision. The Board may review a proposed decision by a Panel prior to its issuance for the sole purpose of insuring that questions of law are being decided in a consistent manner.

* * *

Third: In Sec. 14 (effective dates), following "This act shall take effect on July 1, 2018, except that" by inserting this section and Sec. 9, 2 V.S.A. chapter 18, shall take effect on passage and

Which was agreed to.

House Proposal of Amendment to Senate Proposal of Amendment Not Concurred In and Adhere

H. 608.

House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to creating an Older Vermonters Act working group.

Was taken up.

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

By striking out Sec. 3, Older Vermonters Act working group; report, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. OLDER VERMONTERS ACT WORKING GROUP; REPORT

(a) Creation. There is created an Older Vermonters Act working group for the purpose of developing recommendations for an Older Vermonters Act that aligns with the federal Older Americans Act, the Vermont State Plan on Aging, and the Choices for Care program.

(b) Membership. The working group shall be composed of the following 18 members:

(1) one current member of the House of Representatives appointed by the Speaker of the House;

(2) one current member of the Senate appointed by the Committee on Committees;

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

(4) the Director of Health Promotion and Disease Prevention at the Department of Health or designee;

(5) the Commissioner of Labor or designee;

(6) the Attorney General or designee;

(7) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;

(8) the State Long-Term Care Ombudsman;

(9) the Director of Vermont Associates for Training and Development or designee;

(10) a representative of the Vermont Association of Adult Day Services, appointed by the Association;

(11) a representative of home health agencies, appointed jointly by the VNAs of Vermont and Bayada Home Health Care;

(12) a representative of long-term care facilities, appointed by the Vermont Health Care Association;

(13) the Director of the Center on Aging at the University of Vermont or designee;

(14) a representative of the Vermont Association of Senior Centers and Meal Providers, appointed by the Association;

(15) two older Vermonters from different regions of the State, appointed by the Advisory Board established by 33 V.S.A. § 505; and

(16) two family caregivers of older Vermonters, one of whom is a family member of an older Vermonter and one of whom is an informal provider of in-home and community care, appointed by the Advisory Board established by 33 V.S.A. § 505.

(c) Powers and duties. The working group, in consultation with elder care mental health clinicians, the Vermont Chamber of Commerce, the Community of Vermont Elders, the Alzheimer's Association, Support and Services at Home (SASH), AARP Vermont, the Elder Law Project at Vermont Legal Aid, the Vermont Public Transportation Association, and other interested stakeholders, shall develop recommendations on the following:

(1) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living as a State Unit on Aging;

(2) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living with respect to the management, approval, and oversight of services provided to eligible older Vermonters through the Choices for Care program;

(3) the roles and responsibilities of the Area Agencies on Aging as the designated regional planning organizations serving older Vermonters and family caregivers;

(4) the roles and responsibilities of the network of providers of services to older Vermonters and family caregivers;

(5) a description of a comprehensive and coordinated system of services and supports for older Vermonters and family caregivers as envisioned by the Older Americans Act and the Choices for Care program, including supportive services, nutrition services, health promotion and disease prevention services, family caregiver services, employment services, and protective services;

(6) a description of how such a system would be coordinated across State agencies, provider networks, and geographic regions;

(7) how to ensure that such a system would target those in greatest economic and social need;

(8) ways to encourage and educate older Vermonters to continue in the workforce and to become or remain involved in their communities through participation in volunteer activities and opportunities for civic engagement; and

(9) ways to educate employers about the value of the older Vermonter talent cohort and the benefits of maintaining a multigenerational workforce, as well as identification of models that may be replicated across sectors and industries.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.

(e) Report. On or before December 1, 2019, the working group shall submit its recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee shall chair the working group and shall call the first meeting of the working group, which shall occur on or before September 15, 2018.

(2) The working group shall meet as often as reasonably necessary to develop its recommendations, but not less frequently than once every two months.

(3) The working group shall cease to exist upon submitting its report to the General Assembly on or before December 1, 2019.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the working group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for a total of not more than eight meetings.

(2) Other 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 at meetings of the working group shall be entitled to reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(3) Payments to members of the working group authorized under subdivision (2) of this subsection shall be made from monies appropriated to the Department of Disabilities, Aging, and Independent Living.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, on motion of Senator Ingram the Senate refused to concur in the House proposal of amendment and adhered.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 204.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to the registration of short-term rentals.

Was taken up for immediate consideration.

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

Sec. 1. 18 V.S.A. § 4301 is amended to read:

§ 4301. DEFINITIONS

(a) As used in this ~~subchapter~~ chapter:

* * *

(14) "Short-term rental" means a furnished ~~home~~ house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

* * *

Sec. 2. 32 V.S.A. chapter 225 is amended to read:

CHAPTER 225. MEALS AND ROOMS TAX

* * *

§ 9202. DEFINITIONS

The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section unless the context clearly

indicates a different meaning:

* * *

(3) "Hotel" means an establishment ~~which~~ that holds itself out to the public by offering sleeping accommodations for a consideration, whether or not the major portion of its operating receipts is derived therefrom and whether or not the sleeping accommodations are offered to the public by the owner or proprietor or lessee, sublessee, mortgagee, licensee, or any other person or the agent of any of the foregoing. The term includes inns, motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes, rooming houses, furnished-room houses, boarding houses, and private clubs, as well as any building or structure or part thereof to the extent to which any such building or structure or part thereof in fact is held out to the public by offering sleeping accommodations for a consideration. As used in this chapter, the term includes "short-term rental" as defined in 18 V.S.A. § 4301. The term shall not include the following:

(A) a hospital~~,~~ licensed under 18 V.S.A. chapter 43 or a nursing home, residential care home, assisted living residence, home for the terminally ill, therapeutic community residence as defined pursuant to 33 V.S.A. chapter 71, or independent living facility;

(B) any establishment operated by any state or U.S. agency or institution, except the Department of Forests, Parks and Recreation of the State of Vermont;

(C) an establishment operated by a nonprofit corporation or association organized and operated exclusively for religious, charitable, or educational purposes, one or more, which, in furtherance of any of the purposes for which it was organized, operates a hotel as defined herein; ~~and~~

(D) a continuing care retirement community certified under 8 V.S.A. chapter 151.

* * *

§ 9282. OBLIGATIONS OF SHORT-TERM RENTAL OPERATORS

(a) A short-term rental operator shall post the corresponding meals and rooms tax account number on any advertisement for the short-term rental.

(b) A short-term rental operator shall post within the unit a telephone number for the person responsible for the unit and the contact information for the Attorney General's Consumer Assistance Program and the Department of Public Safety's Division of Fire Safety.

(c) The Department of Taxes shall prepare a packet of information pertaining to the financial and regulatory obligations of short-term rental

operators. The Department shall disseminate the information packet to a short-term rental operator when the operator first registers a unit.

Sec. 3. DATA COLLECTION; REPORTS

(a)(1) The Attorney General's Consumer Assistance Program and the Department of Public Safety's Division of Fire Safety shall maintain records on all complaints received between July 1, 2018 and January 1, 2020 pertaining to a short-term rental located in Vermont. This information shall be available to the Department of Health for the purpose of completing the report required pursuant to subdivision (2) of this subsection.

(2) On or before January 15, 2020, the Commissioner of Health, in collaboration with the Executive Director of the Department of Public Safety's Division of Fire Safety, shall submit a written report to the House Committees on General, Housing, and Military Affairs and on Human Services and to the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare addressing whether any complaints have been received about short-term rentals, and if so, the nature of the complaints, the name of the entity receiving the complaints, and the process by which the complaints are addressed.

(b) On or before January 15, 2020, the Commissioner of Taxes shall present to the House Committee on Ways and Means and to the Senate Committee on Finance information on the number of short-term rental units in Vermont, the number of short-term rental operators, and the Department's progress to date in improving compliance with 32 V.S.A. chapter 225 among short-term rental operators.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment? On motion of Senator Sirotkin, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 234, S. 285, H. 132, H. 608, H. 913.

Recess

On motion of Senator Ashe the Senate recessed until 4:30 P.M.

Called to Order

The Senate was called to order by the President *pro tempore*.

Committees of Conference Appointed

S. 94.

An act relating to promoting remote work.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Campion
Senator Sirotkin
Senator Balint

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 204.

An act relating to the registration of short-term rentals.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Sirotkin
Senator Lyons
Senator Soucy

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

S. 287.

An act relating to aquatic nuisance control.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Bray
Senator Campion
Senator Rodgers

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 571.

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator McCormack
Senator Clarkson
Senator Ashe

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 919.

An act relating to workforce development.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Kitchel
Senator Clarkson
Senator Nitka

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Balint, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 94, S. 204, S. 287, H. 571, H. 919.

Adjournment

On motion of Senator Mazza, the Senate adjourned until ten o'clock in the morning.

FRIDAY, MAY 11, 2018

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. 72

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

S. 257. An act relating to miscellaneous changes to education law.

S. 261. An act relating to mitigating trauma and toxic stress during childhood by strengthening child and family resilience.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to Senate bill of the following title:

S. 222. An act relating to miscellaneous judiciary procedures.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 73

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 59. Joint resolution supporting the Gettysburg Battlefield Preservation Association's effort to preserve the Camp Letterman hospital site.

And has adopted the same in concurrence.

The Governor has informed the House that on May 10, 2018, he approved and signed bills originating in the House of the following titles:

H. 914. An act relating to reporting requirements for the second year of the Vermont Medicaid Next Generation ACO Pilot Project.

H. 921. An act relating to nursing home oversight.

Message from the House No. 74

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 94. An act relating to promoting remote work.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Botzow of Pownal
Rep. Marcotte of Coventry
Rep. Ancel of Calais

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 204. An act relating to the registration of short-term rentals.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Head of South Burlington
Rep. Baser of Bristol
Rep. Read of Fayston

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 287. An act relating to aquatic nuisance control.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Squirrell of Underhill
Rep. McCullough of Williston
Rep. Beyor of Highgate

Message from the House No. 75

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 593. An act relating to miscellaneous consumer protection provisions.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Marcotte of Coventry
Reps. Botzow of Pownal
Rep. Conquest of Newbury.

Pages Honored

In appreciation of their many services to the members of the General Assembly, the President recognized the following-named pages who are completing their services today and presented them with letters of appreciation.

Haley Clough of West Hartford
Andrew Gould of Springfield
Hanna Gustafson of South Burlington
Peyton Jenkins of Colchester
Isabella LaFemina of Rutland
Mariah Larson of Burlington
Fintan Lietzelter of West Glover
Simon Rosenbaum of Stowe
Charlotte Wood of Fairfax

Message from the Governor
Appointments Referred

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

LaBarge, John of Grand Isle - Member of the Travel Information Council - from May 4, 2018 to February 29, 2020.

To the Committee on Transportation.

Kennett, Elizabeth of Rochester - Member of the Travel Information Council - from May 4, 2018 to February 29, 2020.

To the Committee on Transportation.

Heald, Francis of Rutland - Member of the Travel Information Council - from May 4, 2018 to February 29, 2020.

To the Committee on Transportation.

Lang, Lisa of Waitsfield - Member of the Travel Information Council - from May 4, 2018 to February 28, 2019.

To the Committee on Transportation.

Avila, Maria of Burlington - Member of the Children and Family Council for Prevention Programs - from May 4, 2018 to February 28, 2021.

To the Committee on Health and Welfare.

Oelschlaeger, Karen of Montpelier - Member of the Children and Family Council for Prevention Programs - from May 4, 2016 to February 29, 2020.

To the Committee on Health and Welfare.

Danielson, Amy of St. George - Member of the Children and Family Council for Prevention Programs - from May 4, 2018 to February 28, 2019.

To the Committee on Health and Welfare.

Pinkham, Kreig of Northfield - Member of the Children and Family Council for Prevention Programs - from May 4, 2018 to February 28, 2021.

To the Committee on Health and Welfare.

Davenport, Amy of Montpelier - Member of the Children and Family Council for Prevention Programs - from May 4, 2018 to February 28, 2021.

To the Committee on Health and Welfare.

Hathaway, Peter of Waterbury - Member of the Children and Family Council for Prevention Programs - from May 4, 2018 to February 28, 2021.

To the Committee on Health and Welfare.

Berry, Stuart of Belmont - Member of the Children and Family Council for Prevention Programs - from May 4, 2018 to February 28, 2021.

To the Committee on Health and Welfare.

Hutchins, Donn of Dorset - Member of the Children and Family Council for Prevention Programs - from May 4, 2018 to February 28, 2021.

To the Committee on Health and Welfare.

Sweet, Grace of Waterbury Center - Member of the Community High School of Vermont Board - from May 4, 2018 to February 29, 2020.

To the Committee on Education.

Lenes, Joan of Shelburne - Member of the Community High School of Vermont Board - from May 4, 2018 to February 28, 2021.

To the Committee on Education.

Sheahan, Nancy of South Burlington - Member of the State Police Advisory Commission - from May 4, 2018 to February 28, 2022.

To the Committee on Government Operations.

Barnett, Lamont of Rockingham - Member of the Vermont Housing Finance Agency - from May 4, 2018 to January 31, 2022.

To the Committee on Finance.

Heald, Francis of Rutland - Member of the Board of Medical Practice - from May 4, 2018 to December 31, 2022.

To the Committee on Health and Welfare.

House Proposal of Amendment Concurred In

S. 280.

House proposal of amendment to Senate bill entitled:

An act relating to the Advisory Council for Strengthening Families.

Was taken up.

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

Sec. 1. ADVISORY COUNCIL ON CHILD POVERTY AND STRENGTHENING FAMILIES

(a)(1) There is created the Advisory Council on Child Poverty and Strengthening Families to:

(A) identify and examine structural and other issues in Vermont that:

(i) lead to families living in poverty; and

(ii) create conditions that prevent families from moving out of poverty; and

(B) advance policies that:

(i) promote financial stability and asset building;

(ii) support safety nets for families with low income; and

(iii) mitigate the effects of childhood poverty.

(2) The Advisory Council shall provide guidance and recommend policies that either reduce incidences of or mitigate the effects of childhood poverty. It shall serve as an educational forum for both its members and the public. The Advisory Council shall use data better to understand existing and emerging challenges to children and families living in poverty.

(3) The Advisory Council shall monitor the development and implementation of the Agency of Human Services' childhood trauma response plan required pursuant to 2017 Acts and Resolves No. 43, Sec. 4.

(b)(1) Voting membership. The Advisory Council shall be composed of the following 15 voting members:

(A) three members of the Senate, not all from the same political party, appointed by the Committee on Committees, including one member from the Committee on Education and one member from the Committee on Health and Welfare;

(B) three members of the House, not all from the same political party, appointed by the Speaker of House, including one member from the Committee on Education and one member from the Committee on Human Services;

(C) a member appointed by Voices for Vermont's Children;

(D) a member appointed by the Vermont Low Income Advocacy Council;

(E) a member appointed by Vermont Legal Aid;

(F) a member appointed by the Vermont Coalition for Disability Rights;

(G) a member appointed by the Vermont Affordable Housing Coalition;

(H) a nongovernmental designee of the Child and Family Trauma Work Group who does not otherwise represent an organization with membership on this Council;

(I) an employee of the prekindergarten through grade 12 public education delivery system in Vermont appointed jointly by the Executive Directors of the Vermont Superintendents Association, the Vermont Principals' Association, and the Vermont Council of Special Education Coordinators;

(J) a business owner appointed by the Vermont Businesses Roundtable; and

(K) a member appointed by the Vermont Community Action Partnership.

(2) Nonvoting membership. The Advisory Council shall be composed of the following five nonvoting members or designees:

(A) the Secretary of Education;

(B) the Secretary of Human Services;

(C) the Commissioner for Children and Families;

(D) the Commissioner of Health; and

(E) the Commissioner of Labor.

(c) Assistance. The Advisory Council shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) Work products.

(1) Compilation of minutes. On or before January 1 of each year, the Advisory Council shall submit to the General Assembly a compilation of its meeting minutes from the previous calendar year that summarizes the Advisory Council's activities and decisions.

(2) Recommendations. On or before January 1 of each year, the Advisory Council shall submit a list of policy recommendations and legislative priorities from the previous calendar year to the General Assembly or to the appropriate State agency or organization that are aimed at reducing incidences of or mitigating the effects of childhood poverty.

(3) Legislation. On or before November 15 of each year, the Advisory Council may prepare legislation for introduction by one or more of its legislative members that contains any of the Advisory Council's policy recommendations for reducing incidences of or mitigating the effects of childhood poverty.

(e) Meetings.

(1) The member of the House Committee on Human Services shall call the first meeting of the Advisory Council to occur on or before July 1 of each year.

(2) Each year the Advisory Council shall select a chair from among its legislative members at the first meeting. The Advisory Council may select a vice chair from among its legislative members.

(3) A majority of the voting members shall constitute a quorum.

(4) At least once annually, the Advisory Council shall meet in a location other than the State House for the purpose of receiving testimony from members of Vermont families experiencing poverty or organizations providing direct services to Vermont families experiencing poverty.

(5)(A) The Advisory Council shall cease to exist on July 1, 2028.

(B) Five years prior, in 2023, the Advisory Council shall conduct a midterm review of its achievements and effectiveness using results-based accountability. Among any other benchmarks that the Advisory Council chooses to measure pursuant to subdivision (C) of this subdivision (5), it shall review, as compared to 2016:

(i) the number and percentage of children living in families at 50 percent, 100 percent, and 200 percent of the federal poverty level; and

(ii) the number and percentage of children living in families paying more than 30 percent of their cash income for housing and related expenses.

(C) On or before January 1, 2019, the Advisory Council shall identify any additional benchmarks it plans to measure during its 2023 midterm review.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Advisory Council serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings.

(2) Other members of the Advisory Council 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 not more than six meetings.

(3) Payments to members of the Advisory Council authorized under this subsection shall be made from monies appropriated by the General Assembly.

Sec. 2. 2015 Acts and Resolves No. 60, Sec. 23 is amended to read:

Sec. 23. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT COMMITTEE

* * *

(c) Powers and duties.

(1) The Committee shall~~:~~

~~(A) Exercise~~ exercise oversight over Vermont's ~~system~~ systems for youth justice and protecting children from abuse and neglect, including:

~~(i)~~(A) evaluating whether the branches, departments, agencies, and persons that are responsible for protecting children from abuse and neglect are effective;

~~(ii)~~(B) determining if there are deficiencies in the system and the causes of those deficiencies;

~~(iii)~~(C) evaluating which programs are the most cost-effective; and

~~(iv)~~(D) determining whether there is variation in policies, procedures, practices, and outcomes between different areas of the State and the causes and results of any such variation~~;~~

~~(v) evaluating whether licensed mandatory reporters should be required to certify that they completed training on the requirements set forth under 33 V.S.A. § 4913; and~~

~~(vi) evaluating the measures recommended by the Working Group to Recommend Improvements to CHINS Proceedings established in Sec. 24 of this act to ensure that once a child is returned to his or her family, the court or the Department for Children and Families may continue to monitor the child and family where appropriate~~.

~~(B) The Committee shall report any proposed legislation on or before January 15, 2016 to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare.~~

(2) The Committee may review and make recommendations to the House and Senate Committees on Appropriations regarding budget proposals and appropriations relating to protecting children from abuse and neglect.

* * *

(h) Sunset. On June 1, ~~2018~~ 2022, this section (creating the Joint Legislative Child Protection Oversight Committee) is repealed and the Committee shall cease to exist.

Sec. 3. EFFECTIVE DATES

This act shall take effect on passage; provided, however, that if the date of passage is after June 1, 2018, then notwithstanding 1 V.S.A. § 214, Sec. 2 shall apply retroactively to June 1, 2018.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Bills Passed in Concurrence with Proposal of Amendment

H. 576.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to stormwater management.

Bill Passed in Concurrence with Proposal of Amendment

H. 922.

House bill of the following title:

An act relating to making numerous revenue changes.

Was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 22, Nays 5.

Senator Soucy 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, Bray, Brooks, Campion, Clarkson, Ingram, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: Benning, Branagan, Collamore, Flory, Soucy.

Those Senators absent and not voting were: Brock, Cummings, Kitchel.

Proposal of Amendment; Third Reading Ordered

H. 559.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to miscellaneous environmental subjects.

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:

* * * Basin Planning * * *

Sec. 1. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forestry, on Natural Resources ~~and Energy, and on Fish, Wildlife and Water Resources~~, Fish, and Wildlife, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of

2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(G) develop, in consultation with the regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, ~~contract with a regional planning commission or~~ negotiate and issue performance grants to the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection in a manner consistent with the authority of regional planning commissions under 24 V.S.A. chapter 117 and the authority of the natural resources conservation districts under chapter 31 of this title. When ~~contracting~~ negotiating a scope of work with ~~a regional planning commission or~~ the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or produce a basin plan, the Secretary may require the ~~regional planning commission~~ Vermont Association of Planning and Development Agencies or the Natural Resources Conservation Council to:

(A) conduct any of the activities required under subdivision (2) of this subsection;

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations to better meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure cost effective use of State and federal funds.

* * * Clean Water Investment Report * * *

Sec. 2. 10 V.S.A. § 1389a(a) is amended to read:

(a) Beginning on January 15, 2017, and annually thereafter, the Secretary of Administration shall publish the Clean Water Investment Report. The Report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the prior ~~calendar~~ fiscal year. The Report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source.

* * * Petroleum Cleanup Fund * * *

Sec. 3. 10 V.S.A. § 1941(b) is amended to read:

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum from underground storage tanks and aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other governmental purposes, nor shall any portion of the Fund ever be available to borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, ~~2019~~ 2029 and judged to be in conformance with prevailing industry rates. This includes:

* * *

Sec. 4. 10 V.S.A. § 1942 is amended to read:

§ 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this State, ~~which~~ that will be assessed against every distributor, dealer, or user as defined in 23 V.S.A. chapters 27 and 28, and ~~which~~ that will be deposited into the Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The Secretary, in consultation with the Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the General Assembly on the balance of the Motor Fuel Account and shall make recommendations, if any, for changes to the program. The Secretary shall also determine the unencumbered balance of the Motor Fuel Account as of May 15 of each year, and if the balance is equal to or greater than $7,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee ~~will~~ shall be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee ~~will~~ shall be collected by the Commissioner of Motor Vehicles and deposited into the Petroleum Cleanup Fund. This fee requirement shall terminate on April 1, ~~2021~~ 2031.

(b) There is assessed a licensing fee of one cent per gallon for the bulk retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this State. This fee shall be subject to the collection, administration, and enforcement provisions of 32 V.S.A. chapter 233, and the fees collected under this subsection by the Commissioner of Taxes shall be deposited into the Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The Secretary, in consultation with the Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the General Assembly on the balance of the Heating Fuel Account and shall make recommendations, if any, for changes to the program. The Secretary shall also determine the unencumbered balance of the Heating Fuel Account as of May 15 of each year, and if the balance is equal to or greater than $3,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee provision shall terminate on April 1, ~~2021~~ 2031.

Sec. 5. 10 V.S.A. § 1943(c) is amended to read:

(c) This tank assessment shall terminate on July 1, ~~2019~~ 2029.

* * * Mercury-Added Motor Vehicle Components * * *

Sec. 6. 10 V.S.A. § 7108 is added to read:

§ 7108. MERCURY-ADDED MOTOR VEHICLE COMPONENTS

(a) Applicability. This section applies to:

(1) a motor vehicle recycler or scrap metal recycling facility in the State; and

(2) a manufacturer of motor vehicles sold in this State.

(b) Mercury-added switch removal requirements. A motor vehicle recycler that accepts end-of-life motor vehicles shall remove mercury-added vehicle switches prior to crushing, shredding, or other scrap metal processing and prior to conveying for crushing, shredding, or other scrap metal processing.

(1) Motor vehicle recyclers shall maintain a log sheet of switches removed from end-of-life motor vehicles and shall provide such log to the Agency annually or upon request of the Agency.

(2) Switches, including switches encased in light or brake assemblies, shall be collected, stored, transported, and handled in accordance with all applicable State and federal laws.

(c) Manufacturer mercury-added switch recovery program. A manufacturer of vehicles sold in this State, individually or as part of a group, shall implement a mercury-added vehicle switch recovery program that includes the following:

(1) educational material to assist motor vehicle recyclers in identifying mercury-added vehicle switches and safely removing, properly handling, and storing switches;

(2) storage containers provided at no cost to all motor vehicle recyclers identified by the Agency, suitable for the safe storage of switches, including switches encased in light or brake assemblies;

(3) collection, packaging, shipping, and recycling of mercury-added switches, including switches encased in light or brake assemblies, provided to all motor vehicle recyclers at no cost and that comply with all applicable State and federal laws; and

(4) a report on or before December 1 annually to the Agency that includes the total number of mercury-added switches recovered in the program, the names of the motor vehicle recyclers and the number of switches removed from each, and the total amount of mercury collected during the previous 12-month period.

(d) Agency responsibility.

(1) The Agency shall provide workshops and other training to motor vehicle recyclers to inform them of the requirements of this section.

(2) The Agency may develop, by procedure, exemptions of certain mercury-added vehicle switches and other components from the requirements of this section, including mercury-added switches that are inaccessible due to motor vehicle damage and anti-lock brake switches in certain motor vehicle types that are difficult or labor-intensive to remove.

Sec. 7. APPLICATION OF ENACTMENT

On December 31, 2017, the former 10 V.S.A. § 7108, requiring establishing mercury-added vehicle component requirements, as established by 2006 Acts and Resolves No. 117, was repealed. Sec. 6 of this act reenacts 10 V.S.A. § 7108 in substantially the same form as the section was enacted by 2006 Acts and Resolves No. 117. Notwithstanding the requirements of 1 V.S.A. § 214, the requirements of 10 V.S.A. § 7108 as enacted by Sec. 6 of this act shall apply retroactively to December 31, 2017 and shall be implemented prospectively from that date.

Sec. 8. REPEAL OF MERCURY-ADDED MOTOR VEHICLE COMPONENT REQUIREMENTS

10 V.S.A. § 7108 (mercury-added vehicle component requirements) shall be repealed on December 31, 2021.

* * * Forgiveness of Municipal Water Supply and Pollution Control Planning Advances * * *

Sec. 9. FORGIVENESS OF REPAYMENT OF PLANNING ADVANCES

The Secretary of Natural Resources shall not require a municipality to repay engineering planning advances awarded under 24 V.S.A. chapter 120, subchapter 2 if the Secretary determines that:

(1) the engineering planning advance was awarded prior to September 1, 2011; and

(2) due to the effects of Tropical Storm Irene, documentation is no longer available to establish the engineering planning scope and associated construction project for which the engineering planning advance was awarded.

* * * Act 250 Corrective Action Plans * * *

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

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(x)(1) No permit or permit amendment is required for the construction of improvements for any one of the actions or abatements authorized in this subdivision:

(A) a remedial or removal action for which the Secretary of Natural Resources has authorized disbursement under section 1283 of this title;

(B) abating a release or threatened release, as directed by the Secretary of Natural Resources under section 6615 of this title;

(C) a remedial or removal action directed by the Secretary of Natural Resources under section 6615 of this title;

(D) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under section 6615b of this title;

(E) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under chapter 159, subchapter 3 of this title; or

(F) the management of "development soils," as that term is defined in subdivision 6602(39) of this title, under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

(2) Any development subsequent to the construction of improvements for any one of the actions or abatements authorized in subdivision (1) of this subsection shall not be exempt from the provisions of this chapter.

* * * Environmental Enforcement Report * * *

Sec. 11. 10 V.S.A. § 8017 is amended to read:

§ 8017. ANNUAL REPORT

The Secretary and the Attorney General shall report annually to the President Pro Tempore of the Senate, the Speaker of the House, the House Committee on ~~Fish, Wildlife and Water Resources~~ Natural Resources, Fish, and Wildlife, and the Senate ~~and House Committees~~ Committee on Natural Resources and Energy. The report shall be filed ~~no later than January 15~~ on or before February 15, on the enforcement actions taken under this chapter, and on the status of citizen complaints about environmental problems in the State. The report shall describe, at a minimum, the number of violations, the actions taken, the disposition of cases, the amount of penalties collected, and the cost of administering the enforcement program. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

* * * Citizen Right of Action * * *

Sec. 12. 10 V.S.A. chapter 205 is added to read:

CHAPTER 205. CITIZEN RIGHT OF ACTION

§ 8055. CITIZEN RIGHT OF ACTION

(a) Suit authorized. Except as provided in subsection (c) of this section, a person may commence a civil action for equitable or declaratory relief on the person's own behalf against one or more of the following persons:

(1) any person who is alleged to be in violation of any statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215;

(2) any person subject to regulation under this chapter who is alleged to be in violation of any statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under chapter 37 or 47 of this title;

(3) the Secretary of Agriculture, Food and Markets when there is an alleged failure of the Agency of Agriculture, Food and Markets to perform any act or duty under 6 V.S.A. chapter 215 that is not discretionary for the Secretary of Agriculture, Food and Markets or the Agency of Agriculture, Food and Markets; and

(4) the Secretary of Natural Resources when there is an alleged failure of the Agency of Natural Resources to perform any act or duty under chapter 37 or 47 of this title that is not discretionary for the Secretary of Natural Resources or the Agency of Natural Resources.

(b) Prerequisite to commencement of action. A person shall not commence an action under subsection (a) of this section prior to 90 days after the plaintiff has given notice of the violation to:

(1) the Secretary of Agriculture, Food and Markets for an action initiated under subdivision (a)(1) or (3) of this section;

(2) the Secretary of Natural Resources for an action initiated under subdivision (a)(2) or (4) of this section; and

(3) any person who is alleged to be in violation of a statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this title.

(c) Action prohibited. A person shall not commence an action under subsection (a) of this section under either of the following circumstances:

(1) if the Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General has commenced and is diligently prosecuting a civil or criminal action to require compliance with a statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this title; or

(2) if the alleged violator is diligently proceeding with complying with an assurance of discontinuance, corrective action, cease and desist order, or emergency administrative order issued under 6 V.S.A. chapter 215 or under chapter 201 of this title.

(d) Venue. A person shall bring an action under subsection (a) of this section in the Environmental Division of the Superior Court.

(e) Intervention. In any action under subsection (a) of this section:

(1) Any person may intervene as a matter of right when the person seeking intervention claims an interest relating to the subject of the action and he or she is so situated that the disposition of the action may, as a practical matter, impair or impede his or her ability to protect that interest unless:

(A) for an action initiated under subdivision (a)(1) or (3) of this section, the Secretary of Agriculture, Food and Markets or the Secretary of Natural Resources demonstrates that the applicant's interest is adequately represented by existing parties; or

(B) for an action initiated under subdivision (a)(2) or (4) of this section, the Secretary of Natural Resources demonstrates that the applicant's interest is adequately represented by existing parties.

(2) The Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General may intervene as a matter of right as a party to represent its interests.

(f) Notice of action. A person bringing an action under subsection (a) of this section shall provide the notice required under subsection (b) of this section in writing. The notice shall be served on the alleged violator in person or by certified mail, return receipt requested. The notice to the Secretary shall be served by certified mail, return receipt requested. The notice shall include a brief description of the alleged violation and identification of the statute, permit, certification, rule, permit condition, prohibition, or order that is the subject of the violation.

(g) Attorney's fees; costs. The Environmental Division of the Superior Court may award costs, including reasonable attorney's fees and fees for expert witnesses, to a person bringing an action under subsection (a) of this

section when the court determines that the award is appropriate. The Environmental Division of the Superior Court may award costs, including reasonable attorney's fees and fees for expert witnesses, to the State or to a person subject to an action under this section if the court determines that the action was frivolous, unreasonable, or without foundation.

(h) Rights preserved. Nothing in this section shall be construed to impair or diminish any common law or statutory right or remedy that may be available to any person. Rights and remedies created by this section shall be in addition to any other right or remedy, including the authority of the State to bring an enforcement action separate from an action brought under this section. No determination made by a court in an action maintained under this section, to which the State has not been a party, shall be binding upon the State in any enforcement action.

* * * Stormwater Permitting * * *

Sec. 13. 27 V.S.A. § 613(b) is amended to read:

(b) Beginning on July 1, 2004, and notwithstanding any law to the contrary, no encumbrance on record title to real property or effect on marketability of title shall be created by the failure of the holder of real property from which regulated stormwater runoff discharges to an impaired watershed to obtain, renew, or comply with the terms and conditions of a pretransition stormwater discharge permit for a conveyance or refinancing, provided that such holder:

(1) provides a notice of deferral of permit to the Secretary of Natural Resources with a property description, the identity of the impaired watershed, the permit number of any expired pretransition stormwater discharge permit covering the property, and such other information as the Secretary may require; and

(2) records in the land records a notice indicating, in an appropriate form to be determined by the Secretary of Natural Resources, that at the time of establishment of a general permit in the impaired watershed where the real property is located, but not later than ~~June 30, 2018~~ 180 days after the date of adoption by the Agency of Natural Resources of the stormwater rule pursuant to 10 V.S.A. § 1264, the mortgagor (in the case of a refinancing) or the grantee (in the case of a conveyance) shall be subject to all applicable requirements of the water quality remediation plan, TMDL, or watershed improvement permit established under 10 V.S.A. chapter 47.

Sec. 14. 2012 Acts and Resolves No. 91, Sec. 3, as amended by 2016 Acts and Resolves No. 73, Sec. 1, is further amended to read:

Sec. 3. REPEAL

27 V.S.A. § 613 (stormwater discharges during transition period; encumbrance on title) shall be repealed ~~on June 30, 2018~~ 180 days after the date the Agency of Natural Resources adopts the stormwater rule pursuant to 10 V.S.A. § 1264.

* * * Pollinator Friendly Solar * * *

Sec. 15. 6 V.S.A. chapter 217 is added to read:

CHAPTER 217. POLLINATOR-FRIENDLY SOLAR GENERATION STANDARD

§ 5101. DEFINITIONS

As used in this chapter:

(1) "Agency" means the Agency of Agriculture, Food and Markets.

(2) "Invasive species" means any species of vegetation that:

(A) is designated as a noxious weed on the Agency's Noxious Weed Rule under chapter 84 of this title;

(B) is listed on the Vermont Invasive Exotic Plant Committee Watch List;

(C) has been quarantined by the Agency as invasive; or

(D) has been determined to be invasive by the Agency of Natural Resources.

(3) "Native" refers to perennial vegetation that is native to Vermont. Native perennial vegetation does not include invasive species.

(4) "Naturalized" refers to perennial vegetation that is not native to Vermont, but is now considered to be well established and part of Vermont flora. Naturalized perennial vegetation does not include invasive species.

(5) "Owner" means a public or private entity that has a controlling interest in the solar site.

(6) "Perennial vegetation" means wildflowers, forbs, shrubs, sedges, rushes, and grasses that serve as habitat, forage, and migratory way stations for pollinators.

(7) "Pollinator" means bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes wild and managed insects.

(8) "Solar site" means a ground-mounted solar system for generating electricity and the area surrounding that system under the control of the owner.

(9) "Vegetation management plan" means a written document that includes short- and long-term site management practices that will provide and maintain native and naturalized perennial vegetation.

§ 5102. BENEFICIAL HABITAT STANDARD

(a) This section establishes a standard for owners that intend to claim that, through the voluntary planting and management of vegetation, a solar site provides greater benefits to pollinators and shrub-dependent birds than are provided by solar sites not so managed.

(b) In order for the solar site to meet the beneficial habitat standard and for the owner of a solar site to claim that the solar site is beneficial to those species or is pollinator-friendly, all the following shall apply:

(1) The owner adheres to guidance set forth by the Pollinator-Friendly Scorecard (Scorecard) published by the University of Vermont (UVM) Extension.

(2) The owner shall make the solar site's completed Scorecard available to the public and provide a copy of the completed Scorecard to the UVM Extension.

(3) If the site has a vegetation management plan:

(A) The plan shall maximize the use of native and naturalized perennial vegetation for foraging habitat beneficial to pollinators consistent with the solar site's Scorecard.

(B) The owner shall make the vegetation management plan available to the public and provide a copy of the plan to the UVM Extension.

(4) When establishing perennial vegetation and beneficial foraging habitat, the solar site shall use native and naturalized plant species and seed mixes whenever practicable.

(c) Nothing in this chapter affects any findings that must be made in order to issue a State permit or other approval for a solar site or the duty to comply with any conditions in such a permit or approval.

* * * Municipalities; Village Center Designation; Electronic Filings * * *

Sec. 16. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation ~~every five~~ four years after issuance or

renewal and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

* * *

Sec. 17. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(d) The State Board shall review a village center designation every ~~five~~ eight years and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the village center no longer meets the standards for designation established in subsection (a) of this section, it may take any of the following actions:

* * *

Sec. 18. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

* * *

(d) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a new town center designation ~~every five~~ four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. The State Board may adjust the schedule of review under this subsection to coincide with the review of a related growth center. If at any time the State Board determines the new town center no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

* * *

Sec. 19. 24 V.S.A. § 4345b is amended to read:

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

(a)(1) Prior to exercising the authority granted under this section, a regional planning commission shall:

(A) draft bylaws specifying the process for entering into, method of withdrawal from, and method of terminating service agreements with municipalities; and

(B) hold one or more public hearings within the region to hear from interested parties and citizens regarding the draft bylaws.

(2) At least 30 days prior to any hearing required under this subsection, notice of the time and place and a copy of the draft bylaws, with a request for comments, shall be delivered to the chair of the legislative body of each municipality within the region, which may be done electronically, provided the sender has proof of receipt. The regional planning commission shall make copies available to any individual or organization requesting a copy.

* * *

Sec. 20. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered physically or electronically with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

(1) the chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the Department of Housing and Community Development within the Agency of Commerce and Community Development;

(4) business, conservation, low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned; and

(5) the Agency of Natural Resources and the Agency of Agriculture, Food and Markets.

* * *

(e) The regional planning commission may make revisions to the proposed plan or amendment at any time not less than 30 days prior to the final public hearing held under this section. If the proposal is changed, a copy of the proposed change shall be delivered~~,~~ physically or electronically with proof of receipt or by certified mail, return receipt requested, to the ~~chairperson~~ chair of the legislative body of each municipality within the region, and to any individual or organization requesting a copy, at least 30 days prior to the final hearing.

* * *

Sec. 21. 24 V.S.A. § 4352 is amended to read:

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE; ENHANCED ENERGY PLANNING

* * *

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail or electronically with proof of receipt to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination in writing within two months ~~of~~ after the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

* * *

Sec. 22. 24 V.S.A. § 4384 is amended to read:

§ 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING COMMISSION

* * *

(e) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered physically or electronically with proof of receipt, or mailed by certified mail, return receipt requested to each of the following:

(1) the ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that municipality;

(2) the executive director of the regional planning commission of the area in which the municipality is located;

(3) the ~~department of housing and community affairs~~ Department of Housing and Community Development within the ~~agency of commerce and community development~~ Agency of Commerce and Community Development; and

(4) business, conservation, ~~low income~~ low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.

* * *

Sec. 23. 24 V.S.A. § 4385 is amended to read:

§ 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY LEGISLATIVE BODY

* * *

(c) A plan of a municipality or an amendment thereof shall be adopted by a majority of the members of its legislative body at a meeting which is held after the final public hearing. If, however, at a regular or special meeting of the voters duly warned and held as provided in 17 V.S.A. chapter 55, a municipality elects to adopt or amend municipal plans by Australian ballot, that procedure shall then apply unless rescinded by the voters at a regular or special meeting similarly warned and held. If the proposed plan or amendment is not adopted so as to take effect within one year ~~of~~ after the date of the final hearing of the planning commission, it shall be considered rejected by the municipality. Plans and amendments shall be effective upon adoption~~, and~~. Copies of newly adopted plans and amendments shall be provided to the regional planning commission and to the ~~commissioner of housing and community affairs~~ Commissioner of Housing and Community Development within 30 days ~~of~~ after adoption, which may be done electronically, provided the sender has proof of receipt. If a municipality wishes its plan or plan amendment to be eligible for approval under the provisions of section 4350 of this title, it shall request approval. The request for approval may be before or after adoption of the plan by the municipality, at the option of the municipality.

* * *

Sec. 24. 24 V.S.A. § 4424 is amended to read:

§ 4424. SHORELANDS; RIVER CORRIDOR PROTECTION AREAS; FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING BYLAWS

(a) Bylaws; flood and other hazard areas; river corridor protection. Any municipality may adopt freestanding bylaws under this chapter to address particular hazard areas in conformance with the municipal plan or, for the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6. Such freestanding bylaws may include the following, which may also be part of zoning or unified development bylaws:

(1) Bylaws to regulate development and use along shorelands.

(2) Bylaws to regulate development and use in flood areas, river corridor protection areas, or other hazard areas. The following shall apply if flood or other hazard area bylaws are enacted:

* * *

(D)(i) Mandatory provisions. Except as provided in subsection (c) of this section, all flood and other hazard area bylaws shall provide that no permit for new construction or substantial improvement shall be granted for a flood or other hazard area until after both the following:

(I) A copy of the application is mailed or delivered by the administrative officer or by the appropriate municipal panel to the Agency of Natural Resources or its designee, which may be done electronically, provided the sender has proof of receipt.

(II) Either 30 days have elapsed following the mailing or the Agency or its designee delivers comments on the application.

(ii) The Agency of Natural Resources may delegate to a qualified representative of a municipality with a flood hazard area bylaw or ordinance or to a qualified representative for a regional planning commission the Agency's authority under this subdivision (a)(2)(D) to review and provide technical comments on a proposed permit for new construction or substantial improvement in a flood hazard area. Comments provided by a representative delegated under this subdivision (a)(2)(D) shall not be binding on a municipality.

* * *

Sec. 25. 24 V.S.A. § 4441 is amended to read:

§ 4441. PREPARATION OF BYLAWS AND REGULATORY TOOLS; AMENDMENT OR REPEAL

* * *

(e) At least 15 days prior to the first hearing, a copy of the proposed bylaw, amendment, or repeal and the written report shall be delivered physically or electronically with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following:

(1) The ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in a municipality, the clerk of that abutting municipality.

(2) The executive director of the regional planning commission of the area in which the municipality is located.

(3) The ~~department of housing and community affairs~~ Department of Housing and Community Development within the ~~agency of commerce and community development~~ Agency of Commerce and Community Development.

* * *

Sec. 26. 24 V.S.A. § 4445 is amended to read:

§ 4445. AVAILABILITY AND DISTRIBUTION OF DOCUMENTS

Current copies of plans, bylaws, and capital budgets and programs shall be available to the public during normal business hours in the office of the clerk of any municipality in which those plans, bylaws, or capital budgets or programs have been adopted. The municipality shall provide all final adopted bylaws, amendments, or repeals to the regional planning commission of the area in which the municipality is located and to the ~~department of housing and community affairs~~ Department of Commerce and Community Development, which may be done electronically, provided the sender has proof of receipt.

* * * Wastewater System and Potable Water Supplies Lending * * *

Sec. 27. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(13) "Potable water supply ~~facilities~~" ~~means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps, and attendant facilities necessary to develop a source of water and to treat and~~

~~convey it in proper quantity and quality for public use within a municipality~~ has the same meaning as in 10 V.S.A. § 1972.

* * *

(17) "Designer" means a person authorized to design wastewater systems and potable water supplies as identified in 10 V.S.A. § 1975.

Sec. 28. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to $275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited ~~on an annual basis~~ into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of $275,000.00 exists for each fiscal year.

* * *

Sec. 29. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only ~~one single-family residence on its own lot~~ single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to ~~the owner of the residence~~ an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) ~~loans~~ a loan may only be made to ~~households with~~ an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) ~~loans~~ a loan may only be made to ~~households where the recipient of the loan resides in the residence~~ an owner who resides in one of the residences served by the failed supply or system on a year-round basis;

(3) ~~loans~~ a loan may only be made ~~if the owner of the residence~~ to an owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;

(4) when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

(5) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

~~(5)~~(6) all funds from the repayment of loans made under this section shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 15 (pollinator friendly solar generation standard) and Secs. 16-26 (State designation; electronic filing) shall take effect July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Campion, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

Senators Nitka, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Soucy moved to amend the proposal of amendment of the Committee on Natural Resources and Energy, by adding a new section to be numbered Sec. 5a to read as follows:

Sec. 5a. COMBINATION TANK SYSTEMS; CONTINUATION OF SERVICE

(a) As used in this section:

(1) "Combination tank system" shall have the same meaning as set forth in 10 V.S.A. § 1922.

(2) "Motor fuel" means fuel subject to the licensing fee under 10 V.S.A. § 1942(a).

(b) Notwithstanding the requirements in 10 V.S.A. § 1927(e)(2) that a combination tank system shall be closed by January 1, 2018, the Secretary of Natural Resources may authorize a combination tank service to supply motor fuel after January 1, 2018 upon a determination that the combination tank system:

(1) is the sole supply of motor fuel in the municipality in which the combination tank system is located;

(2) is needed to supply motor fuel to public safety or fire control services in the municipality; and

(3) the owner of the combination system has entered into a contract and obtained financing to replace the tank as required under 10 V.S.A. § 1927.

(c) The Secretary may authorize the continued supply of motor fuel from a combination tank system under this section until October 1, 2018.

(d) This section shall be repealed on October 1, 2018.

Which was agreed to on a division of the Senate Yeas 15, Nays 10.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy as amended, was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Bray moved to amend the Senate proposal of amendment as follows:

First: In Sec. 12, 10 V.S.A. chapter 205, in section 8055 by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Action prohibited. A person shall not commence an action under subsection (a) of this section under either of the following circumstances:

(1) if, after investigation of the alleged violation and development of the record of response, the Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General determines that no violation occurred;

(2) if the Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General has commenced and is diligently prosecuting a civil or criminal action to require compliance with a statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this title; or

(3) if the alleged violator is diligently proceeding with complying with an assurance of discontinuance, corrective action, cease and desist order, or emergency administrative order issued under 6 V.S.A. chapter 215 or under chapter 201 of this title.

Second: In Sec. 12, 10 V.S.A. chapter 205, in section 8055 by striking out subsection (g) in its entirety and inserting in lieu thereof a new subsection (g) to read as follows:

(g) Attorney's fees; costs.

(1) The Environmental Division of the Superior Court may award costs, including reasonable attorney's fees and fees for expert witnesses, to a person bringing an action under subsection (a) of this section when the court determines that the award is appropriate.

(2) The Environmental Division of the Superior Court may award costs, including reasonable attorney's fees and fees for expert witnesses, to the State or to a person subject to an action under this section if the court determines that:

(A) the action was frivolous, unreasonable, or without foundation;

(B) after investigation of the alleged violation and development of the record of response, the Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General determined that no violation occurred;

(C) the Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General has commenced and is diligently prosecuting a civil or criminal action to require compliance with a statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this title; or

(D) the person subject to the action is diligently proceeding with complying with an assurance of discontinuance, corrective action, cease and desist order, or emergency administrative order issued under 6 V.S.A. chapter 215 or under chapter 201 of this title.

Which was agreed to.

Thereupon, pending the question, Shall the bill be read third time?, Senator Benning moved to amend the Senate proposal of amendment by striking out Sec. 12.

Which was disagreed to on a roll call, Yeas, 11, Nays 18

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

Roll Call

Those Senators who voted in the affirmative were: Benning, Branagan, Brock, Brooks, Collamore, Flory, Nitka, Rodgers, Soucy, Starr, Westman.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Campion, Clarkson, Cummings, Ingram, Lyons, MacDonald, Mazza, McCormack, Pearson, Pollina, Sears, Sirotkin, White.

The Senator absent and not voting was: Kitchel.

Thereupon, pending the question, Shall the bill be read third time?, Senator Branagan moved that the bill be committed to the Committee on Agriculture, which was disagreed.

Thereupon, third reading of the bill was ordered on a division of the Senate Yeas 14, Nays 11.

Rules Suspended; Bills Messaged

On motion of Senator Balint, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 280, H. 576, H. 922.

Message from the House No. 76

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House bill entitled:

H. 913. An act relating to boards and commissions.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Gannon of Wilmington
Rep. LaClair of Barre Town
Rep. Gardner of Richmond.

Adjournment

On motion of Senator Balint, the Senate adjourned until one o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Mazza the Senate recessed until the fall of the gavel.

Called to Order

The Senate was called to order by the President.

Message from the House No. 77

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 85. An act relating to simplifying government for small businesses.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 179. An act relating to community justice centers.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 269. An act relating to blockchain, cryptocurrency, and financial technology.

And has adopted the same on its part.

Proposal of Amendment; Third Reading Ordered

H. 904.

Senator Pollina, for the Committee on Agriculture, to which was referred House bill entitled:

An act relating to miscellaneous agricultural subjects.

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:

* * * Produce Inspection * * *

Sec. 1. 6 V.S.A. § 21(b) is amended to read:

(b) The Secretary shall have the authority to:

(1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;

(2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and

(3) cooperate with the Department of Health and other State and federal agencies regarding:

(A) the prevention or remediation of the adulteration of raw agricultural commodities, food, or animal feed on farms; and

(B) application of the FDA Food Safety Modernization Act, ~~21 U.S.C. §§ 2201-2252~~ Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

Sec. 2. 6 V.S.A. § 852 is amended to read:

§ 852. AUTHORITY~~; ENFORCEMENT~~

(a) The Secretary may enforce in the State the requirements of:

(1) the rules adopted under the ~~federal~~ U.S. Food and Drug Administration Food Safety Modernization Act, ~~Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption~~ Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112; and

(2) the rules adopted under this chapter.

(b) The Agency may collaborate with the ~~Vermont~~ Department of Health regarding application of the ~~federal Food Safety Modernization Act and the rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety Modernization Act, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112, and application of the rules adopted under this chapter.

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

Sec. 3. 6 V.S.A. § 853 is amended to read:

§ 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

(b) ~~After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.~~

~~(c)~~ The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.

Sec. 4. 6 V.S.A. §§ 856 and 857 are added to read:

§ 856. ENFORCEMENT; CORRECTIVE ACTIONS

When the Secretary of Agriculture, Food and Markets determines that a person is violating the rules listed in section 852 of this title, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this section shall include:

(1) a description of the alleged violation;

(2) identification of this section;

(3) identification of the applicable rule violated; and

(4) the required corrective action that the person shall take to correct the violation.

§ 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

(a) Notwithstanding the requirements of section 856 of this title, the Secretary at any time may pursue one or more of the following:

(1) issue a cease and desist order in accordance to a person the Secretary believes to be in violation of the rules listed in section 852 of this title;

(2) issue a verbal order or written administrative order to protect public health, including orders for the stop sale, recall, embargo, destruction, quarantine, and release of produce, when:

(A) the U.S. Food and Drug Administration requires immediate State action; or

(B) an alleged violation, activity, or farm practice presents an immediate threat to the public health or welfare;

(3) order mandatory corrective actions;

(4) take any action authorized under chapter 1 of this title;

(5) seek administrative or civil penalties in accordance with the requirements of section 15, 16, or 17 of this title.

(b) When the Secretary of Agriculture, Food and Markets issues a cease and desist order, written administrative order, or required corrective action under subsection (a) of this section, the Secretary shall provide the person subject to the order or corrective action with a statement that the order or corrective action is effective upon receipt and the person has 15 days from the date the order or corrective action was issued to request a hearing.

(c) If the Secretary of Agriculture, Food and Markets issues a verbal order under this section, the Secretary shall issue written notice to the person subject to the order within five days of the issuance of the verbal order. The written notice shall include a statement that the person has 15 days from the date the written notice was received to request a hearing.

(d) If a person who receives a cease and desist order, a verbal order, an administrative order, or a mandatory corrective action under this section does not request in writing a hearing within 15 days of receipt of the order or within 15 days of written notice for a verbal order, the person's right to a hearing is waived. Upon receipt of a written request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order, verbal order, or administrative order issued under this section shall not stay the order.

(e) A person aggrieved by a final action or decision of the Secretary under this section may appeal de novo to the Civil Division of the Superior Court within 30 days of the final decision of the Secretary.

* * * Livestock and Poultry Transport for Slaughter * * *

Sec. 5. 6 V.S.A. § 1461a(c) is amended to read:

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

* * * Farm and Forest Viability * * *

Sec. 6. 6 V.S.A. § 4710 is amended to read:

§ 4710. VERMONT FARM AND FOREST VIABILITY ~~ENHANCEMENT~~ PROGRAM

(a) The Vermont Farm and Forest Viability ~~Enhancement~~ Program is a voluntary program established in the Agency of Agriculture, Food and Markets to provide assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses to enhance the financial success and long-term viability of Vermont ~~agriculture~~ agricultural and forest sectors. In administering the Program, the Secretary shall:

(1) Collaborate with the Vermont Housing and Conservation Board~~,~~ to administer the program with other State and federal agencies, private entities, and service groups to develop, coordinate, and provide technical and financial assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses.

(2) ~~Include teams of~~ Secure and coordinate experts to assist ~~farmers~~ farm, food, and forest-sector business owners in areas such as ~~assessing farm resources and potential~~ business and financial planning, succession planning, diversifying, adopting new technologies, improving product quality, developing value-added products, and lowering costs of production ~~for Vermont's agricultural sector~~. ~~The teams~~ Providers may include ~~farm~~ business management specialists, University of Vermont Extension professionals, ~~veterinarians,~~ and other experts to deliver the ~~informational and technological~~ educational and consulting services.

(3) Encourage agricultural or forest-sector economic development through investing in improvements to essential infrastructure and the promotion of ~~farm~~ businesses in ~~Vermont~~ these sectors.

(4) Enter into agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State and employ technical experts to carry out the purposes of this section.

(b) The ~~farm viability enhancement program~~ Farm and Forest Viability Program shall be assisted by an advisory board consisting of ~~ten~~ 12 members who shall include:

(1) The Secretary of Agriculture, Food and Markets. The Secretary shall serve as Chair of the Board.

(2) The Commissioner of Forests, Parks and Recreation or designee.

(3) The Commissioner of Economic Development or designee.

~~(3)~~(4) The Manager of the Vermont Economic Development Authority or designee.

~~(4)~~(5) The Director of University of Vermont Extension or designee.

~~(5)~~(6) The Executive Director of the Vermont Housing and Conservation Board or designee.

~~(6)~~(7) Four Vermont ~~farmers~~ agricultural or forest-sector business owners appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation. ~~The four farmers shall serve two-year terms, except for the first year, two farmers chosen by the Chair shall serve one-year terms~~ At least two of the four business owners shall be agricultural-sector business owners.

~~(7)~~(8) ~~A person who has~~ Two people who have expertise in agricultural or forest-sector economics, financing, or business ~~planning~~ development appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation.

(c) Members of the Advisory Board established in subsection (b) of this section other than ex officio members shall serve up to three two-year terms and shall be entitled to per diem expenses pursuant to 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each such member shall be reimbursed ~~from the fund created by this section~~ for his or her reasonable expenses incurred in carrying out his or her duties under this section.

(d) In consultation with the Advisory Board, the Secretary of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall establish ~~grant criteria,~~ performance goals, performance measures that demonstrate Program results, and other criteria to implement the Program. The ~~grant~~ criteria shall include at least the following requirements:

(1) ~~the application is developed in consultation with the producers who use or would use the Program and will address their needs;~~

~~(2)~~ the use of ~~the~~ funds available to the Program is likely to succeed in improving the economic viability of the ~~farm and the farm's producers~~ business;

~~(3)~~(2) the ~~producers are committed~~ enrollees demonstrate commitment to participating in the Program; and

~~(4)~~(3) an evaluation shall be completed by ~~enrolled farmers in conjunction with the teams~~ enrollees.

(e)~~(1) The Farm Viability Enhancement Program Special Fund is established in the State Treasury and shall be administered by the Secretary of Agriculture, Food and Markets in accordance with the provisions of 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the fund shall be retained in the Fund. The Fund shall be used only for the purpose of implementing and effectuating the Farm Viability Enhancement Program established by this section. There shall be deposited in such Fund any monies appropriated by the General Assembly to, or received by, the Secretary of Agriculture, Food and Markets from any other source, public or private. The Fund shall be used only for the purposes of:~~

~~(A) providing funds for the Farm Viability Enhancement Program as established in this section;~~

~~(B) providing funds to enrolled farmers;~~

~~(C) providing funds to service providers for administrative expenses of the program; and~~

~~(D) leveraging other competitive public and private funds, grants, and contributions for the Farm Viability Enhancement Program.~~

~~(2)~~ The Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Vermont Housing and Conservation Board, separately or cooperatively, may solicit federal funds, grants, and private contributions for the Farm and Forest Viability ~~Enhancement~~ Program, but any Vermont Housing and Conservation Board funds used for the Farm and Forest Viability ~~Enhancement~~ Program shall be administered in accordance with 10 V.S.A. § 312.

(f)~~(1)~~ In collaboration with ~~the Vermont Housing and Conservation Board,~~ the Secretary of Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation, the Vermont Housing and Conservation Board shall report in writing to the Senate ~~Committee~~ Committees on Agriculture and on Economic Development, Housing and General Affairs and the House ~~Committee~~ Committees on Agriculture and Forestry and on Commerce and Economic Development on or before January 31 of each year with a report on the activities and performance of the Farm and Forest Viability ~~Enhancement~~ Program. At a minimum, the report shall include an evaluation of the Program utilizing the performance goals and performance measures established in consultation with the Advisory Board under subsection (d) of this section. ~~The report should assess potential demand for the Program over the succeeding three years.~~

~~(2) The Agency of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall describe in their annual budget~~

~~submissions plans to develop adequate State, federal, and private funds to carry out this initiative.~~

~~(g)(1) The Agricultural Economic Development Special Account is established as a dedicated sub-account of the Vermont Farm Viability Enhancement Program Special Fund. There shall be deposited in such account any monies:~~

~~(A) appropriated by the General Assembly to the account; and~~

~~(B) received by the State or the Secretary of Agriculture, Food and Markets from any source, public or private, for use for any of the purposes for which the account was established.~~

~~(2) The Fund shall only be used for the purposes of:~~

~~(A) encouraging private investment in the economic initiative; and~~

~~(B) providing incentives for technology businesses, determined by the Agency of Agriculture, Food and Markets to provide critical technological solutions for the growth of Vermont's agricultural economy.~~

~~(3) Assistance from the Agricultural Economic Development Special Account shall be available in order to produce agricultural energy, harvest biomass, convert biomass into energy, or enable installation and usage of wind, solar, or other technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2), including:~~

~~(A) business and technical assistance for research and planning to aid a farmer or a group of farmers in developing business enterprises;~~

~~(B) cost-effective implementation assistance to leverage other sources of capital to assist a farmer or group of farmers in purchasing equipment, technology, or other assistance; and~~

~~(C) business, technical, and implementation assistance to persons that are not farmers for the development and implementation of technology or development of facilities designed to produce agricultural energy, harvest biomass, or convert biomass into energy, provided that the person is working in consultation with a Vermont farm, is creating an enterprise that utilizes Vermont resources, and provides Vermont a significant return on investment and meets any financial and technical criteria established by the Secretary by procedure.~~ [Repealed.]

* * * Vermont Trails System; Act 250 * * *

Sec. 7. PURPOSE

The purpose of Sec. 8 of this act is to provide for consistency in the application of 10 V.S.A. chapter 151 (Act 250) to the construction and improvement of trails that are part of the Vermont Trails System under 10 V.S.A. chapter 20.

Sec. 8. 10 V.S.A. § 6001(3) is amended to read:

(3)(A) "Development" means each of the following:

* * *

(v) The construction of improvements on a tract of land involving more than 10 acres that is to be used for municipal, county, or State purposes. In computing the amount of land involved, land shall be included that is incident to the use such as lawns, parking areas, roadways, leaching fields and accessory buildings. Trails recognized as part of the Vermont Trails System under section 443 of this title shall be deemed to be for a State purpose.

* * *

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

* * *

(vi) Vermont Trail System projects. In the case of a construction project for a trail recognized as part of the Vermont Trail System pursuant to section 443 of this title, the computation of land involved shall not include any existing or planned portion of the trail or of the Vermont Trail System unless that portion will be physically altered as part of the project and is on the same tract or tracts of land.

* * * Forest Products Industry; Act 250 * * *

Sec. 9. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF REVIEW

* * *

(g) When an application concerns the construction of improvements for one of the following, the application shall be processed as a minor application in accordance with subsections (b) through (e) of this section:

(1) a sawmill that produces one million board feet or less annually; or

(2) an operation that involves the primary processing of forest products of commercial value and that annually produces:

(A) 1,750 cords or less of firewood or cordwood; or

(B) 5,000 tons or less of bole wood, whole tree chips, or wood pellets.

* * * Forest Products Industry; Wood Energy; Supply * * *

Sec. 10. PUBLIC BUILDINGS; WOOD ENERGY; VERMONT SUPPLIERS; REPORT

(a) On or before December 15, 2018, the Commissioner of Buildings and General Services (Commissioner), in consultation with the Commissioner of Public Service, shall submit a written report and recommendation on the feasibility and impacts of requiring certain public buildings that use wood to produce heat or electricity, or both, to give preference to Vermont suppliers when making fuel supply purchases.

(b) As used in this section, "public building" has the same meaning as in 20 V.S.A. § 2730.

(c) The submission shall include the Commissioner's specific recommendations as to each of the following categories of public buildings:

(1) schools owned, occupied, or administered by municipalities;

(2) other public buildings owned or occupied by the State of Vermont, counties, municipalities, or other public entities; and

(3) public buildings in Vermont that receive incentives or financing, or both, from the State of Vermont and are not within the category described in subdivisions (1) or (2) of this subsection.

(d) The Commissioner shall submit the report and recommendation to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Energy and Technology.

* * * Forestland; Use Value Appraisal * * *

Sec. 11. 32 V.S.A. § 3756 is amended to read:

§ 3756. QUALIFICATION FOR USE VALUE APPRAISAL

(a) The owner of eligible agricultural land, farm buildings, or managed forestland shall be entitled to have eligible property appraised at its use value, provided the owner shall have applied to the Director on or before September 1 of the previous tax year, on a form approved by the Board and provided by the Director. A farmer, whose application has been accepted on or before

December 31 by the Director of the Division of Property Valuation and Review of the Department of Taxes for enrollment for the use value program for the current tax year, shall be entitled to have eligible property appraised at its use value~~,~~ if he or she was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

* * *

(i)(1) ~~After providing 30 days' notice to the owner, the Director shall remove from use value appraisal an entire parcel of managed forestland and notify the owner when the Commissioner of Forests, Parks and Recreation has not received a required management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.~~

~~(2)(A)~~ The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:

~~(i)~~(A) found, after administrative hearing, or contested judicial hearing or motion, to be in violation of water quality requirements established under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215; or

~~(ii)~~(B) who is not in compliance with the terms of an administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215.

~~(B)~~(2) The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by mailing notification of removal to the owner or operator's last and usual place of abode. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application for use value appraisal for the agricultural land or farm building until the Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A. chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of this section.

* * *

(k)(1) As used in this subsection:

(A) "Contiguous" means touching, bordering, or adjoining along the boundary of a property. Properties that would be contiguous if except for separation by a roadway, railroad, or other public easement shall be considered contiguous.

(B) "Parcel" shall have the same meaning as in section 4152 of this title.

(2) After providing 30 days' notice to the owner, the Director shall remove from use value appraisal an entire parcel of contiguous managed forestland and notify the owner when the Commissioner of Forests, Parks and Recreation has not received a required management activity report or has received an adverse inspection report on greater than one percent of enrolled forestland on a parcel, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow opportunity to bring the parcel into conformance with the plan. When the Director receives an adverse inspection report documenting violations on less than or equal to one percent of forestland on a parcel, the forestland enrolled in the municipality in which the violation occurred shall be removed from use value appraisal, unless the lack of conformance consists solely of the failure to make a prescribed planned cutting under a forest management plan. If a violation consists solely of failure to make a prescribed planned cutting, the Director may delay removal of a parcel of forestland from use value appraisal for a period of one year at a time to allow the owner of the parcel opportunity to bring the parcel into conformance with its forest management plan.

Sec. 12. 32 V.S.A. § 3755(d) is amended to read:

(d) After managed forestland has been removed from use value appraisal due to an adverse inspection report under ~~subdivision 3756(i)(1)~~ subsection 3756(k) of this title, a new application for use value appraisal shall not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

* * * Energy Efficiency; Efficiency Charge * * *

Sec. 13. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(d) Energy efficiency.

* * *

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Commission may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Commission and deposited into the Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Commission. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

* * *

(B) The charge established by the Commission pursuant to this subdivision (3) shall be in an amount determined by the Commission by rule or order that is consistent with the principles of least-cost integrated planning as defined in section 218c of this title.

(i) As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings.

(ii) In setting the amount of the charge and its allocation, the Commission shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value.

(iii) The Commission, by rule or order, shall establish a process by which a customer ~~who pays an average annual energy efficiency charge under this subdivision (3) of at least $5,000.00~~ may apply to the Commission to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Commission. The remaining portion of the charge shall be used for systemwide energy benefits. The Commission in its rules or order shall establish criteria for approval of these applications. A customer shall be eligible for an energy savings account if one of the following applies:

(I) The customer pays an average annual energy efficiency charge under this subdivision (3)(B)(iii) of at least $5,000.00.

(II) The served premises of the customer are located in an industrial park in a rural area. As used in this subdivision (II):

(aa) "Industrial park" means an area of land permitted as an industrial park under 10 V.S.A. chapter 151 or under 24 V.S.A. chapter 117, or under both.

(bb) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

* * *

(e) Thermal energy and process fuel efficiency funding.

* * *

(2) If a program combines regulated fuel efficiency services with unregulated fuel efficiency services supported by funds under this section, the Commission shall allocate the costs of the program among the funding sources for the regulated and unregulated fuel sectors in proportion to the benefits provided to each sector.

* * *

(f) Goals and criteria; all energy efficiency programs. With respect to all energy efficiency programs approved under this section, the Commission shall:

(1) Ensure that all retail consumers, regardless of retail electricity, gas, or heating or process fuel provider or of household income, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation. To further this goal, the Commission shall require that a percentage of energy efficiency funds be used to deliver energy

efficiency programs to customers with household incomes below 80 percent of the statewide median income, as defined by the U.S. Department of Housing and Urban Development, and the requirements of subdivision (e)(2) of this section shall not apply to such delivery.

* * *

* * * Sales and Use Tax; Advanced Wood Boilers * * *

Sec. 14. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(54) "Noncollecting vendor" means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) "Advanced wood boiler" means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and air emissions standards established by the Department of Environmental Conservation.

Sec. 15. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(52) Advanced wood boilers, as defined in section 9701 of this title, whether for residential or commercial use.

Sec. 16. 32 V.S.A. § 9706(ll) is added to read:

(ll) The statutory purpose of the exemption for advanced wood boilers in subdivision 9741(52) of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) This section and Secs. 1–4 (produce inspection), 5 (livestock transfer), 7–8 (Act 250 trails designation), and 9 (Act 250 minor application; small sawmills) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Bray, for the Committee on Natural Resources and Energy, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Produce Inspection * * *

Sec. 1. 6 V.S.A. § 21(b) is amended to read:

(b) The Secretary shall have the authority to:

(1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;

(2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and

(3) cooperate with the Department of Health and other State and federal agencies regarding:

(A) the prevention or remediation of the adulteration of raw agricultural commodities, food, or animal feed on farms; and

(B) application of the FDA Food Safety Modernization Act, ~~21 U.S.C. §§ 2201-2252~~ Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

Sec. 2. 6 V.S.A. § 852 is amended to read:

§ 852. AUTHORITY~~; ENFORCEMENT~~

(a) The Secretary may enforce in the State the requirements of:

(1) the rules adopted under the ~~federal~~ U.S. Food and Drug Administration Food Safety Modernization Act, ~~Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption~~ Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112; and

(2) the rules adopted under this chapter.

(b) The Agency may collaborate with the ~~Vermont~~ Department of Health regarding application of the ~~federal Food Safety Modernization Act and the rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety Modernization Act, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112, and application of the rules adopted under this chapter.

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

Sec. 3. 6 V.S.A. § 853 is amended to read:

§ 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

(b) ~~After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.~~

~~(c)~~ The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.

Sec. 4. 6 V.S.A. §§ 856 and 857 are added to read:

§ 856. ENFORCEMENT; CORRECTIVE ACTIONS

When the Secretary of Agriculture, Food and Markets determines that a person is violating the rules listed in section 852 of this title, the Secretary may

issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this section shall include:

(1) a description of the alleged violation;

(2) identification of this section;

(3) identification of the applicable rule violated; and

(4) the required corrective action that the person shall take to correct the violation.

§ 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

(a) Notwithstanding the requirements of section 856 of this title, the Secretary at any time may pursue one or more of the following:

(1) issue a cease and desist order in accordance to a person the Secretary believes to be in violation of the rules listed in section 852 of this title;

(2) issue a verbal order or written administrative order to protect public health, including orders for the stop sale, recall, embargo, destruction, quarantine, and release of produce, when:

(A) the U.S. Food and Drug Administration requires immediate State action; or

(B) an alleged violation, activity, or farm practice presents an immediate threat to the public health or welfare;

(3) order mandatory corrective actions;

(4) take any action authorized under chapter 1 of this title;

(5) seek administrative or civil penalties in accordance with the requirements of section 15, 16, or 17 of this title.

(b) When the Secretary of Agriculture, Food and Markets issues a cease and desist order, written administrative order, or required corrective action under subsection (a) of this section, the Secretary shall provide the person subject to the order or corrective action with a statement that the order or corrective action is effective upon receipt and the person has 15 days from the date the order or corrective action was issued to request a hearing.

(c) If the Secretary of Agriculture, Food and Markets issues a verbal order under this section, the Secretary shall issue written notice to the person subject to the order within five days of the issuance of the verbal order. The written notice shall include a statement that the person has 15 days from the date the written notice was received to request a hearing.

(d) If a person who receives a cease and desist order, a verbal order, an administrative order, or a mandatory corrective action under this section does not request in writing a hearing within 15 days of receipt of the order or within 15 days of written notice for a verbal order, the person's right to a hearing is waived. Upon receipt of a written request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order, verbal order, or administrative order issued under this section shall not stay the order.

(e) A person aggrieved by a final action or decision of the Secretary under this section may appeal de novo to the Civil Division of the Superior Court within 30 days of the final decision of the Secretary.

* * * Livestock and Poultry Transport for Slaughter * * *

Sec. 5. 6 V.S.A. § 1461a(c) is amended to read:

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

* * * Farm and Forest Viability * * *

Sec. 6. 6 V.S.A. § 4710 is amended to read:

§ 4710. VERMONT FARM AND FOREST VIABILITY ~~ENHANCEMENT~~ PROGRAM

(a) The Vermont Farm and Forest Viability ~~Enhancement~~ Program is a voluntary program established in the Agency of Agriculture, Food and Markets to provide assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses to enhance the financial success and long-term viability of Vermont ~~agriculture~~ agricultural and forest sectors. In administering the Program, the Secretary shall:

(1) Collaborate with the Vermont Housing and Conservation Board~~,~~ to administer the program with other State and federal agencies, private entities, and service groups to develop, coordinate, and provide technical and financial assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses.

(2) ~~Include teams of~~ Secure and coordinate experts to assist ~~farmers~~ farm, food, and forest-sector business owners in areas such as ~~assessing farm resources and potential~~ business and financial planning, succession planning,

diversifying, adopting new technologies, improving product quality, developing value-added products, and lowering costs of production ~~for Vermont's agricultural sector~~. ~~The teams~~ Providers may include ~~farm~~ business management specialists, University of Vermont Extension professionals, ~~veterinarians,~~ and other experts to deliver the ~~informational and technological~~ educational and consulting services.

(3) Encourage agricultural or forest-sector economic development through investing in improvements to essential infrastructure and the promotion of ~~farm~~ businesses in ~~Vermont~~ these sectors.

(4) Enter into agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State and employ technical experts to carry out the purposes of this section.

(b) The ~~farm viability enhancement program~~ Farm and Forest Viability Program shall be assisted by an advisory board consisting of ~~ten~~ 12 members who shall include:

(1) The Secretary of Agriculture, Food and Markets. The Secretary shall serve as Chair of the Board.

(2) The Commissioner of Forests, Parks and Recreation or designee.

(3) The Commissioner of Economic Development or designee.

~~(3)~~(4) The Manager of the Vermont Economic Development Authority or designee.

~~(4)~~(5) The Director of University of Vermont Extension or designee.

~~(5)~~(6) The Executive Director of the Vermont Housing and Conservation Board or designee.

~~(6)~~(7) Four Vermont ~~farmers~~ agricultural or forest-sector business owners appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation. ~~The four farmers shall serve two-year terms, except for the first year, two farmers chosen by the Chair shall serve one-year terms~~ At least two of the four business owners shall be agricultural-sector business owners.

~~(7)~~(8) ~~A person who has~~ Two people who have expertise in agricultural or forest-sector economics, financing, or business ~~planning~~ development appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation.

(c) Members of the Advisory Board established in subsection (b) of this section other than ex officio members shall serve up to three two-year terms and shall be entitled to per diem expenses pursuant to 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each such member shall be reimbursed ~~from the fund created by this section~~ for his or her reasonable expenses incurred in carrying out his or her duties under this section.

(d) In consultation with the Advisory Board, the Secretary of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall establish ~~grant criteria,~~ performance goals, performance measures that demonstrate Program results, and other criteria to implement the Program. The ~~grant~~ criteria shall include at least the following requirements:

(1) ~~the application is developed in consultation with the producers who use or would use the Program and will address their needs;~~

~~(2)~~ the use of ~~the~~ funds available to the Program is likely to succeed in improving the economic viability of the ~~farm and the farm's producers~~ business;

~~(3)~~(2) the ~~producers are committed~~ enrollees demonstrate commitment to participating in the Program; and

~~(4)~~(3) an evaluation shall be completed by ~~enrolled farmers in conjunction with the teams~~ enrollees.

(e)~~(1) The Farm Viability Enhancement Program Special Fund is established in the State Treasury and shall be administered by the Secretary of Agriculture, Food and Markets in accordance with the provisions of 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the fund shall be retained in the Fund. The Fund shall be used only for the purpose of implementing and effectuating the Farm Viability Enhancement Program established by this section. There shall be deposited in such Fund any monies appropriated by the General Assembly to, or received by, the Secretary of Agriculture, Food and Markets from any other source, public or private. The Fund shall be used only for the purposes of:~~

~~(A) providing funds for the Farm Viability Enhancement Program as established in this section;~~

~~(B) providing funds to enrolled farmers;~~

~~(C) providing funds to service providers for administrative expenses of the program; and~~

~~(D) leveraging other competitive public and private funds, grants, and contributions for the Farm Viability Enhancement Program.~~

~~(2)~~ The Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Vermont Housing and Conservation Board, separately or cooperatively, may solicit federal funds, grants, and private contributions for the Farm and Forest Viability ~~Enhancement~~ Program, but any Vermont Housing and Conservation Board funds used for the Farm and Forest Viability ~~Enhancement~~ Program shall be administered in accordance with 10 V.S.A. § 312.

(f)~~(1)~~ In collaboration with ~~the Vermont Housing and Conservation Board,~~ the Secretary of Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation, the Vermont Housing and Conservation Board shall report in writing to the Senate ~~Committee~~ Committees on Agriculture and on Economic Development, Housing and General Affairs and the House ~~Committee~~ Committees on Agriculture and Forestry and on Commerce and Economic Development on or before January 31 of each year with a report on the activities and performance of the Farm and Forest Viability ~~Enhancement~~ Program. At a minimum, the report shall include an evaluation of the Program utilizing the performance goals and performance measures established in consultation with the Advisory Board under subsection (d) of this section. ~~The report should assess potential demand for the Program over the succeeding three years.~~

~~(2) The Agency of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall describe in their annual budget submissions plans to develop adequate State, federal, and private funds to carry out this initiative.~~

~~(g)(1) The Agricultural Economic Development Special Account is established as a dedicated sub-account of the Vermont Farm Viability Enhancement Program Special Fund. There shall be deposited in such account any monies:~~

~~(A) appropriated by the General Assembly to the account; and~~

~~(B) received by the State or the Secretary of Agriculture, Food and Markets from any source, public or private, for use for any of the purposes for which the account was established.~~

~~(2) The Fund shall only be used for the purposes of:~~

~~(A) encouraging private investment in the economic initiative; and~~

~~(B) providing incentives for technology businesses, determined by the Agency of Agriculture, Food and Markets to provide critical technological solutions for the growth of Vermont's agricultural economy.~~

~~(3) Assistance from the Agricultural Economic Development Special Account shall be available in order to produce agricultural energy, harvest biomass, convert biomass into energy, or enable installation and usage of wind, solar, or other technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2), including:~~

~~(A) business and technical assistance for research and planning to aid a farmer or a group of farmers in developing business enterprises;~~

~~(B) cost-effective implementation assistance to leverage other sources of capital to assist a farmer or group of farmers in purchasing equipment, technology, or other assistance; and~~

~~(C) business, technical, and implementation assistance to persons that are not farmers for the development and implementation of technology or development of facilities designed to produce agricultural energy, harvest biomass, or convert biomass into energy, provided that the person is working in consultation with a Vermont farm, is creating an enterprise that utilizes Vermont resources, and provides Vermont a significant return on investment and meets any financial and technical criteria established by the Secretary by procedure.~~ [Repealed.]

* * * Nutrient Management Plans * * *

Sec. 7. 6 V.S.A. § 4817 is added to read:

§ 4817. NUTRIENT MANAGEMENT PLAN; REPORTING

Annually, an owner or operator of a large farm, medium farm, or small farm subject to small farm certification shall submit to the Secretary a digital or electronic copy of the nutrient management plan required under this chapter. A nutrient management plan submitted by an owner or operator of a farm under this section shall identify the known location of outfalls of subsurface tile drainage installed on the farm.

Sec. 8. SCHEDULE; SUBMISSION OF NUTRIENT MANAGEMENT PLAN

An owner or operator of a farm subject to the nutrient management plan reporting requirements of 6 V.S.A. § 4817 shall initiate submission of the nutrient management plan according to the following schedule:

(1) the owner or operator of a large farm, beginning on February 15, 2019 and annually thereafter;

(2) the owner or operator of a medium farm, beginning on April 30, 2019 and annually thereafter; and

(3) the owner or operator of a small farm subject to certification, beginning on January 31, 2021 and annually thereafter.

* * * Forest Habitat * * *

Sec. 9. 10 V.S.A. § 6001(38)–(42) are added to read:

(38) "Forest block" means a contiguous area of forest in any stage of succession and not currently developed for nonforest use that is mapped as an interior forest block within the 2016 interior forest block dataset created as part of resource mapping under section 127 of this title, as that dataset may be updated pursuant to procedures developed in accordance with that section. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and improvements constructed for farming, logging, or forestry purposes.

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

(40) "Habitat" means the physical and biological environment in which a particular species of plant or animal lives.

(41) "Habitat connector" refers to land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(42) As used in subdivisions (38), (39), and (41) of this section, "recreational trail" means a corridor that is not paved, and that is used for recreational purposes, including hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

Sec. 10. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the District Commission shall find that the subdivision or development:

* * *

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

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

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

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

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

(B) Forest blocks.

(i) A permit will not be granted for a development or subdivision within or partially within a forest block unless the applicant demonstrates that:

(I) the development or subdivision will avoid fragmentation of the forest block through the design of the project or the location of project improvements, or both;

(II) it is not feasible to avoid fragmentation of the forest block and the design of the development or subdivision minimizes fragmentation of the forest block; or

(III) it is not feasible to avoid or minimize fragmentation of the forest block and the applicant will mitigate the fragmentation in accordance with section 6094 of this title.

(ii) Methods for avoiding or minimizing the fragmentation of a forest block may include:

(I) Locating buildings and other improvements and operating the project in a manner that avoids or minimizes incursion into and disturbance of the forest block, including clustering of buildings and associated improvements.

(II) Designing roads, driveways, and utilities that serve the development or subdivision to avoid or minimize fragmentation of the forest block. Such design may be accomplished by following or sharing existing features on the land such as roads, tree lines, stonewalls, and fence lines.

(C) Habitat connectors.

(i) A permit will not be granted for a development or subdivision unless the applicant demonstrates that:

(I) the development or subdivision will avoid fragmentation of a habitat connector through the design of the project or the location of project improvements, or both;

(II) it is not feasible to avoid fragmentation of the habitat connector and the design of the development or subdivision minimizes fragmentation of the connector; or

(III) it is not feasible to avoid or minimize fragmentation of the habitat connector and the applicant will mitigate the fragmentation in accordance with section 6094 of this title.

(ii) Methods for avoiding or minimizing the fragmentation of a habitat connector may include:

(I) locating buildings and other improvements at the farthest feasible location from the center of the connector;

(II) designing the location of buildings and other improvements to leave the greatest contiguous portion of the area undisturbed in order to facilitate wildlife travel through the connector; or

(III) when there is no feasible site for construction of buildings and other improvements outside the connector, designing the buildings and improvements to facilitate the continued viability of the connector for use by wildlife.

* * *

Sec. 11. 10 V.S.A. § 6088 is amended to read:

§ 6088. BURDEN OF PROOF

(a) The burden shall be on the applicant with respect to subdivisions 6086(a)(1), (2), (3), (4), (8)(B) and (C), (9), and (10) of this title.

(b) ~~The~~ Except for subdivisions 6086(a)(8)(B) and (C) of this title, the burden shall be on any party opposing the applicant with respect to subdivisions 6086(a)(5) through (8) of this title to show an unreasonable or adverse effect.

Sec. 12. 10 V.S.A. § 6094 is added to read:

§ 6094. MITIGATION OF FOREST BLOCKS AND HABITAT CONNECTORS

(a) A District Commission may consider a proposal to mitigate, through compensation, the fragmentation of a forest block or habitat connector if the applicant demonstrates that it is not feasible to avoid or minimize fragmentation of the block or connector in accordance with the respective requirements of subdivision 6086(a)(8)(B) or (C) of this title. A District Commission may approve the proposal only if it finds that the proposal will meet the requirements of the rules adopted under this section and will preserve a forest block or habitat connector of similar quality and character to the block or connector affected by the development or subdivision.

(b) The Natural Resources Board, in consultation with the Secretary of Natural Resources, shall adopt rules governing mitigation under this section.

(1) The rules shall state the acreage ratio of forest block or habitat connector to be preserved in relation to the block or connector affected by the development or subdivision.

(2) Compensation measures to be allowed under the rules shall be based on the ratio of land developed pursuant to subdivision (1) of this subsection and shall include:

(A) Preservation of a forest block or habitat connector of similar quality and character to the block or connector that the development or subdivision will affect.

(B) Deposit of an offsite mitigation fee into the Vermont Housing and Conservation Trust Fund under section 312 of this title.

(i) This mitigation fee shall be derived as follows:

(I) Determine the number of acres of forest block or habitat connector, or both, affected by the proposed development or subdivision.

(II) Multiply this number of affected acres by the ratio set forth in the rules.

(III) Multiply the resulting product by a "price-per-acre" value, which shall be based on the amount that the Commissioner of Forests, Parks and Recreation determines to be the recent, per-acre cost to acquire conservation easements for forest blocks and habitat connectors of similar quality and character in the same geographic region as the proposed development or subdivision.

(ii) The Vermont Housing Conservation Board shall use such a fee to preserve a forest block or habitat connector of similar quality and character to the block or connector affected by the development or subdivision.

(C) Such other compensation measures as the rules may authorize.

(c) The mitigation of impact on a forest block or a habitat connector, or both, shall be structured also to mitigate the impacts, under the criteria of subsection 6086(a) of this title other than subdivisions (8)(B) and (C), to land or resources within the block or connector.

(d) All forest blocks and habitat connectors preserved pursuant to this section shall be protected by permanent conservation easements that grant development rights and include conservation restrictions and are conveyed to a qualified holder, as defined in section 821 of this title, with the ability to monitor and enforce easements in perpetuity.

Sec. 13. RULE ADOPTION: SCHEDULE; GUIDANCE

(a) Rulemaking.

(1) On or before September 1, 2018, the Natural Resources Board (NRB) shall file proposed rules with the Secretary of State to implement Sec. 12 of this act, 10 V.S.A. § 6094.

(2) On or before March 1, 2019, the NRB shall finally adopt rules to implement Sec. 12 of this act, 10 V.S.A. § 6094, unless such deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

(b) Guidance.

(1) On or before May 1, 2019, the NRB shall develop guidance for the District Commissions, applicants, and other affected persons with respect to:

(A) the forest block and habitat connector criteria adopted under Sec. 10 of this act, 10 V.S.A. § 6086(a)(8)(B) and (C); and

(B) designing recreational trails, subdivisions, and developments to minimize impacts in a manner that complies with those criteria.

(2) The NRB shall develop this guidance in collaboration with the Agency of Natural Resources (ANR). As part of developing this guidance, the NRB shall solicit input from affected parties and the public, including planners, developers, municipalities, environmental advocacy organizations, regional planning commissions, regional development corporations, and business advocacy organizations such as State and regional chambers of commerce.

Sec. 14. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

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

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

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

Sec. 15. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

* * *

(34) As used in subdivisions 4348a(a)(2) and 4382(a)(2) of this title:

(A) "Forest block" means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and uses exempt from regulation under subsection 4413(d) of this title.

~~(35)~~(B) "Forest fragmentation" means the division or conversion of a forest block by land development other than by a recreational trail or use exempt from regulation under subsection 4413(d) of this title.

~~(36)~~(C) "Habitat connector" means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement,

migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and uses exempt from regulation under subsection 4413(d) of this title. In a plan or other document issued pursuant to this chapter, a municipality or regional plan commission may use the phrase "wildlife corridor" in lieu of "habitat connector."

~~(37)~~(35) "~~Recreational~~ As used in subdivision (34) of this section, "recreational trail" means a corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

* * * Forest Products Industry; Act 250 * * *

Sec. 16. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF REVIEW

* * *

(g) When an application concerns the construction of improvements for one of the following, the application shall be processed as a minor application in accordance with subsections (b) through (e) of this section:

(1) a sawmill that produces three and one-half million board feet or less annually; or

(2) an operation that involves the primary processing of forest products of commercial value and that annually produces:

(A) 3,500 cords or less of firewood or cordwood; or

(B) 10,000 tons or less of bole wood, whole tree chips, or wood pellets.

* * * Report; Harvest Notification; Trip Tickets * * *

Sec. 17. REPORT; HARVEST NOTIFICATION; TRIP TICKETS

(a) On or before January 15, 2019, the Commissioner of Forests, Parks and Recreation shall submit a written report with analysis and recommendations on each of the following:

(1) whether to require a landowner on whose property timber harvest is to take place to file a harvest notification with the State of Vermont;

(2) whether to require trip tickets for loads of forest products when transported from the location of a timber harvest to the location of first measurement or when transported after first measurement, or both; and

(3) whether to require sawmills and other operations that involve the primary processing of forest products of commercial value to report annually the quantity of forest products processed.

(b) For each potential requirement described in subsection (a) of this section, the Commissioner shall include recommendations on how to implement the requirement, should the General Assembly decide to adopt the requirement.

(c) Prior to submitting the report, the Commissioner shall offer an opportunity for the public to submit relevant information and recommendations.

(d) The Commissioner shall submit the report to the House Committees on Agriculture and Forest Products and on Natural Resources, Fish, and Wildlife and the Senate Committees on Agriculture and on Natural Resources and Energy.

(e) In preparing the report, the Commissioner may use and build on prior relevant reports and submissions to the General Assembly.

* * * Forest Products Industry; Wood Energy; Supply * * *

Sec. 18. PUBLIC BUILDINGS; WOOD ENERGY; VERMONT SUPPLIERS; REPORT

(a) On or before December 15, 2018, the Commissioner of Buildings and General Services (Commissioner), in consultation with the Commissioner of Public Service, shall submit a written report and recommendation on the feasibility and impacts of requiring certain public buildings that use wood to produce heat or electricity, or both, to give preference to Vermont suppliers when making fuel supply purchases.

(b) As used in this section, "public building" has the same meaning as in 20 V.S.A. § 2730.

(c) The submission shall include the Commissioner's specific recommendations as to each of the following categories of public buildings:

(1) schools owned, occupied, or administered by municipalities;

(2) other public buildings owned or occupied by the State of Vermont, counties, municipalities, or other public entities; and

(3) public buildings in Vermont that receive incentives or financing, or both, from the State of Vermont and are not within the category described in subdivision (1) or (2) of this subsection.

(d) The Commissioner shall submit the report and recommendation to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Energy and Technology.

* * * Sales and Use Tax; Advanced Wood Boilers * * *

Sec. 19. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(54) "Noncollecting vendor" means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) "Advanced wood boiler" means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and air emissions standards established by the Department of Environmental Conservation.

Sec. 20. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(52) Advanced wood boilers, as defined in section 9701 of this title, whether for residential or commercial use.

Sec. 21. 32 V.S.A. § 9706(ll) is added to read:

(ll) The statutory purpose of the exemption for advanced wood boilers in subdivision 9741(52) of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) This section and Secs. 1–4 (produce inspection), 5 (livestock transfer), 13 (rule adoption; schedule), 16 (Act 250 minor application; small sawmills), and 17 (report; harvest notification; trip tickets) shall take effect on passage.

(b) Sec. 15 (definitions) shall take effect on January 1, 2019 and shall supersede 2016 Acts and Resolves No. 171, Sec. 15. Sec. 15 shall apply to municipal and regional plans adopted or amended on or after January 1, 2019.

(c) Secs. 9 through 12 (forest habitat) shall take effect on May 1, 2019, except that on passage, Secs. 9 through 12 shall apply to the rulemaking and guidance under Sec. 13.

(d) All other sections shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Pollina, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By adding Secs. 21a–21c to read as follows:

Sec. 21a. TRANSFER FROM CEDF TO GENERAL FUND; TAX EXPENDITURE; ADVANCED WOOD BOILERS

(a) Beginning July 1, 2018, the Clean Energy Development Fund quarterly shall calculate the foregone sales tax on advanced wood fired boilers resulting from the sales tax exemption under 32 V.S.A. § 9741(52) for advanced wood boilers. Beginning October 1, 2018, the Clean Energy Development Fund shall notify the Department of Taxes of the amount of sales tax foregone in the preceding calendar quarter resulting from the sales tax exemption under 32 V.S.A. § 9741(52) for advanced wood boilers.

(b) In fiscal years 2019 and 2020, the Clean Energy Development Fund shall transfer from the Clean Energy Development Fund to the General Fund the amount of the tax expenditure resulting from the sales tax exemption under 32 V.S.A. § 9741(52) on advanced wood boilers up to a maximum of $200,000.00 for both fiscal years combined. The Department of Taxes shall deposit 64 percent of the monies transferred from the Clean Energy Development Fund into the General Fund under 32 V.S.A. § 435 and 36 percent of the monies in the Education Fund under 16 V.S.A. § 4025.

Sec. 21b. DEPARTMENT OF PUBLIC SERVICE REPORT ON FUNDING OF THE CLEAN ENERGY DEVELOPMENT FUND

On or before January 15, 2019, the Department of Public Service, after consultation with the Agency of Commerce and Community Development, the Department of Forests, Parks, and Recreation, and renewable energy organizations, shall submit to the Senate Committees on Finance, on Appropriations, and on Natural Resources and Energy and the House Committees on Ways and Means, on Appropriations, and on Energy and Technology a recommended source of funding sufficient to sustainably fund the authorized uses of the Clean Energy Development Fund as provided under 30 V.S.A. § 8015.

Sec. 21c. REPEAL

(a) 32 V.S.A. § 9741(52) (sales tax exemption for advanced wood boilers) shall be repealed on July 1, 2021.

(b) Sec. 21a of this act (transfer from CEDF) shall be repealed on July 1, 2021.

Second: In Sec. 20, 32 V.S.A. § 9741, after "of this title" and before the period, by striking out the following: ", whether for residential or commercial use"

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported the same without recommendation.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending question, Shall the bill be amended as recommended by the Committee on Agriculture?, Senator Starr moved that the question be divided and that Secs. 1 through 5 be voted on separately.

Thereupon, Senator Lyons moved that Secs. 6 through 17 be considered first.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by the Committee on Agriculture in Secs. 6 through 17? Senator Starr raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Committee on Agriculture in Secs. 6 through 17 was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by the Committee on Agriculture in Secs. 6 through 17 was *not germane* to the bill.

The President thereupon declared that the proposal of amendment offered by Committee on Agriculture in Secs. 6 through 17 could *not* be considered by the Senate and the proposal of amendment in Secs. 6 through 17 was ordered stricken.

Senator Bray moved that the rules be suspended so that the Senate may consider a non-germane amendment which was disagreed to on a roll call, Yeas 15, Nays 12. (The necessary 3/4ths not having been attained.)

Senator Starr 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, Baruth, Bray, Campion, Clarkson, Cummings, Ingram, Lyons, MacDonald, McCormack, Pearson, Pollina, Sirotkin, White.

Those Senators who voted in the negative were: Benning, Branagan, Brock, Brooks, Collamore, Flory, Mazza, Nitka, Rodgers, Soucy, Starr, Westman.

Those Senators absent and not voting were: Ashe, Kitchel, Sears.

Thereupon, Senator Pollina requested and was granted leave to withdraw the report of the Committee on Agriculture.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Natural Resources and Energy?, Senator Starr raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by the Committee on Natural Resources and Energy in Secs. 6 through 22 was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Committee on Natural Resources and Energy in Secs. 6 through 22 was *not germane* to the bill.

The President thereupon declared that the proposal of amendment offered by Committee on Agriculture in Secs. 6 through 22 could *not* be considered by the Senate and the proposal of amendment in Secs. 6 through 22 was ordered stricken.

Thereupon, Senator Bray requested and was granted leave to withdraw the report of Committee on Natural Resources and Energy.

Thereupon, Senator Pollina, requested and was granted leave to withdraw the report of the Committee on Finance.

Thereupon, the pending question, Shall the bill be read the third time was agreed to.

House Proposals of Amendment to Senate Proposal of Amendment Concurred In

H. 897.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

Were taken up.

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

First: In Sec. 1, Findings, by adding a new subsection, to be subsection (f), to read:

(f) The General Assembly agrees with the findings in the Delivery of Services Report and with the advantages of moving to a census-based special education funding model as described in the Funding Report. The General Assembly recognizes that changing the models for delivery of services and funding for students who require additional support is a significant change for school systems and their constituencies, and that they will require time and assistance in making necessary adjustments.

Second: In Sec. 2, Goals, by adding a new subsection, to be subsection (d), to read:

(d) To provide additional staff and resources to the Agency of Education to support its work with supervisory unions and schools that are transitioning to the best practices recommended in the report entitled "Expanding and Strengthening Best-Practice Supports for Students who Struggle" issued by the District Management Group in November 2017.

Third: In Sec. 5, amending 16 V.S.A. chapter 101, in § 2942, by striking out subdivision (8)(D) in its entirety and inserting in lieu thereof the following:

(D) for whom English is not the primary language; or

Fourth: In Sec. 5, amending 16 V.S.A. chapter 101, in § 2962 in subsection (e), in the first sentence, by striking out the phrase "individualized education

plan" and inserting in lieu thereof the phrase "individualized education program".

Fifth: In Sec. 5, amending 16 V.S.A. chapter 101, in § 2967, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) On or before December 15, the Secretary shall publish an estimate, by each supervisory union ~~and its member districts to the extent they anticipate reimbursable~~, of its anticipated special education expenditures under this chapter~~, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in~~ for the ensuing school year.

Sixth: In Sec. 9, Census-based Funding Advisory Group, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Membership. The Advisory Group shall be composed of the following 14 members:

(1) the Executive Director of the Vermont Superintendents Association or designee;

(2) the Executive Director of the Vermont School Boards Association or designee;

(3) the Executive Director of the Vermont Council of Special Education Administrators or designee;

(4) the Executive Director of the Vermont Principals' Association or designee;

(5) the Executive Director of the Vermont Independent Schools Association or designee;

(6) the Executive Director of the Vermont-National Education Association or designee;

(7) the Secretary of Education or designee;

(8) one member selected by the Vermont-National Education Association who is a special education teacher;

(9) one member selected by the Vermont Association of School Business Officials;

(10) one member selected by the Vermont Legal Aid Disability Law Project;

(11) one member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights;

(12) the Commissioner of the Vermont Department of Mental Health or designee;

(13) one member who represents an approved independent school selected by the Council of Independent Schools; and

(14) one member selected by the Vermont Council of Special Education Administrators who is a special education teacher and who teaches in a school that is located in a different county than the special education teacher selected by the Vermont-National Education Association under subdivision (8) of this subsection.

Seventh: In Sec. 9, Census-based Funding Advisory Group, by striking out subsection (h) in its entirety and inserting in lieu thereof the following:

(h) Appropriation. The sum of $5,376.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020, 2021, and 2022 the amount of $5,376.00 to provide funding for per diem compensation and reimbursement under subsection (g) of this section.

Eighth: By striking out Sec. 20 in its entirety and by inserting in lieu thereof a new Sec. 20 to read as follows:

Sec. 20. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

* * *

(b) Approved independent schools. On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with the Board's rules for approved independent schools. Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school ~~has~~ have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation. Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes.

* * *

(5) The State Board may revoke ~~or~~, suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources required to meet its stated objectives, for failure to comply with statutory requirements or the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon that revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in a public school, an approved or recognized independent school, or a home study program.

* * *

(8)(A) If an approved independent school experiences any of the following financial reporting events during the period of its approved status, the school shall notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement contributions;

(iv) the school's use of designated funds for nondesignated purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the State Board reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the State Board shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the State Board, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the State Board may establish a review team, that, with the consent of the school, includes a member of the Council of Independent Schools, to:

(I) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * *

Ninth: By adding a new section, to be Sec. 20a, to read:

Sec. 20a. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

* * *

(b) Approved independent schools. On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools. An independent school that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law

to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the local education agency and the school. Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation. Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.

* * *

Tenth: In Sec. 21, amending 16 V.S.A. § 2973, by striking out subsections (a) and (b) in their entirety and inserting in lieu thereof the following:

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school that accepts public tuition shall enroll any student with an individualized education program who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school.

(2) In placing a student with an independent school under subdivision (1) of this subsection, the student's individualized education program team and the LEA shall comply with all applicable federal and State requirements.

(3) An approved independent school is not required to demonstrate that it has the resources to serve every category of special education as defined under State Board of Education rules in order to be approved or retain its approval to receive public funding for general tuition.

(4) The terms "special education services," "LEA," and "individualized education program" or "IEP" as used in this section shall have the same meanings as defined by State Board rules.

(b)(1) The Secretary of Education shall establish minimum standards of services for students receiving special education services in independent schools in Vermont~~; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the Agency and school districts for tuition, room, and board based on the level of services;~~ and may advise independent schools as to the need for certain special education services in Vermont.

(2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

(B)(i) An approved independent school that enrolls a student under subdivision (a)(1) of this section may bill the responsible LEA for excess special education costs incurred by the independent school in providing special education services beyond those covered by general tuition. Reimbursement of these excess special education costs shall be based on the direct-cost rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education Technical Manual for special education cost accounting. The Agency of Education shall publish specific elements that must be included as part of an independent school's invoice for excess special education costs, and these elements shall be included in the written agreement required under subdivision (c)(2) of this section.

(ii) In establishing the direct-cost rates for reimbursement under this subdivision (B), the Secretary shall apply the principle of treating an approved independent school and a public school with parity in the amount of federal, State, and local contributions to cover the costs of providing special education services.

(iii) An approved independent school that enrolls a student under subdivision (a)(1) of this section shall provide such documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable under this subdivision (B) to the school are reasonable in relation to

the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment under this subdivision pending the Secretary's receipt of required documentation under this subdivision, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

(C)(i) The Secretary shall set, after consultation with independent schools in Vermont, the maximum tuition rates to be paid by the Agency and supervisory unions or school districts to independent schools that limit enrollment to students who are on an IEP or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school. The maximum tuition rates shall be based on the level of services provided by the school.

(ii) The tuition rates established by the Secretary under this subdivision (C) shall be no more than the costs that are reasonably related to the level of services provided by the school and shall be set forth on a form prescribed for that purpose by the Secretary of Education. The Secretary shall determine the relationship between costs and the level of services by using generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(iii) After the Secretary approves a tuition rate for an independent school under this subdivision (C), the school shall not exceed that tuition rate until such time as a new tuition rate is approved by the Secretary.

Eleventh: In Sec. 21, amending 16 V.S.A. § 2973, in subdivision (c)(1), by striking out subdivision (C) in its entirety and inserting in lieu thereof the following:

(C) employing or contracting with staff who have the required licensure to provide special education services;

Twelfth: In Sec. 21, amending 16 V.S.A. § 2973, in subsection (c), by striking out subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) An approved independent school that enrolls a student requiring special education services who is placed with the school under subdivision (a)(1) of this section:

(A) shall enter into a written agreement with the LEA committing to the requirements under subdivision (1) of this subsection (c); and

(B) shall ensure that qualified school personnel attend planning meetings and IEP meetings for the student.

Thirteenth: In Sec. 21, amending 16 V.S.A. § 2973, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d)(1) If a student is placed with an approved independent school under subsection (a) of this section and either the LEA and the school each certifies, or the hearing officer under subdivision (3) of this subsection certifies, to the Secretary of Education that the school is unable to provide required IEP services due to its inability to retain qualified staff, then the LEA shall make another placement that satisfies the federal requirements to provide the student with a free and appropriate public education in the least restrictive environment.

(2) If the conditions in subdivision (1) of this subsection are satisfied:

(A) the approved independent school shall not be subject to any disciplinary action or the revocation of its approved status by the State Board of Education due to its failure to enroll the student; and

(B) no private right of action shall be created on the part of the student or his or her family members, or any other private party, to:

(i) require the LEA to place the student with the approved independent school or the school to enroll the student; or

(ii) hold the LEA or the approved independent school responsible for monetary damages due to the failure of the school to enroll the student or the necessity for the LEA to make an alternative placement.

(3) If the LEA and approved independent school do not agree on whether the school is unable to retain qualified staff under subdivision (1) of this subsection, then the LEA and the school shall jointly contract with a hearing officer to conduct a hearing with the parties and make a determination, which shall be final. The cost for the hearing officer shall be split evenly between the two parties.

Fourteenth: By striking out the remaining section, effective dates, and its reader assistance heading in their entireties and by inserting in lieu thereof the following:

Sec. 22. SPECIAL EDUCATION ENDORSEMENT; APPROVAL FOR SPECIAL EDUCATION CATEGORIES

(a) On or before November 1, 2019, the Vermont Standards Board for Professional Educators shall review its special educator endorsement requirements and initiate rulemaking to update its rules to ensure that these requirements do not serve as a barrier to satisfying statewide demands for licensed special educators.

(b) On or before November 1, 2020, the State Board of Education shall review its rules for approving independent schools in specific special education categories and initiate rulemaking to update its rules to simplify and expedite the approval process.

* * * Effective Dates * * *

Sec. 23. EFFECTIVE DATES

(a) The following sections shall take effect on July 1, 2019:

(1) Sec. 14 (extraordinary services reimbursement);

(2) Sec. 15 (16 V.S.A. § 4001); and

(3) Sec. 17 (transition).

(b) Sec. 5 (16 V.S.A. chapter 101) shall take effect on July 1, 2020.

(c) Secs. 20a-21 (approved independent schools) shall take effect on July 1, 2022.

(d) This section and the remaining sections shall take effect on passage.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, was decided in the affirmative.

House Proposals of Amendment Concurred In

S. 40.

House proposals of amendment to Senate bill entitled:

An act relating to increasing the minimum wage.

Were taken up.

The House proposes to the Senate to amend the bill as follows:

First: In Sec. 1, 21 V.S.A. § 384, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a)(1) An employer shall not employ any employee at a rate of less than ~~$9.15. Beginning January 1, 2016, an employer shall not employ any employee at a rate of less than $9.60. Beginning January 1, 2017, an employer shall not employ any employee at a rate of less than $10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than~~ $10.50~~, and beginning~~. Beginning on January 1, 2019, an employer shall not employ any employee at a rate of less than $11.10. Beginning on January 1, 2020, an employer shall not employ any employee at a rate of less than $11.75. Beginning on January 1, 2021, an employer shall not employ any

employee at a rate of less than $12.50. Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than $13.25. Beginning on January 1, 2023, an employer shall not employ any employee at a rate of less than $14.10. Beginning on January 1, 2024, an employer shall not employ any employee at a rate of less than $15.00, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest $0.01.

(2) An employer shall not employ a secondary school student at a rate of less than the minimum wage established pursuant to subdivision (1) of this subsection minus $3.00.

(3) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, "a service or tipped employee" means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than $120.00 per month in tips for direct and personal customer service.

(4) If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.

Second: In Sec. 4, 21 V.S.A. § 383, after the ellipsis and before subdivision (3) by inserting subdivisions (G), (H), and (I) to read:

(G) taxi-cab drivers; and

(H) outside salespersons~~; and~~.

(I) ~~students working during all or any part of the school year or regular vacation periods.~~ [Repealed.]

Third: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. EFFECTIVE DATES

(a) In Sec. 1, 21 V.S.A. § 384, subdivision (a)(2) shall take effect on January 1, 2019. The remaining provisions of Sec. 1 shall take effect on July 1, 2018.

(b) In Sec. 4, 21 V.S.A. § 383, the amendments to subdivisions (2)(G), (H), and (I) shall take effect on January 1, 2019. The remaining provisions of Sec. 4 shall take effect on July 1, 2018.

(c) The remaining sections of this act shall take effect on July 1, 2018.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment?, was decided in the affirmative.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 780.

Senator Pollina, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to portable rides at agricultural fairs, field days, and other similar events.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds $7 million a year. Vermont fairs generate over $85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) "Amusement ride" means a mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for~~ For the purposes of this chapter, amusement ride shall ~~also~~ not include bungee jumping, zip lines, or waterslides or obstacle, challenge, or adventure courses.

(2) "Operator" or "owner" means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) "Certificate" or "certificate of operation" means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the Secretary of State has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Secretary of State not fewer than 30 business days before an amusement ride is operated in this State.

(c) The Secretary of State shall issue a ~~"~~certificate of operation~~" no later~~ not fewer than 15 business days before the amusement ride is ~~first~~ operated in the State, if the owner or operator submits ~~all~~ the following:

(1) Certificate of insurance in the amount of not less than $1,000,000.00 that insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of $100.00.

(3) Proof or a statement of compliance with the requirements of 21 V.S.A. chapter 9.

~~(c)~~(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Secretary of State. A certificate of operation shall identify the ride's:

(1) name and model;

(2) serial number;

(3) passenger capacity; and

(4) recommended maximum speed.

~~(d)~~(e) A copy of the certificate of operation shall be ~~posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride~~ kept at the office of the amusement ride operator.

(f) The Secretary of State shall:

(1) determine the manner and format of the certificate of operation, any forms to be used to apply for the certificate of operation, the adhesive sticker that shall be affixed to the ride pursuant to subdivision 723a(b)(2) of this title, and the certification to be filed pursuant to subdivision 723a(b)(3) of this title;

(2) make any forms and certifications available on the Secretary of State's website and shall provide adhesive stickers to inspectors;

(3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;

(4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector; or

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subdivision (1)(A); and

(B) insured, including for liability; and

(C) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the American Society for Testing and Materials (ASTM) current standard F770 concerning the practices for

ownership, operation, maintenance, and inspection of amusement rides and devices.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Secretary of State within 15 business days following the date of inspection.

(2) An adhesive sticker, in a format to be determined by the Secretary of State, shall be affixed to the ride that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(3) The owner or operator shall submit a certification, in a format to be determined by the Secretary of State, to the organization hosting a fair, field day, or other event or location, at which the owner or operator intends to operate a ride, stating that the ride has been inspected pursuant to subsection (a) of this section and stickers have been affixed pursuant to this subsection prior to the ride being used to carry or convey passengers.

(c) A ride shall be inspected for safety by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Secretary of State or the Office of the Attorney General promptly upon request;

(3) keep a paper or electronic copy of all required forms or certifications, and of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator; and

(4) operate, maintain, and inspect all rides in compliance with ASTM current standards for ownership, operation, maintenance, and inspection of amusement rides and devices.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. ~~OPERATIONS~~ OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; ~~and~~

(3) be in attendance at all times that the ride is operating; and

(4) operate the ride in accordance with the ride manufacturer's specifications.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgment and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all signage that is reasonably written and posted and all directions from ride operators and owners that are given in a clear and understandable manner.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

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

An act relating to rides at agricultural fairs, field days, and other similar events.

ROBERT A. STARR
ANTHONY POLLINA
FRANCIS K. BROOKS

Committee on the part of the Senate

RICHARD H. LAWRENCE
JOHN L. BARTHOLOMEW
SAMUEL R. YOUNG

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 910.

Senator Collamore, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

An act relating to the Open Meeting Law and the Public Records Act.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal of amendment, and that the bill be amended by striking out Sec. 3, 1 V.S.A. § 317, in its entirety and inserting in lieu thereof the following:

Sec. 3. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(d)(1) On or before December 1, 2015, the Office of Legislative Council shall compile ~~a list~~ lists of all Public Records Act exemptions found in the Vermont Statutes Annotated~~. In compiling the list, the Office of Legislative Council shall consult with the Attorney General's office. The list shall be updated no less often than every two years, and~~, one of which shall be arranged by subject area, and the other in order by title and section number.

(2) On or before December 1, 2019, the Office of Legislative Council shall compile a list arranged in order by title and section number of all Public Records Act exemptions found in the Vermont Statutes Annotated that are repealed, or are narrowed in scope, on or after January 1, 2019. The list shall indicate:

(A) the effective date of the repeal or narrowing in scope of the exemption; and

(B) whether or not records produced or acquired during the period of applicability of the repealed or narrowed exemption are to remain exempt following the repeal or narrowing in scope.

(3) The Office of Legislative Council shall update the lists required under subdivisions (1) and (2) of this subsection no less often than every two years. In compiling and updating these lists, the Office of Legislative Council

shall consult with the Office of Attorney General. The ~~list~~ lists, and any updates thereto, shall be posted in a prominent location on the websites of the General Assembly, the Secretary of State's Office, the Attorney General's Office, and the State Library, and shall be sent to the Vermont League of Cities and Towns.

(e)(1) For any exemption to the Public Records Act enacted or substantively amended in legislation introduced in the General Assembly in 2019 or later, in the fifth year after the effective date of the enactment, reenactment, or substantive amendment of the exemption, the exemption shall be repealed on July 1 of that fifth year except if the General Assembly reenacts the exemption prior to July 1 of the fifth year or if the law otherwise requires.

(2) Legislation that enacts, reenacts, or substantively amends an exemption to the Public Records Act shall explicitly provide for its repeal on July 1 of the fifth year after the effective date of the exemption unless the legislation specifically provides otherwise.

(f) Unless otherwise provided by law, a record produced or acquired during the period of applicability of an exemption that is subsequently repealed or narrowed in scope shall, if exempt during that period, remain exempt following the repeal or narrowing in scope of the exemption.

BRIAN P. COLLAMORE
CHRISTOPHER A. PEARSON
JEANETTE K. WHITE

Committee on the part of the Senate

JAMES HARRISON
JOHN M. GANNON
CYNTHIA A. WEED

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; House Proposals of Amendment to Senate Proposal to Amendment to House Proposal of Amendment Concurred In

S. 222.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous judiciary procedures.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment to the House proposal of amendment with the following amendments thereto:

First: By striking out Sec. 17a in its entirety and inserting in lieu thereof a new Sec. 17a to read as follows:

Sec. 17a. 18 V.S.A. § 4474c is amended to read:

§ 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS REGARDING THE USE OF MARIJUANA FOR SYMPTOM RELIEF

* * *

(d) ~~A registered patient or registered caregiver may not transport marijuana in public unless it is secured in a locked container.~~ [Repealed.]

* * *

Second: By striking out Sec. 17b in its entirety and inserting in lieu thereof a new Sec. 17b to read as follows:

Sec. 17b. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in a secure, locked facility which is either indoors or outdoors, but not visible to the public and that can only be accessed by the owners, principals, financiers, and employees of the dispensary who have valid Registry identification cards. An outdoor facility is not required to have a roof, provided all other requirements are met. The Department shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' Registry identification numbers to protect their confidentiality.

* * *

(4) A dispensary shall submit the results of a financial audit to the Department of Public Safety ~~no~~ not later than ~~60~~ 90 days after the end of the dispensary's first fiscal year, and every other year thereafter. The audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The Department may also periodically require, within its discretion, the audit of a dispensary's financial records by the Department.

* * *

Third: In Sec. 17c, 18 V.S.A. § 4474g(b)(2), after the words "serve as an" by striking out "owner, principal, financier, or"

Fourth: By striking out Sec. 17d in its entirety and inserting in lieu thereof a new Sec. 17d to read as follows:

Sec. 17d. [Deleted.]

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, were severally decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 143.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to automobile insurance requirements and transportation network companies.

Was taken up for immediate consideration.

Senator Sears, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 143. An act relating to automobile insurance requirements and transportation network companies.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and concur in the House proposal of amendment with further amendments as follows:

First: In Sec. 2, 23 V.S.A. chapter 10, in § 750(b)(3), by striking out subdivision (A) in its entirety and by inserting in lieu thereof a new subdivision (A) to read as follows:

(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least $1,000,000.00 for death, bodily injury, and property damage;

(ii) uninsured and underinsured motorist coverage that provides at least $1,000,000.00 for death, bodily injury, and property damage; and

(iii) $5,000.00 in medical payments coverage (Med Pay).

Second: In Sec. 2, 23 V.S.A. chapter 10, in § 751(c)(3), by striking out the word "seven" and by inserting in lieu thereof five

RICHARD W. SEARS
JOSEPH C. BENNING
DEBORAH J. INGRAM

Committee on the part of the Senate

JEAN D. O'SULLIVAN
MICHAEL J. MARCOTTE
CHARLES A. KIMBELL

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 711.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to employment protections for crime victims.

Was taken up for immediate consideration.

Senator Balint, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 711. An act relating to employment protections for crime victims..

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposals of amendment and that the bill be further amended in Sec. 4, 21 V.S.A. § 495o (volunteer emergency responders) by striking out the section in its entirety and renumbering the remaining section to be numerically correct.

REBECCA A. BALINT
ALICE W. NITKA
DAVID J. SOUCY

Committee on the part of the Senate

HELEN J. HEAD
THOMAS S. STEVENS
VICKI M. STRONG

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 764.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to data brokers and consumer protection.

Was taken up for immediate consideration.

Senator Baruth, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 764. An act relating to data brokers and consumer protection.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and 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 the following:

(1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out.

(A) While many different types of business collect data about consumers, a "data broker" is in the business of aggregating and selling data about consumers with whom the business does not have a direct relationship.

(B) A data broker collects many hundreds or thousands of data points about consumers from multiple sources, including: Internet browsing history; online purchases; public records; location data; loyalty programs; and subscription information. The data broker then scrubs the data to ensure accuracy; analyzes the data to assess content; and packages the data for sale to a third party.

(C) Data brokers provide information that is critical to services offered in the modern economy, including: targeted marketing and sales; credit reporting; background checks; government information; risk mitigation and fraud detection; people search; decisions by banks, insurers, or others whether to provide services; ancestry research; and voter targeting and strategy by political campaigns.

(D) While data brokers offer many benefits, there are also risks associated with the widespread aggregation and sale of data about consumers, including risks related to consumers' ability to know and control information held and sold about them and risks arising from the unauthorized or harmful acquisition and use of consumer information.

(E) There are important differences between "data brokers" and businesses with whom consumers have a direct relationship.

(i) Consumers who have a direct relationship with traditional and e-commerce businesses may have some level of knowledge about and control over the collection of data by those business, including: the choice to use the business's products or services; the ability to review and consider data collection policies; the ability to opt out of certain data collection practices; the ability to identify and contact customer representatives; the ability to pursue contractual remedies through litigation; and the knowledge necessary to complain to law enforcement.

(ii) By contrast, consumers may not be aware that data brokers exist, who the companies are, or what information they collect, and may not be aware of available recourse.

(F) The State of Vermont has the legal authority and duty to exercise its traditional "Police Powers" to ensure the public health, safety, and welfare, which includes both the right to regulate businesses that operate in the State and engage in activities that affect Vermont consumers as well as the right to require disclosure of information to protect consumers from harm.

(G) To provide consumers with necessary information about data brokers, Vermont should adopt a narrowly tailored definition of "data broker" and require data brokers to register annually with the Secretary of State and provide information about their data collection activities, opt-out policies, purchaser credentialing practices, and security breaches.

(2) Ensuring that data brokers have adequate security standards.

(A) News headlines in the past several years demonstrate that large and sophisticated businesses, governments, and other public and private institutions are constantly subject to cyberattacks, which have compromised sensitive personal information of literally billions of consumers worldwide.

(B) While neither government nor industry can prevent every security breach, the State of Vermont has the authority and the duty to enact legislation to protect its consumers where possible.

(C) One approach to protecting consumer data has been to require government agencies and certain regulated businesses to adopt an "information security program" that has "appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records" and "to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm." Federal Privacy Act; 5 U.S.C. § 552a.

(D) The requirement to adopt such an information security program currently applies to "financial institutions" subject to the Gramm-Leach-Blilely Act, 15 U.S.C. § 6801 et seq; to certain entities regulated by the Vermont Department of Financial Regulation pursuant to rules adopted by the Department; to persons who maintain or transmit health information regulated by the Health Insurance Portability and Accountability Act; and to various types of businesses under laws in at least 13 other states.

(E) Vermont can better protect its consumers from data broker security breaches and related harm by requiring data brokers to adopt an information security program with appropriate administrative, technical, and physical safeguards to protect sensitive personal information.

(3) Prohibiting the acquisition of personal information through fraudulent means or with the intent to commit wrongful acts.

(A) One of the dangers of the broad availability of sensitive personal

information is that it can be used with malicious intent to commit wrongful acts, such as stalking, harassment, fraud, discrimination, and identity theft.

(B) While various criminal and civil statutes prohibit these wrongful acts, there is currently no prohibition on acquiring data for the purpose of committing such acts.

(C) Vermont should create new causes of action to prohibit the acquisition of personal information through fraudulent means, or for the purpose of committing a wrongful act, to enable authorities and consumers to take action.

(4) Removing financial barriers to protect consumer credit information.

(A) In one of several major security breaches that have occurred in recent years, the names, Social Security numbers, birth dates, addresses, driver's license numbers, and credit card numbers of over 145 million Americans were exposed, including over 247,000 Vermonters.

(B) In response to concerns about data security, identity theft, and consumer protection, the Vermont Attorney General and the Department of Financial Regulation have outlined steps a consumer should take to protect his or her identity and credit information. One important step a consumer can take is to place a security freeze on his or her credit file with each of the national credit reporting agencies.

(C) Under State law, when a consumer places a security freeze, a credit reporting agency issues a unique personal identification number or password to the consumer. The consumer must provide the PIN or password, and his or her express consent, to allow a potential creditor to access his or her credit information.

(D) Except in cases of identity theft, current Vermont law allows a credit reporting agency to charge a fee of up to $10.00 to place a security freeze, and up to $5.00 to lift temporarily or remove a security freeze.

(E) Vermont should exercise its authority to prohibit these fees to eliminate any financial barrier to placing or removing a security freeze.

(b) Intent.

(1) Providing consumers with more information about data brokers, their data collection practices, and the right to opt out. It is the intent of the General Assembly to provide Vermonters with access to more information about the data brokers that collect consumer data and their collection practices by:

(A) adopting a narrowly tailored definition of "data broker" that:

(i) includes only those businesses that aggregate and sell the personal information of consumers with whom they do not have a direct relationship; and

(ii) excludes businesses that collect information from their own customers, employees, users, or donors, including: banks and other financial institutions; utilities; insurers; retailers and grocers; restaurants and hospitality businesses; social media websites and mobile "apps"; search websites; and businesses that provide services for consumer-facing businesses and maintain a direct relationship with those consumers, such as website, "app," and e-commerce platforms; and

(B) requiring a data broker to register annually with the Secretary of State and make certain disclosures in order to provide consumers, policy makers, and regulators with relevant information.

(2) Ensuring that data brokers have adequate security standards. It is the intent of the General Assembly to protect against potential cyber threats by requiring data brokers to adopt an information security program with appropriate technical, physical, and administrative safeguards.

(3) Prohibiting the acquisition of personal information with the intent to commit wrongful acts. It is the intent of the General Assembly to protect Vermonters from potential harm by creating new causes of action that prohibit the acquisition or use of personal information for the purpose of stalking, harassment, fraud, identity theft, or discrimination.

(4) Removing financial barriers to protect consumer credit information. It is the intent of the General Assembly to remove any financial barrier for Vermonters who wish to place a security freeze on their credit report by prohibiting credit reporting agencies from charging a fee to place or remove a freeze.

Sec. 2. 9 V.S.A. chapter 62 is amended to read:

CHAPTER 62. PROTECTION OF PERSONAL INFORMATION

Subchapter 1. General Provisions

§ 2430. DEFINITIONS

~~The following definitions shall apply throughout this chapter unless otherwise required~~ As used in this chapter:

(1)(A) "Brokered personal information" means one or more of the following computerized data elements about a consumer, if categorized or organized for dissemination to third parties:

(i) name;

(ii) address;

(iii) date of birth;

(iv) place of birth;

(v) mother's maiden name;

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

(vii) name or address of a member of the consumer's immediate family or household;

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

(ix) other information that, alone or in combination with the other information sold or licensed, would allow a reasonable person to identify the consumer with reasonable certainty.

(B) "Brokered personal information" does not include publicly available information to the extent that it is related to a consumer's business or profession.

(2) "Business" means a commercial entity, including a sole proprietorship, partnership, corporation, association, limited liability company, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the laws of this State, any other state, the United States, or any other country, or the parent, affiliate, or subsidiary of a financial institution, but ~~in no case shall it~~ does not include the State, a State agency, ~~or~~ any political subdivision of the State, or a vendor acting solely on behalf of, and at the direction of, the State.

~~(2)~~(3) "Consumer" means an individual residing in this State.

(4)(A) "Data broker" means a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.

(B) Examples of a direct relationship with a business include if the consumer is a past or present:

(i) customer, client, subscriber, user, or registered user of the business's goods or services;

(ii) employee, contractor, or agent of the business;

(iii) investor in the business; or

(iv) donor to the business.

(C) The following activities conducted by a business, and the collection and sale or licensing of brokered personal information incidental to conducting these activities, do not qualify the business as a data broker:

(i) developing or maintaining third-party e-commerce or application platforms;

(ii) providing 411 directory assistance or directory information services, including name, address, and telephone number, on behalf of or as a function of a telecommunications carrier;

(iii) providing publicly available information related to a consumer's business or profession; or

(iv) providing publicly available information via real-time or near-real-time alert services for health or safety purposes.

(D) The phrase "sells or licenses" does not include:

(i) a one-time or occasional sale of assets of a business as part of a transfer of control of those assets that is not part of the ordinary conduct of the business; or

(ii) a sale or license of data that is merely incidental to the business.

(5)(A) "Data broker security breach" means an unauthorized acquisition or a reasonable belief of an unauthorized acquisition of more than one element of brokered personal information maintained by a data broker when the brokered personal information is not encrypted, redacted, or protected by another method that renders the information unreadable or unusable by an unauthorized person.

(B) "Data broker security breach" does not include good faith but unauthorized acquisition of brokered personal information by an employee or agent of the data broker for a legitimate purpose of the data broker, provided that the brokered personal information is not used for a purpose unrelated to the data broker's business or subject to further unauthorized disclosure.

(C) In determining whether brokered personal information has been acquired or is reasonably believed to have been acquired by a person without

valid authorization, a data broker may consider the following factors, among others:

(i) indications that the brokered personal information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing brokered personal information;

(ii) indications that the brokered personal information has been downloaded or copied;

(iii) indications that the brokered personal information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the brokered personal information has been made public.

~~(3)~~(6) "Data collector" ~~may include the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, retail operators, and any other entity that,~~ means a person who, for any purpose, whether by automated collection or otherwise, handles, collects, disseminates, or otherwise deals with ~~nonpublic personal information~~ personally identifiable information, and includes the State, State agencies, political subdivisions of the State, public and private universities, privately and publicly held corporations, limited liability companies, financial institutions, and retail operators.

~~(4)~~(7) "Encryption" means use of an algorithmic process to transform data into a form in which the data is rendered unreadable or unusable without use of a confidential process or key.

(8) "License" means a grant of access to, or distribution of, data by one person to another in exchange for consideration. A use of data for the sole benefit of the data provider, where the data provider maintains control over the use of the data, is not a license.

~~(5)~~(9)(A) "Personally identifiable information" means ~~an individual's~~ a consumer's first name or first initial and last name in combination with any one or more of the following digital data elements, when either the name or the data elements are not encrypted or redacted or protected by another method that renders them unreadable or unusable by unauthorized persons:

(i) Social Security number;

(ii) motor vehicle operator's license number or nondriver identification card number;

(iii) financial account number or credit or debit card number, if circumstances exist in which the number could be used without additional identifying information, access codes, or passwords;

(iv) account passwords or personal identification numbers or other access codes for a financial account.

(B) "Personally identifiable information" does not mean publicly available information that is lawfully made available to the general public from federal, State, or local government records.

~~(6)~~(10) "~~Records~~ Record" means any material on which written, drawn, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics.

~~(7)~~(11) "Redaction" means the rendering of data so that ~~it is~~ the data are unreadable or ~~is~~ are truncated so that no more than the last four digits of the identification number are accessible as part of the data.

~~(8)~~(12)(A) "Security breach" means unauthorized acquisition of, electronic data or a reasonable belief of an unauthorized acquisition of, electronic data that compromises the security, confidentiality, or integrity of a consumer's personally identifiable information maintained by ~~the~~ a data collector.

(B) "Security breach" does not include good faith but unauthorized acquisition of personally identifiable information by an employee or agent of the data collector for a legitimate purpose of the data collector, provided that the personally identifiable information is not used for a purpose unrelated to the data collector's business or subject to further unauthorized disclosure.

(C) In determining whether personally identifiable information has been acquired or is reasonably believed to have been acquired by a person without valid authorization, a data collector may consider the following factors, among others:

(i) indications that the information is in the physical possession and control of a person without valid authorization, such as a lost or stolen computer or other device containing information;

(ii) indications that the information has been downloaded or copied;

(iii) indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported; or

(iv) that the information has been made public.

§ 2433. ACQUISITION OF BROKERED PERSONAL INFORMATION; PROHIBITIONS

(a) Prohibited acquisition and use.

(1) A person shall not acquire brokered personal information through fraudulent means.

(2) A person shall not acquire or use brokered personal information for the purpose of:

(A) stalking or harassing another person;

(B) committing a fraud, including identity theft, financial fraud, or e-mail fraud; or

(C) engaging in unlawful discrimination, including employment discrimination and housing discrimination.

(b) Enforcement.

(1) A person who violates a provision of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) The Attorney General has the same authority to adopt rules to implement the provisions of this section and to conduct civil investigations, enter into assurances of discontinuance, bring civil actions, and take other enforcement actions as provided under chapter 63, subchapter 1 of this title.

* * *

Subchapter 5. Data Brokers

§ 2446. ANNUAL REGISTRATION

(a) Annually, on or before January 31 following a year in which a person meets the definition of data broker as provided in section 2430 of this title, a data broker shall:

(1) register with the Secretary of State;

(2) pay a registration fee of $100.00; and

(3) provide the following information:

(A) the name and primary physical, e-mail, and Internet addresses of the data broker;

(B) if the data broker permits a consumer to opt out of the data broker's collection of brokered personal information, opt out of its databases, or opt out of certain sales of data:

(i) the method for requesting an opt-out;

(ii) if the opt-out applies to only certain activities or sales, which ones; and

(iii) whether the data broker permits a consumer to authorize a third party to perform the opt-out on the consumer's behalf;

(C) a statement specifying the data collection, databases, or sales activities from which a consumer may not opt out;

(D) a statement whether the data broker implements a purchaser credentialing process;

(E) the number of data broker security breaches that the data broker has experienced during the prior year, and if known, the total number of consumers affected by the breaches;

(F) where the data broker has actual knowledge that it possesses the brokered personal information of minors, a separate statement detailing the data collection practices, databases, sales activities, and opt-out policies that are applicable to the brokered personal information of minors; and

(G) any additional information or explanation the data broker chooses to provide concerning its data collection practices.

(b) A data broker that fails to register pursuant to subsection (a) of this section is liable to the State for:

(1) a civil penalty of $50.00 for each day, not to exceed a total of $10,000.00 for each year, it fails to register pursuant to this section;

(2) an amount equal to the fees due under this section during the period it failed to register pursuant to this section; and

(3) other penalties imposed by law.

(c) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to seek appropriate injunctive relief.

§ 2447. DATA BROKER DUTY TO PROTECT INFORMATION; STANDARDS; TECHNICAL REQUIREMENTS

(a) Duty to protect personally identifiable information.

(1) A data broker shall develop, implement, and maintain a comprehensive information security program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to:

(A) the size, scope, and type of business of the data broker obligated to safeguard the personally identifiable information under such comprehensive information security program;

(B) the amount of resources available to the data broker;

(C) the amount of stored data; and

(D) the need for security and confidentiality of personally identifiable information.

(2) A data broker subject to this subsection shall adopt safeguards in the comprehensive security program that are consistent with the safeguards for protection of personally identifiable information and information of a similar character set forth in other State rules or federal regulations applicable to the data broker.

(b) Information security program; minimum features. A comprehensive information security program shall at minimum have the following features:

(1) designation of one or more employees to maintain the program;

(2) identification and assessment of reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of any electronic, paper, or other records containing personally identifiable information, and a process for evaluating and improving, where necessary, the effectiveness of the current safeguards for limiting such risks, including:

(A) ongoing employee training, including training for temporary and contract employees;

(B) employee compliance with policies and procedures; and

(C) means for detecting and preventing security system failures;

(3) security policies for employees relating to the storage, access, and transportation of records containing personally identifiable information outside business premises;

(4) disciplinary measures for violations of the comprehensive information security program rules;

(5) measures that prevent terminated employees from accessing records containing personally identifiable information;

(6) supervision of service providers, by:

(A) taking reasonable steps to select and retain third-party service providers that are capable of maintaining appropriate security measures to protect personally identifiable information consistent with applicable law; and

(B) requiring third-party service providers by contract to implement and maintain appropriate security measures for personally identifiable information;

(7) reasonable restrictions upon physical access to records containing personally identifiable information and storage of the records and data in locked facilities, storage areas, or containers;

(8)(A) regular monitoring to ensure that the comprehensive information security program is operating in a manner reasonably calculated to prevent unauthorized access to or unauthorized use of personally identifiable information; and

(B) upgrading information safeguards as necessary to limit risks;

(9) regular review of the scope of the security measures:

(A) at least annually; or

(B) whenever there is a material change in business practices that may reasonably implicate the security or integrity of records containing personally identifiable information; and

(10)(A) documentation of responsive actions taken in connection with any incident involving a breach of security; and

(B) mandatory post-incident review of events and actions taken, if any, to make changes in business practices relating to protection of personally identifiable information.

(c) Information security program; computer system security requirements. A comprehensive information security program required by this section shall at minimum, and to the extent technically feasible, have the following elements:

(1) secure user authentication protocols, as follows:

(A) an authentication protocol that has the following features:

(i) control of user IDs and other identifiers;

(ii) a reasonably secure method of assigning and selecting passwords or use of unique identifier technologies, such as biometrics or token devices;

(iii) control of data security passwords to ensure that such passwords are kept in a location and format that do not compromise the security of the data they protect;

(iv) restricting access to only active users and active user accounts; and

(v) blocking access to user identification after multiple unsuccessful attempts to gain access; or

(B) an authentication protocol that provides a higher level of security than the features specified in subdivision (A) of this subdivision (c)(1).

(2) secure access control measures that:

(A) restrict access to records and files containing personally identifiable information to those who need such information to perform their job duties; and

(B) assign to each person with computer access unique identifications plus passwords, which are not vendor-supplied default passwords, that are reasonably designed to maintain the integrity of the security of the access controls or a protocol that provides a higher degree of security;

(3) encryption of all transmitted records and files containing personally identifiable information that will travel across public networks and encryption of all data containing personally identifiable information to be transmitted wirelessly or a protocol that provides a higher degree of security;

(4) reasonable monitoring of systems for unauthorized use of or access to personally identifiable information;

(5) encryption of all personally identifiable information stored on laptops or other portable devices or a protocol that provides a higher degree of security;

(6) for files containing personally identifiable information on a system that is connected to the Internet, reasonably up-to-date firewall protection and operating system security patches that are reasonably designed to maintain the integrity of the personally identifiable information or a protocol that provides a higher degree of security;

(7) reasonably up-to-date versions of system security agent software that must include malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions and is set to receive the most current security updates on a regular basis or a protocol that provides a higher degree of security; and

(8) education and training of employees on the proper use of the computer security system and the importance of personally identifiable information security.

(d) Enforcement.

(1) A person who violates a provision of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(2) The Attorney General has the same authority to adopt rules to implement the provisions of this chapter and to conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as provided under chapter 63, subchapter 1 of this title.

Sec. 3. 9 V.S.A. § 2480b is amended to read:

§ 2480b. DISCLOSURES TO CONSUMERS

(a) A credit reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer all information available to users at the time of the request pertaining to the consumer, including:

(1) any credit score or predictor relating to the consumer, in a form and manner that complies with such comments or guidelines as may be issued by the Federal Trade Commission;

(2) the names of users requesting information pertaining to the consumer during the prior 12-month period and the date of each request; and

(3) a clear and concise explanation of the information.

(b) As frequently as new telephone directories are published, the credit reporting agency shall cause to be listed its name and number in each telephone directory published to serve communities of this State. In accordance with rules adopted by the Attorney General, the credit reporting agency shall make provision for consumers to request by telephone the information required to be disclosed pursuant to subsection (a) of this section at no cost to the consumer.

(c) Any time a credit reporting agency is required to make a written disclosure to consumers pursuant to 15 U.S.C. § 1681g, it shall disclose, in at least 12 point type, and in bold type as indicated, the following notice:

"NOTICE TO VERMONT CONSUMERS

(1) Under Vermont law, you are allowed to receive one free copy of your credit report every 12 months from each credit reporting agency. If you would like to obtain your free credit report from [INSERT NAME OF COMPANY], you should contact us by [[writing to the following address: [INSERT ADDRESS FOR OBTAINING FREE CREDIT REPORT]] or [calling the following number: [INSERT TELEPHONE NUMBER FOR OBTAINING FREE CREDIT REPORT]], or both].

(2) Under Vermont law, no one may access your credit report without your permission except under the following limited circumstances:

(A) in response to a court order;

(B) for direct mail offers of credit;

(C) if you have given ongoing permission and you have an existing relationship with the person requesting a copy of your credit report;

(D) where the request for a credit report is related to an education loan made, guaranteed, or serviced by the Vermont Student Assistance Corporation;

(E) where the request for a credit report is by the Office of Child Support ~~Services~~ when investigating a child support case;

(F) where the request for a credit report is related to a credit transaction entered into prior to January 1, 1993; ~~and~~ or

(G) where the request for a credit report is by the Vermont ~~State Tax~~ Department of Taxes and is used for the purpose of collecting or investigating delinquent taxes.

(3) If you believe a law regulating consumer credit reporting has been violated, you may file a complaint with the Vermont Attorney General's Consumer Assistance Program, 104 Morrill Hall, University of Vermont, Burlington, Vermont 05405.

Vermont Consumers Have the Right to Obtain a Security Freeze

You have a right to place a "security freeze" on your credit report pursuant to 9 V.S.A. § 2480h at no charge ~~if you are a victim of identity theft. All other Vermont consumers will pay a fee to the credit reporting agency of up to $10.00 to place the freeze on their credit report~~. The security freeze will prohibit a credit reporting agency from releasing any information in your credit report without your express authorization. A security freeze must be requested in writing by certified mail.

The security freeze is designed to help prevent credit, loans, and services from being approved in your name without your consent. However, you should be aware that using a security freeze to take control over who gains access to the personal and financial information in your credit report may delay, interfere with, or prohibit the timely approval of any subsequent request or application you make regarding new loans, credit, mortgage, insurance, government services or payments, rental housing, employment, investment, license, cellular phone, utilities, digital signature, ~~internet~~ Internet credit card transaction, or other services, including an extension of credit at point of sale.

When you place a security freeze on your credit report, within ten business days you will be provided a personal identification number ~~or~~, password, or other equally or more secure method of authentication to use if you choose to remove the freeze on your credit report or authorize the release of your credit

report for a specific party, parties, or period of time after the freeze is in place. To provide that authorization, you must contact the credit reporting agency and provide all of the following:

(1) The unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency.

(2) Proper identification to verify your identity.

(3) The proper information regarding the third party or parties who are to receive the credit report or the period of time for which the report shall be available to users of the credit report.

A credit reporting agency may not charge a fee ~~of up to $5.00 to a consumer who is not a victim of identity theft~~ to remove the freeze on your credit report or authorize the release of your credit report for a specific party, parties, or period of time after the freeze is in place. ~~For a victim of identity theft, there is no charge when the victim submits a copy of a police report, investigative report, or complaint filed with a law enforcement agency about unlawful use of the victim's personal information by another person.~~

A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report shall comply with the request no later than three business days after receiving the request.

A security freeze will not apply to "preauthorized approvals of credit." If you want to stop receiving preauthorized approvals of credit, you should call [INSERT PHONE NUMBERS] [ALSO INSERT ALL OTHER CONTACT INFORMATION FOR PRESCREENED OFFER ~~OPT-OUT~~ OPT-OUT.]

A security freeze does not apply to a person or entity, or its affiliates, or collection agencies acting on behalf of the person or entity with which you have an existing account that requests information in your credit report for the purposes of reviewing or collecting the account, provided you have previously given your consent to this use of your credit reports. Reviewing the account includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

You have a right to bring a civil action against someone who violates your rights under the credit reporting laws. The action can be brought against a credit reporting agency or a user of your credit report."

(d) The information required to be disclosed by this section shall be disclosed in writing. The information required to be disclosed pursuant to subsection (c) of this section shall be disclosed on one side of a separate document, with text no smaller than that prescribed by the Federal Trade Commission for the notice required under 15 U.S.C. ~~§ 1681q~~ § 1681g. The

information required to be disclosed pursuant to subsection (c) of this section may accurately reflect changes in numerical items that change over time (such as the ~~phone~~ telephone number or address of Vermont State agencies), and remain in compliance.

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

Sec. 4. 9 V.S.A. § 2480h is amended to read:

§ 2480h. SECURITY FREEZE BY CREDIT REPORTING AGENCY; TIME IN EFFECT

(a)(1) ~~Any~~ A Vermont consumer may place a security freeze on his or her credit report. A credit reporting agency shall not charge a fee to ~~victims of identity theft but may charge a fee of up to $10.00 to all other~~ Vermont consumers for placing ~~and $5.00 for~~ or removing, removing for a specific party or parties, or removing for a specific period of time after the freeze is in place, a security freeze on a credit report.

(2) A consumer ~~who has been the victim of identity theft~~ may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency ~~with a valid copy of a police report, investigative report, or complaint the consumer has filed with a law enforcement agency about unlawful use of his or her personal information by another person. All other Vermont consumers may place a security freeze on his or her credit report by making a request in writing by certified mail to a credit reporting agency~~.

(3) A security freeze shall prohibit, subject to the exceptions in subsection (l) of this section, the credit reporting agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. ~~When a security freeze is in place, information from a consumer's credit report shall not be released to a third party without prior express authorization from the consumer.~~

(4) This subsection does not prevent a credit reporting agency from advising a third party that a security freeze is in effect with respect to the consumer's credit report.

(b) A credit reporting agency shall place a security freeze on a consumer's credit report ~~no~~ not later than five business days after receiving a written request from the consumer.

(c) The credit reporting agency shall send a written confirmation of the security freeze to the consumer within 10 business days and shall provide the

consumer with a unique personal identification number or password, other than the customer's Social Security number, or another method of authentication that is equally or more secure than a PIN or password, to be used by the consumer when providing authorization for the release of his or her credit for a specific party, parties, or period of time.

(d) If the consumer wishes to allow his or her credit report to be accessed for a specific party, parties, or period of time while a freeze is in place, he or she shall contact the credit reporting agency, request that the freeze be temporarily lifted, and provide the following:

(1) ~~Proper~~ proper identification~~.~~;

(2) ~~The~~ the unique personal identification number ~~or~~, password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section~~.~~; and

(3) ~~The~~ the proper information regarding the third party, parties, or time period for which the report shall be available to users of the credit report.

(e) A credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request from a consumer to lift temporarily ~~lift~~ a freeze on a credit report pursuant to subsection (d) of this section in an expedited manner.

(f) A credit reporting agency that receives a request from a consumer to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section shall comply with the request ~~no~~ not later than three business days after receiving the request.

(g) A credit reporting agency shall remove or lift temporarily ~~lift~~ a freeze placed on a consumer's credit report only in the following cases:

(1) Upon consumer request, pursuant to subsection (d) or (j) of this section.

(2) If the consumer's credit report was frozen due to a material misrepresentation of fact by the consumer. If a credit reporting agency intends to remove a freeze upon a consumer's credit report pursuant to this subdivision, the credit reporting agency shall notify the consumer in writing prior to removing the freeze on the consumer's credit report.

(h) If a third party requests access to a credit report on which a security freeze is in effect and this request is in connection with an application for credit or any other use and the consumer does not allow his or her credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(i) If a consumer requests a security freeze pursuant to this section, the credit reporting agency shall disclose to the consumer the process of placing and lifting temporarily ~~lifting~~ a security freeze and the process for allowing access to information from the consumer's credit report for a specific party, parties, or period of time while the security freeze is in place.

(j) A security freeze shall remain in place until the consumer requests that the security freeze be removed. A credit reporting agency shall remove a security freeze within three business days of receiving a request for removal from the consumer who provides both of the following:

(1) ~~Proper~~ proper identification~~.~~; and

(2) ~~The~~ the unique personal identification number, ~~or~~ password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section.

(k) A credit reporting agency shall require proper identification of the person making a request to place or remove a security freeze.

(l) The provisions of this section, including the security freeze, do not apply to the use of a consumer report by the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. For purposes of this subdivision, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (d) of this section for purposes of facilitating the extension of credit or other permissible use.

(3) Any person acting pursuant to a court order, warrant, or subpoena.

(4) The Office of Child Support when investigating a child support case pursuant to Title IV-D of the Social Security Act (42 U.S.C. et seq.) and 33 V.S.A. § 4102.

(5) The Economic Services Division of the Department for Children and Families or the Department of Vermont Health Access or its agents or assignee acting to investigate welfare or Medicaid fraud.

(6) The Department of Taxes, municipal taxing authorities, or the Department of Motor Vehicles, or any of their agents or assignees, acting to investigate or collect delinquent taxes or assessments, including interest and penalties, unpaid court orders, or acting to fulfill any of their other statutory or charter responsibilities.

(7) A person's use of credit information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act.

(8) Any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

(9) A credit reporting agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

(10) Any property and casualty insurance company for use in setting or adjusting a rate or underwriting for property and casualty insurance purposes.

Sec. 5. REPORTS

(a) On or before March 1, 2019, the Attorney General and Secretary of State shall submit a preliminary report concerning the implementation of this act to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(b) On or before January 15, 2020, the Attorney General and Secretary of State shall update its preliminary report and provide additional information concerning the implementation of this act to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

(c) On or before January 15, 2019, the Attorney General shall:

(1) review and consider the necessity of additional legislative and regulatory approaches to protecting the data security and privacy of Vermont consumers, including:

(A) whether to create or designate a Chief Privacy Officer and if so, the appropriate duties for, and the resources necessary to support, that position; and

(B) whether to expand or reduce the scope of regulation to businesses with direct relationships to consumers; and

(2) report its findings and recommendations to the House Committees on Commerce and Economic Development and on Energy and Technology and to the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 6. ONE-STOP FREEZE NOTIFICATION

(a) The Attorney General, in consultation with industry stakeholders, shall consider one or more methods to ease the burden on consumers when placing or lifting a credit security freeze, including the right to place a freeze with a single nationwide credit reporting agency and require that agency to initiate a freeze with other agencies.

(b) On or before January 15, 2019, the Attorney General shall report his or her findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

Sec. 7. EFFECTIVE DATES

(a) This section, Secs. 1 (findings and intent), 3–4 (eliminating fees for placing or removing a credit freeze), and 5–6 (reports) shall take effect on passage.

(b) Sec. 2 (data brokers) shall take effect on January 1, 2019.

PHILIP E. BARUTH
REBECCA A. BALINT
DAVID J. SOUCY

Committee on the part of the Senate

WILLIAM G. F. BOTZOW
MICHAEL J. MARCOTTE
JEAN D. O'SULLIVAN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Concurred In

S. 244.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to repealing the guidelines for spousal maintenance awards.

Was taken up for immediate consideration.

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

Sec. 1. 2017 Acts and Resolves No. 60, Sec. 3 is amended to read:

Sec. 3. REPEAL

On July 1, ~~2019~~ 2021, 15 V.S.A. § 752(b)(8) (spousal support and maintenance guidelines) is repealed.

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 extending the repeal date for the guidelines for spousal maintenance awards.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Concurred In

S. 261.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to mitigating trauma and toxic stress during childhood by strengthening child and family resilience.

Was taken up for immediate consideration.

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

* * * Purpose and Status Update * * *

Sec. 1. PURPOSE

It is the purpose of this act to ensure a consistent family support system by enhancing opportunities to build resilience among families throughout the State that are experiencing the causes or symptoms of childhood adversity. While significant efforts to provide preventative services are already well under way in many parts of the State, better coordination is necessary to ensure that gaps in services are addressed and redundancies do not occur. In this regard, this act builds on the significant work advanced in 2017 Acts and Resolves No. 43, including the principles for Vermont's trauma-informed system of care. The General Assembly supports a public health approach to address childhood adversity wherein interventions pertaining to socioeconomic determinants of health are employed in a manner that has the broadest societal reach and in which specialized interventions are directed to individuals with the most acute need.

Sec. 2. STATUS REPORT; COMPLETION OF ACT 43 REPORT

On or before November 1, 2018, the Agency of Human Services' Director of Trauma Prevention and Resilience Development shall submit to the Chairs of the House Committee on Human Services and the Senate Committee on Health and Welfare and to any existing Advisory Council on Child Poverty and Strengthening Families a status report on the Agency's methodology and progress in preparing the response plan required pursuant to 2017 Acts and Resolves No. 43, Sec. 4, including any preliminary findings. The status report shall include information as to the Agency's progress in implementing trauma-informed training opportunities for child care providers

* * * Human Services Generally * * *

Sec. 3. 33 V.S.A. § 3402 is added to read:

§ 3402. DEFINITIONS

As used in this chapter:

(1) "Childhood adversity" means experiences that may be traumatic to children and youths during the first 18 years of life, such as experiencing violence or other emotionally disturbing exposures in their homes or communities.

(2) "Resilience" means the ability to respond to, withstand, and recover from serious hardship with coping skills and a combination of protective factors, including a strong community, family support, social connections, knowledge of parenting and child development, concrete support in times of need, and social and emotional competence of children.

(3) "Toxic stress" means strong, frequent, or prolonged experience of adversity without adequate support.

(4) "Trauma-informed" means a type of program, organization, or system that recognizes the widespread impact of trauma and potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved in a system; responds by fully integrating knowledge about trauma into policies, procedures, and practices; and seeks actively to resist retraumatization and build resilience among the population served.

Sec. 4. 33 V.S.A. § 3403 is added to read:

§ 3403. DIRECTOR OF TRAUMA PREVENTION AND RESILIENCE DEVELOPMENT

(a) There is created the permanent position of Director of Trauma Prevention and Resilience Development within the Office of the Secretary in the Agency of Human Services for the purpose of directing and coordinating

systemic approaches across State government that build childhood resiliency and mitigate toxic stress by implementing a public health approach. The Director shall engage families and communities to build the protective factors of a strong community, family support, social connections, knowledge of parenting and child development, concrete support in times of need, and the social and emotional competence of children. It is the intent of the General Assembly that the Director position be funded by the repurposing of existing expenditures and resources, including the potential reassignment of existing positions. If the Secretary determines to fund this position by reassigning an existing position, he or she shall propose to the Joint Fiscal Committee prior to October 1, 2018 any necessary statutory modifications to reflect the reassignment.

(b) The Director shall:

(1) provide advice and support to the Secretary of Human Services and facilitate communication and coordination among the Agency's departments with regard to childhood adversity, toxic stress, and the promotion of resilience building;

(2) collaborate with both community and State partners, including the Agency of Education and the Judiciary, to build consistency between trauma-informed systems that address medical and social service needs and serve as a conduit between providers and the public;

(3) provide support for and dissemination of educational materials pertaining to childhood adversity, toxic stress, and the promotion of resilience building, including to postsecondary institutions within Vermont's State College System and the University of Vermont and State Agricultural College;

(4) coordinate with partners inside and outside State government, including the Child and Family Trauma Work Group;

(5) evaluate the statewide system, including the work of the Agency and the Agency's grantees and community contractors, that addresses resilience and trauma-prevention;

(6) evaluate, in collaboration with the Department for Children and Families and providers addressing childhood adversity prevention and resilience building services, strategies for linking pediatric primary care with the parent-child center network and other social services; and

(7) coordinate the training of all Agency employees on childhood adversity, toxic stress, resilience building, and the Agency's Trauma-Informed System of Care policy and post training opportunities for child care providers, afterschool program providers, educators, and health care providers on the Agency's website.

Sec. 5. 2017 Acts and Resolves No. 43, Sec. 4 is amended to read:

Sec. 4. ~~ADVERSE~~ CHILDHOOD ~~EXPERIENCES~~ ADVERSITY; RESPONSE PLAN

(a) On or before January 15, 2019, the Agency of Human Services shall present to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, in response to the work completed by the Adverse Childhood Experiences Working Group established pursuant to Sec. 3 of this act, a plan that specially addresses the integration of evidence-informed and family-focused prevention, intervention, treatment, and recovery services for individuals affected by ~~adverse~~ childhood ~~experiences~~ adversity. The plan shall address the coordination of services throughout and among the Agency, the Agency of Education, and the Judiciary and shall propose mechanisms for:

(1) improving and engaging community providers in the systematic prevention of trauma;

(2) case detection and care of individuals affected by ~~adverse~~ childhood ~~experiences~~ adversity; and

(3) ensuring that the Agency's policies related to children, families, and communities build resilience;

(4) ensuring that the Agency and grants to the ~~Agency of Human Services'~~ Agency's community partners related to children and families ~~strive toward accountability and community resilience~~ are evaluated using results-based accountability methodology; and

(5) providing an estimate of the resources necessary to implement the response plan, including any possible reallocations.

* * *

* * * Health Care * * *

Sec. 6. 18 V.S.A. § 702 is amended to read:

§ 702. BLUEPRINT FOR HEALTH; STRATEGIC PLAN

* * *

(c) The Blueprint shall be developed and implemented to further the following principles:

(1) ~~the primary care provider~~ The Blueprint community health team should serve a central role in the coordination of medical care and social services and shall be compensated appropriately for this effort~~;~~.

(2) ~~use~~ Use of information technology should be maximized~~;~~.

(3) ~~local~~ Local service providers should be used and supported, whenever possible~~;~~.

(4) ~~transition~~ Transition plans should be developed by all involved parties to ensure a smooth and timely transition from the current model to the Blueprint model of health care delivery and payment~~;~~.

(5) ~~implementation~~ Implementation of the Blueprint in communities across the State should be accompanied by payment to providers sufficient to support care management activities consistent with the Blueprint, recognizing that interim or temporary payment measures may be necessary during early and transitional phases of implementation~~; and~~.

(6) ~~interventions~~ Interventions designed to prevent chronic disease and improve outcomes for persons with chronic disease should be maximized, should target specific chronic disease risk factors, and should address changes in individual behavior~~,~~; the physical, mental, and social environment~~,~~; and health care policies and systems.

(7) Providers should assess trauma and toxic stress to ensure that the needs of the whole person are addressed and opportunities to build resilience and community supports are maximized.

* * *

Sec. 7. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(17) The ACO provides connections and incentives to existing community services for preventing and addressing the impact of childhood adversity. The ACO collaborates on the development of quality-outcome measurements for use by primary care providers who work with children and families and fosters collaboration among care coordinators,

community service providers, and families.

* * *

* * * Education * * *

Sec. 7a. COORDINATION OF ACT 264 SERVICES

The Agency of Human Services, in collaboration with Vermont Care Partners, shall identify opportunities to streamline and better coordinate the provision of services provided pursuant to 1988 Acts and Resolves No. 264. On or before January 15, 2019, the Secretary shall present the findings and recommendations for legislative action to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

* * * Effective Date * * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to ensuring a coordinated public health approach to addressing childhood adversity and promoting resilience.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Not Concurred In; Committee of Conference Requested

S. 257.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to miscellaneous changes to education law.

Was taken up for immediate consideration.

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

* * * Out-of-State Independent Schools * * *

Sec. 1. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR PAY TUITION

(a) Each school district shall maintain one or more approved high schools in which high school education is provided for its resident students unless:

(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an independent school meeting education quality standards, to be selected by the parents or guardians of the student~~, within or outside the State~~; or

* * *

Sec. 2. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

(a) A school district shall not pay the tuition of a student except to:

(1) a public school~~,~~;

(2) an approved independent school~~,~~ in Vermont;

(3) an independent school in Vermont meeting education quality standards~~,~~;

(4) a tutorial program approved by the State Board~~,~~;

(5) an approved education program~~, or~~;

(6) an independent school in another state ~~or country~~ that is approved under the laws of that state ~~or country, nor shall payment~~; provided, however, that the state is contiguous to Vermont;

(7) a public or independent school in the Province of Quebec approved under the laws of Canada; or

(8) a school to which a student on an individualized education plan has been referred or placed by the student's individualized education plan team or local education agency.

(b) Payment of tuition on behalf of a person shall not be denied on account of age.

(c) Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the State Board and its decision shall be final.

Sec. 3. TRANSITION

Notwithstanding any provision to the contrary in Sec. 2 of this act, a school district that is required to pay tuition on behalf of a student under this title shall pay tuition on behalf of the student notwithstanding the fact that the school is located in another country or in a state that is not contiguous to Vermont if the student attended that school during the 2017-2018 school year

or is enrolled at that school as of July 1, 2018 for the 2018-2019 school year; provided, however, that tuition shall be paid for not more than four years after enactment of this act.

* * * Elections * * *

Sec. 4. ELECTIONS; UNIFIED UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of law to the contrary, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district's annual meeting unless otherwise provided in the district's articles of agreement.

(b) Notwithstanding any provision of law to the contrary, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk of the unified union district shall immediately notify the selectboard of the town. Within 30 days after the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held at an annual or special meeting, unless otherwise provided in accordance with the unified union school district's articles of agreement.

(c) Notwithstanding any provision of law to the contrary, the clerk, treasurer, and moderator of a unified union school district elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of up to three years or until their successors are elected and qualified, except that if the voters at an annual meeting so vote, moderators elected at an annual meeting shall assume office upon election and shall serve for a term of up to three years or until their successors are elected and qualified.

(d) This section is repealed on July 1, 2020.

Sec. 5. 16 V.S.A. § 706k is amended to read:

§ 706k. ELECTION OF DISTRICT OFFICERS

(a)(1) A school director representing a member district who is to serve on the union school district board after the expiration of the terms provided for school directors in the final report shall be elected by that member district at an annual or special meeting. ~~Such~~ The election shall be by Australian ballot in those member districts that so elect their town school district directors. School directors elected at an annual meeting shall assume office upon election and shall serve a term of three years or until their successors are elected and qualified.

(2) Union district officers, except the clerk, treasurer, and moderator, elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of one year or until their successors are elected and qualified. The clerk, treasurer, and moderator elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of up to three years or until their successors are elected and qualified, except that if the voters at an annual meeting so vote, moderators elected at an annual meeting shall assume office upon election and shall serve for a term of ~~one year~~ up to three years or until their successors are elected and qualified. ~~School directors elected at an annual meeting shall assume office upon election and shall serve a term of three years or until their successors are elected and qualified.~~

(3) The clerk of the union district shall, within ten days after the election or appointment of any officer or director, give notice of the results to the Secretary of State.

* * *

* * * School Radon Mitigation * * *

Sec. 6. SCHOOL RADON MITIGATION; FUNDING OPPORTUNITIES

The Secretaries of Education and of Administration and the Commissioner of Health shall explore funding opportunities for testing and mitigating elevated radon concentrations in schools and contingency plans for the loss of related federal funding. On or before December 1, 2018, the Secretaries and the Commissioner shall jointly submit a written report to the House Committees on Corrections and Institutions and on Education and to the Senate Committees on Education and on Institutions with viable options for testing all schools for radon and for funding the mitigation of elevated radon concentrations in schools.

Sec. 7. PILOT; RADON TESTING IN SCHOOLS

The Commissioner of Health shall establish a pilot program to test schools in five supervisory unions for elevated concentrations of radon during the 2018–2019 school year with the goal of testing 30 schools. Schools that have been tested for radon within the previous five years need not be retested. The Agency of Education, in collaboration with the Department of Health, shall seek supervisory unions to volunteer for the pilot program.

* * * Technical Correction * * *

Sec. 8. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

* * *

(2) "Enrollment" means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

* * *

* * * Prekindergarten Education * * *

Sec. 9. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION

(a) Definitions. As used in this section:

(1) "Prekindergarten child" means a child who, as of the date established by the district of residence for kindergarten eligibility, is:

(A) three or four years of age or is five years of age but is not yet eligible to be enrolled in kindergarten; or

(B) five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973 and the child's individualized education program team or evaluation and planning team recommends that the child receive prekindergarten education services.

(2) "Prekindergarten education" means services designed to provide to prekindergarten children developmentally appropriate early development and learning experiences based on Vermont's early learning standards.

(3) "Prequalified private provider" means a private provider of prekindergarten education that is qualified pursuant to subsection (c) of this section.

(4)(A) "Prequalified public provider" means a provider of prekindergarten education that is a school district that is qualified pursuant to subsection (c) of this section.

(B) "Prequalified public provider" does not mean a school district that contracts with a prequalified private provider for the provision of prekindergarten education services.

(b) Access to publicly funded prekindergarten education.

(1) ~~No~~ Not fewer than ten hours per week of publicly funded prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, prequalified program operated by a public school or a private provider.

(2) If a parent or guardian chooses to enroll a prekindergarten child in an available, prequalified program, then, pursuant to the parent or guardian's choice, the school district of residence shall:

(A) pay tuition pursuant to subsections (d) and (h) of this section upon the request of the parent or guardian to:

(i) a prequalified private provider; or

(ii) a prequalified public ~~school~~ provider that operates a prekindergarten program ~~that has been prequalified pursuant to subsection (c) of this section~~ located outside the district; or

(B) if the school district of residence is a prequalified public provider, enroll the child in the prekindergarten education program that it operates.

(3) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified ~~program operated by a private provider or a public school in another district~~ private provider or a prequalified public provider that operates a prekindergarten program located outside the district even if the district of residence is a prequalified public provider that operates a prekindergarten education program.

(4) ~~If the supply of prequalified private and public providers is insufficient to meet the demand for publicly funded prekindergarten education in any region of the State, nothing~~ Nothing in this section shall be construed to require the State or a district to begin or expand a prekindergarten education program to satisfy ~~that~~ a demand~~; but rather, in collaboration with the Agencies of Education and of Human Services, the local Building Bright Futures Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity~~ for prekindergarten education.

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

(1) A ~~program of prekindergarten education, whether provided by a school district or a private provider, shall have received~~ private provider shall meet minimum program quality by:

(A) Having:

(i) National Association for the Education of Young Children (NAEYC) accreditation; or

~~(B)~~(ii) at least four stars in the Department for Children and Families' STARS system ~~with a plan to get to at least two points in each of the five arenas; or~~

~~(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars with at least two points in each of the five arenas in no more than three years, and the provider has met intermediate milestones~~.

(B) For a:

(i) private provider that is regulated as a center-based child care program, employing or contracting for the services of at least one licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title who is present at the private provider's program site during the hours that are publicly funded; or

(ii) private provider that is regulated as a family child care home that is not licensed and endorsed in early childhood education or early childhood special education, employing or contracting for the services of at least one licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title for at least three hours per week during each of the 35 weeks per year in which prekindergarten education is paid for with publicly funded tuition to provide regular, active supervision and training of the private provider's staff.

(2) A ~~licensed~~ public provider shall ~~employ or contract~~ meet minimum program quality by:

(A) employing or contracting for the services of at least one ~~teacher who is licensed and endorsed~~ licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title to provide direct instruction during the hours that are publicly funded; and

(B) meeting health, safety, and quality rules adopted by the State Board of Education.

~~(3) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.~~

(d) Tuition, budgets, and average daily membership.

(1) On behalf of a resident prekindergarten child, a district shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a prequalified private provider or to a ~~public school~~ prequalified public provider that is outside the district ~~that is prequalified pursuant to subsection (c) of this section~~; provided, however, that the district shall pay tuition for weeks that are within the district's academic year. Tuition paid under this section shall be at a statewide rate, which may be adjusted regionally, that is established annually through a process ~~jointly~~ developed and implemented by the ~~Agencies~~ Agency of Education ~~and of Human Services~~. A district shall pay tuition upon:

(A) receiving notice from the child's parent or guardian that the child is or will be admitted to the prekindergarten education program operated by the prequalified private provider or the other district; and

(B) concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining average daily membership.

(2) In addition to any direct costs of operating a prekindergarten education program, a district of residence shall include anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning, or other prekindergarten-related costs in its annual budget presented to the voters.

(3) Pursuant to subdivision 4001(1)(C) of this title, the district of residence may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education or on whose behalf it has paid tuition pursuant to this section.

(4) A prequalified private provider may receive additional payment directly from the parent or guardian only for prekindergarten education in excess of the hours paid for by the district pursuant to this section or for child care services, or both. The prequalified private provider is not bound by the statewide rate established in this subsection when determining the rates it will charge the parent or guardian for these excess hours. A prequalified private

provider shall not impose additional fees for the publicly funded hours.

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

(1) To permit private providers that are not prequalified pursuant to subsection (c) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subdivision (c)~~(2) or (3)~~ (1)(B), and through which the district may or may not make in-kind payments as a component of the statewide tuition established under this section.

(2) ~~To authorize a district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the Secretaries of Education and of Human Services, which shall be based upon analysis of the number of prekindergarten children residing in the district and the availability of enrollment opportunities with prequalified private providers in the region. Where the data are not clear or there are other complex considerations, the Secretaries may choose to conduct a community needs assessment.~~ [Repealed.]

(3) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.

(4) To establish a process by which:

(A) a parent or guardian notifies the district that the prekindergarten child is or will be admitted to a prekindergarten education program not operated by the district and concurrently enrolls the child in the district pursuant to subdivision (d)(1) of this section;

(B) a district:

(i) pays tuition pursuant to a schedule that does not inhibit the ability of a parent or guardian to enroll a prekindergarten child in a prekindergarten education program or the ability of a prequalified private provider to maintain financial stability; and

(ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; agreements entered into for the 2019-2020 school year and future school years shall be in a form prescribed by the Secretary of Education; and

(C) a provider that has received tuition payments under this section on behalf of a prekindergarten child notifies a district that the child is no longer enrolled.

(5) To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all ~~established~~ required quality standards and to allow for regional adjustments to the rate.

(6) [Repealed.]

(7) To require a district to include identifiable costs for prekindergarten programs and essential early education services in its annual budgets and reports to the community.

(8) To require a district to report to the Agency of Education annual expenditures made in support of prekindergarten education, with distinct figures provided for expenditures made from the General Fund, from the Education Fund, and from all other sources, which shall be specified.

(9) To provide an administrative process for:

(A) a parent, guardian, or provider to challenge an action of a school district or the State when the complainant believes that the district or State is in violation of State statute or rules regarding prekindergarten education; and

(B) a school district to challenge an action of a provider or the State when the district believes that the provider or the State is in violation of State statute or rules regarding prekindergarten education.

(10) To establish a system by which the Agency of Education ~~and Department for Children and Families~~ shall ~~jointly~~ monitor and evaluate prekindergarten education programs to promote optimal results for children that support the relevant population-level outcomes set forth in 3 V.S.A. § 2311 and to collect data that will inform future decisions. The Agency ~~and Department~~ shall be required to report annually to the General Assembly in January. At a minimum, the system shall monitor and evaluate:

(A) programmatic details, including the number of children served, the number of private and public programs operated, and the public financial investment made to ensure access to quality prekindergarten education;

(B) the quality of public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and

(C) the results for children, including school readiness and proficiency in numeracy and literacy.

(11) To establish a process for documenting the progress of children enrolled in prekindergarten education programs and to require public and private providers to use the process to:

(A) help individualize instruction and improve program practice; and

(B) collect and report child progress data to the Secretary of Education on an annual basis.

(12) To establish health, safety, and quality requirements for prequalified public providers that are consistent with the Child Care Licensing Regulations adopted by the Agency of Human Services and are monitored annually by the Agency of Education.

(f) Other provisions of law. Section 836 of this title shall not apply to this section.

(g) Limitations. Nothing in this section shall be construed to permit or require payment of public funds to a private provider of prekindergarten education in violation of Chapter I, Article 3 of the Vermont Constitution or in violation of the Establishment Clause of the U.S. Constitution.

(h) Geographic limitations.

(1) Notwithstanding the requirement that a district pay tuition to any prequalified public or private provider in the State, a school board may choose to limit the geographic boundaries within which the district shall pay tuition by paying tuition solely to those prequalified providers in which parents and guardians choose to enroll resident prekindergarten children that are located within the district's "prekindergarten region" as determined in subdivision (2) of this subsection.

(2) For purposes of this subsection, upon application from the school board, a district's prekindergarten region shall be determined ~~jointly~~ by the ~~Agencies~~ Agency of Education ~~and of Human Services~~ in consultation with the school board, private providers of prekindergarten education, parents and guardians of prekindergarten children, and other interested parties pursuant to a process adopted by rule under subsection (e) of this section. A prekindergarten region:

(A) shall not be smaller than the geographic boundaries of the school district;

(B) shall be based in part upon the estimated number of prekindergarten children residing in the district and in surrounding districts, the availability of prequalified private and public providers of prekindergarten education, commuting patterns, and other region-specific criteria; and

(C) shall be designed to support existing partnerships between the school district and private providers of prekindergarten education.

(3) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to access publicly funded prekindergarten education within that region, then the child's parent or guardian may request and in its discretion the district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified provider located outside the prekindergarten region.

(4) Except for the narrow exception permitting a school board to limit geographic boundaries under subdivision (1) of this subsection, all other provisions of this section and related rules shall continue to apply.

Sec. 10. 16 V.S.A. § 4010 is amended to read:

§ 4010. DETERMINATION OF WEIGHTED MEMBERSHIP

(a) On or before the first day of December during each school year, the Secretary shall determine the average daily membership of each school district for the current school year. The determination shall list separately:

(1) resident prekindergarten children;

(2) resident students being provided elementary ~~or kindergarten~~ education, excluding prekindergarten children; and

(3) resident students being provided secondary education.

* * *

(c) The Secretary shall determine the weighted long-term membership for each school district using the long-term membership from subsection (b) of this section and the following weights for each class:

(1) ~~Prekindergarten~~ except as otherwise provided in this subsection, prekindergarten—0.46;

(2) for a resident child enrolled in a prekindergarten program offered by a prequalified public provider, as defined in section 829(a) of this title, that is the district of residence with a duration of 20 hours or more per week for 35 weeks annually—0.70;

(3) ~~Elementary or~~ elementary, excluding prekindergarten—1.0; and

(4) ~~Secondary~~ secondary—1.13

* * *

Sec. 11. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC SCHOOLS; 21ST CENTURY FUND

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family child care

home without registration from the Department.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

* * *

(5) an after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by the Agency of Education, unless the after-school program asks to participate in the child care subsidy program; and

(6) a public provider of prekindergarten education, as defined under 16 V.S.A. § 829(a)(4), unless the public provider participates in the child care subsidy program.

* * *

Sec. 12. 16 V.S.A. § 11 is amended to read:

§ 11. CLASSIFICATIONS AND DEFINITIONS

(a) As used in this title, unless the context otherwise clearly requires:

* * *

(31) "Early childhood education," "early education," or "prekindergarten education" means services designed to provide developmentally appropriate early development and learning experiences based on Vermont's early learning standards to ~~children~~ a child who ~~are three to four years of age and to five-year-old children who are not eligible for or enrolled in kindergarten~~ is:

(A) three or four years of age or is five years of age but is not yet eligible to be enrolled in kindergarten; or

(B) five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973 and the child's individualized education program team or evaluation and planning team recommends that the child receive prekindergarten education services.

* * *

Sec. 13. PREKINDERGARTEN TRANSITION

Until such time as the State Board of Education implements rules that establish health, safety, and quality requirements for prequalified public providers under Sec. 9 of this act, prequalified public providers shall be subject to the health, safety, and quality rules adopted by the Agency of

Human Services and the oversight by the Agency of Human Services in its enforcement of these rules.

* * * Educator Licensing Requirements * * *

Sec. 14. EDUCATOR LICENSURE REQUIREMENTS

(a) The Vermont Standards Board for Professional Educators shall consider whether the educator licensure and endorsement requirements are appropriate or should be updated. As part of its review, the Board shall consider whether the use by a school of a school-based teacher quality and performance measurement program approved by the New England Association of Schools and Colleges, or examinations offered by the Smarter Balanced Assessment Consortium, should be used as criteria to qualify for licensure and endorsement. On or before December 1, 2018, the Board shall report its findings and recommendations to the House and Senate Committees on Education.

(b) As part of its review under subsection (a) of this section, the Vermont Standards Board for Professional Educators shall consider whether the educator licensure and endorsement requirements for teachers in career technical education centers are appropriate or should be updated. After the House and Senate Committees on Education have concluded their consideration of the report of the Vermont Standards Board for Professional Educators under subsection (a) of this section, the Vermont Standards Board for Professional Educators and the State Board of Education shall either update their educator licensure and endorsement rules for teachers in career technical education centers or issue a report to the House and Senate Committees on Education that they do not intend to update these rules. Until the date upon which these updated rules are implemented or the report is issued, teachers employed by career technical centers who were hired before April 1, 2018 and who do not have the licensure or endorsement that is required under applicable rules shall be exempt from these rules and any requirement to pursue licensure or endorsement under these rules.

(c) Notwithstanding subsection (b) of this section and any provision of law to the contrary, an employee in an approved area career technical center located in an approved independent school who was hired before April 1, 2018 and who did not have the licensure or endorsement that is required under applicable rules governing career technical centers shall be exempt from these rules. An employee hired on or after April 1, 2018 shall be subject to these rules, and an employee hired before April 1, 2018 who complied with these rules shall maintain his or her licensure and endorsements as required by these rules.

* * * Ethnic and Social Equity Standards Advisory Working Group * * *

Sec. 15. ETHNIC AND SOCIAL EQUITY STANDARDS ADVISORY WORKING GROUP

(a) Findings.

(1) In 1999, the Vermont Advisory Committee to the U.S. Commission on Civil Rights published a report titled Racial Harassment in Vermont Public Schools and described the state of racism in public schools. The Committee held various hearings and received reports from stakeholders and concluded that "racial harassment" appeared "pervasive in and around the State's public schools," and observed that "the elimination of this harassment" was "not a priority among school administrators, school boards, elected officials, and State agencies charged with civil rights enforcement."

(2) In 2003, the Commission released a follow-up report concluding that, although some positive efforts had been made since the original report was published, the problem persisted. One of the many problems highlighted was the "curriculum issues in the State's public schools. In some instances, teachers employ curriculum materials and lesson plans that promote racial stereotypes." One of the conclusions was that there was a need for a bias-free curriculum.

(3) On December 2017, the Act 54 report on Racial Disparities in State Systems, issued by the Attorney General and Human Rights Commission Task Force, was released. According to the report, education is one of the five State systems in which racial disparities persist and need to be addressed. The Attorney General and Human Rights Commission held three stakeholder meetings and found "a surprising amount of coalescence around the most important issues" and "the primary over-arching theme was that we will be able to reduce racial disparities by changing the underlying culture of our state with regard to race." One of the main suggestions for accomplishing this was to "teach children from an integrated curriculum that fairly represents both the contributions of People of Color (as well as indigenous people, women, people with disabilities, etc.), while fairly and accurately representing our history of oppression of these groups." The other suggestions were to educate State employees about implicit bias, white privilege, white fragility, and white supremacy, and increase the representation of people of color in the State and school labor forces by focusing on recruitment, hiring, and retention, as well as promotion of people of color into positions of authority and responsibility on boards and commissions.

(4) The harassment of lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, and nonbinary communities; other students of color; and students with disabilities and the lack of understanding of people in power about the magnitude of the systemic impacts of harassment and bias damage the whole community.

(b) Definitions. As used in this act:

(1) "Ethnic groups" means nondominant racial and ethnic groups in the United States, including people who are indigenous and people of African, Asian, Pacific Island, Chicanx, Latinx, or Middle Eastern descent.

(2) "Ethnic studies" means the instruction of students in prekindergarten through grade 12 in the historical contributions and perspectives of ethnic groups and social groups.

(3) "Social groups" means females, people with disabilities, immigrants, refugees, and individuals who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, or nonbinary.

(c) Creation and composition. The Ethnic and Social Equity Standards Advisory Working Group is established. The Working Group shall comprise the following 17 members:

(1) eight members who are members of, and represent the interests of, ethnic groups and social groups;

(2) a Vermont-based, college-level faculty expert in ethnic studies;

(3) the Secretary of Education or designee;

(4) the Executive Director of the Vermont-National Education Association or designee;

(5) an Assistant Attorney General in the Office of the Vermont Attorney General with experience working with the Agency of Education on racial and social justice issues in schools;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) a representative for the Vermont Principals' Association with expertise in the development of school curriculum;

(8) a representative for the Vermont Curriculum Leaders Association;

(9) the Executive Director of the Vermont Superintendents Association or designee; and

(10) the Executive Director of the Vermont Independent Schools' Association or designee.

(d) Appointment and operation.

(1) The Vermont Coalition for Ethnic and Social Equity in Schools (Coalition) shall appoint the eight members who represent ethnic groups and social groups and the member identified under subdivision (c)(2) of this section. Appointments of members to fill vacancies to these positions shall be made by the Coalition.

(2) As a group, the Working Group shall represent the breadth of geographic areas within the State and shall have experience in the areas of ethnic standards or studies, social justice, inclusivity, and advocacy for the groups they represent.

(3)(A) The Secretary of Education or designee shall call the first meeting of the Working Group to occur on or before September 1, 2018.

(B) The Working Group shall select a chair from among its members at the first meeting.

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

(D) The Working Group shall cease to exist on July 1, 2021.

(e) Compensation and reimbursement. Members of the Committee 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 not more than ten meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(f) Appropriation. The sum of $13,420.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Ethnic and Social Equity Standards Advisory Working Group. The Agency shall include in its budget request to the General Assembly for fiscal years 2020 and 2021 the amount of $13,420.00 for the per diem compensation and expense reimbursements authorized by this section to be paid to members of the Working Group.

(g) Duties of the Working Group.

(1) The Working Group shall review statewide curriculum standards adopted by the State Board of Education and, on or before June 30, 2020, recommend to the State Board updates and additional standards to recognize fully the history, contribution, and perspectives of ethnic groups and social groups. These recommended additional standards shall be designed to:

(A) increase cultural competency of students in prekindergarten through grade 12;

(B) increase attention to the history, contribution, and perspectives of ethnic groups and social groups;

(C) promote critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(D) commit the school to eradicating any racial bias in its curriculum;

(E) provide, across its curriculum, content and methods that enable students to explore safely questions of identity, race equality, and racism; and

(F) ensure the basic curriculum and extracurricular programs are welcoming to all students and take into account parental concerns about religion or culture.

(2) The Working Group may review all existing State statutes regarding school policies and recommend to the General Assembly proposed statutory changes with the following goals:

(A) Ensuring that the school curriculum:

(i) promotes critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(ii) includes content and related instructional materials and methods that enable students to explore safely questions of identity and membership in ethnic groups and social groups, race equality, and racism; and

(iii) facilitates a welcoming environment for all students while taking into account parental concerns about bias or exclusion of ethnic groups or social groups.

(B) Ensuring engagement opportunities that provide families a welcoming means of raising any concern about their child's experience as it bears on race or ethnic or social group identity at school.

(3) The Working Group shall include in its report to the General Assembly under subdivisions (h)(2) and (3) of this section any statute, State Board rule, or school district policy that it has identified as needing review or amendment in order to:

(A) promote an overarching focus on preparing all students to participate effectively in an increasingly racially, culturally, and socially diverse Vermont and in global communities;

(B) ensure every student is in a safe, secure, and welcoming learning and social environment in which bias, whether implicit or explicit, toward others based on their membership in ethnic or social groups is acknowledged and addressed appropriately;

(C) challenge racist, sexist, gender, or ability-based bias or bias based on socioeconomic status when it occurs, using principles aligned with restorative practice;

(D) specify prohibited conduct as it relates to racism, sexism, ableism, and other social biases and refers to the process through which alleged misconduct will be addressed, including disciplinary action as appropriate;

(E) establish disciplinary responses to racial or ethnic and social group incidents that include the utilization of restorative practices where appropriate; and

(F) ensure that the school provides all its personnel training in how best to address bias incidents.

(h) Reports.

(1) The Working Group shall, on or before March 1, 2019, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) its plan to accomplish the work described in subdivision (g)(1) of this section, including the timeline for reviewing all statewide curriculum standards and for its recommendation to the State Board of additional standards to recognize fully the history, contribution, and perspectives of ethnic groups and social groups; and

(C) its plan to accomplish the work described in subdivisions (g)(2) and (3) of this section, including the timeline for reviewing all existing State statutes regarding school policies and drafting proposed legislation.

(2) The Working Group shall, on or before December 15, 2019, submit a report to the General Assembly, including:

(A) the membership of the Working Group and its meeting schedule;

(B) recommended statutory changes under subdivisions (g)(2) and (3) of this section; and

(C) recommendations for training and appropriations to support implementation of the recommended statutory changes.

(3) The Working Group shall, on or before July 1, 2021, submit a report to the General Assembly, including:

(A) any further recommended statutory changes under subdivision (g)(2) of this section; and

(B) recommendations for training and appropriations to support implementation of the recommended changes.

(i) Duties of the State Board of Education. The Board of Education shall, on or before June 30, 2021, consider adopting ethnic and social equity studies standards into existing statewide curriculum standards for students in prekindergarten through grade 12. The State Board shall consider the report submitted by the Working Group under subdivision (g)(1) of this section when determining the standards to adopt.

Sec. 16. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

* * *

(17) Report annually on the condition of education statewide and on a ~~school-by-school~~ supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of harassment, hazing, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on student performance and hazing, harassment, or bullying incidents shall be disaggregated by student groups, including ethnic and racial groups, poverty status, disability status, English language learner status, and gender. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

* * *

* * * Expanded Learning Opportunities * * *

Sec. 17. 16 V.S.A. chapter 100 is added to read:

CHAPTER 100. EXPANDED LEARNING OPPORTUNITIES

§ 2911. DEFINITIONS

As used in this title:

(1) "Expanded Learning Opportunity (ELO)" means a structured program designed to serve prekindergarten through secondary school-aged children and youths outside the school day and year on a regular basis, including before and after school and during the summer, by providing opportunities for personal, emotional, and academic growth for children and youths.

(2) "ELO Committee" means the Expanded Learning Opportunities Committee created by section 2912 of this chapter.

(3) "ELO Special Fund" means the Vermont Expanded Learning Opportunities Special Fund, under section 2913 of this chapter.

§ 2912. EXPANDED LEARNING OPPORTUNITIES COMMITTEE; REPORT

(a) Creation; membership. There is created the Expanded Learning Opportunities Committee, to be composed of the following 10 members:

(1) the Secretary of Education or designee;

(2) the Commissioner for Children and Families or designee;

(3) the Commissioner of Labor or designee;

(4) the Director of Vermont Afterschool, Inc. or designee;

(5) one member representing private foundations or Vermont's philanthropic community, one member representing the business community, and one member representing the education community, appointed by the Prekindergarten-16 Council; and

(6) three members representing ELO programs that have been in operation since on or before July 1, 2017, with one member to be appointed each by the Governor, the Speaker of the House, and the Committee on Committees.

(b) Duties. The Committee shall:

(1) recommend to the Agency of Education grants to be awarded from the ELO Special Fund; and

(2) work with the philanthropic and business communities in Vermont to pursue and accept grants or other funding from any public or private source for the ELO Special Fund.

(c) Terms. ELO Committee members shall serve, commencing on January 1, three-year terms or until the member's earlier resignation or removal. An ELO Committee member may be appointed prior to January 1, 2019, in which case the initial term of that member shall extend to January 1, 2022. The respective appointing authority shall fill a vacancy for the remainder of any unexpired term. An appointed member shall not serve more than three full consecutive terms.

(d) Officers; subcommittees; rules. The ELO Committee shall elect a chair from among its members. It may elect other officers, establish subcommittees, and adopt procedural rules as it determines necessary and appropriate to perform its work.

(e) Quorum; voting; meetings.

(1) A majority of all members shall constitute a quorum.

(2) Action is taken by the ELO Committee if authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(3) The ELO Committee may permit any or all members to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of electronic communication by which all members participating may simultaneously or sequentially communicate with each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

(4) On or before September 1, 2018, the Secretary of Education or designee shall convene the first meeting of the ELO Committee.

(f) Administrative support. The Agency of Education shall provide administrative support to the ELO Committee.

(g) Compensation, reimbursement, and appropriations. Members of the Committee 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 not more than six meetings per year. The sum of $4,392.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized

by this section to be paid to these members of the Committee. The Agency shall include in its budget request to the General Assembly for each subsequent fiscal year the amount of $4,392.00 for the per diem compensation and expense reimbursements authorized by this section to be paid to these members of the Committee.

(h) Report. Notwithstanding 2 V.S.A. § 20(d), the ELO Committee shall report to the House and Senate Committees on Education and on Appropriations on or before January 15 annually regarding the ELO Committee's activities, including:

(1) its recommendations to improve access to expanded learning opportunities for children and youths from families with low income where expanded learning opportunities are not readily available;

(2) its recommendations to build workforce readiness skills in the fields of science, technology, engineering, and mathematics; and

(3) the extent to which transportation is a barrier to expanded learning opportunities.

(i) Sunset. This section is repealed on July 1, 2023.

§ 2913: VERMONT EXPANDED LEARNING OPPORTUNITIES SPECIAL FUND

(a) There is established the Vermont Expanded Learning Opportunities Special Fund comprising grants, donations, and contributions from any private or public source. Monies in the ELO Special Fund shall be available to the Agency of Education for the purpose of increasing access to ELOs throughout Vermont. The Commissioner of Finance and Management may draw warrants for disbursements from the Fund in anticipation of receipts. The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned and any remaining balance at the end of the fiscal year shall be retained and carried forward in the Fund.

(b) The Agency of Education shall report annually in it budget presentation to the House and Senate Committees on Education and on Appropriations on the number and amount of ELO grants disbursed and the geographic locations of the recipients.

Sec. 18. 16 V.S.A. § 2906 is amended to read:

§ 2906. ~~VERMONT EXPANDED LEARNING OPPORTUNITIES SPECIAL FUND ESTABLISHED~~

~~(a) As used in this section, "Expanded Learning Opportunity" means a structured program designed to serve prekindergarten through secondary~~

~~school-age children and youth outside the school day and year on a regular basis, including before and after school and during the summer, by providing opportunities for personal, emotional, and academic growth for children and youth.~~

~~(b) There is established a Vermont Expanded Learning Opportunities Special Fund comprising grants, donations, and contributions from any private or public source. Monies in the Fund shall be available to the Agency for the purpose of increasing access to expanded learning opportunities throughout Vermont. The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts. The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned and any remaining balance at the end of the fiscal year shall be retained and carried forward in the Fund.~~ [Repealed.]

* * * Postsecondary Educational Institutions; Closing * * *

Sec. 19. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

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

(1) promptly inform the State Board;

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

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

* * *

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

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery

under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

* * *

(g)(1) ~~The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:~~

~~(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and~~

~~(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.~~ If an institution of higher education is placed on probation for financial reasons by its accrediting agency, the institution shall, not later than two days after learning that it has been placed on probation, inform the State Board of Education of its status, and not later than 90 days after being place on probation, shall submit a student record plan to the State Board for approval.

(2) The student record plan shall include an agreement with an institution of higher education or other entity to act as a repository for the institution's records with funds set aside, if necessary, for the permanent maintenance of the student records.

(3) If the State Board does not approve the plan, the State may take action under subsections (d) and (e) of this section.

* * * Statewide Negotiation of Health Care Benefits for School Employees * * *

Sec. 20. STUDY COMMITTEE ON STATEWIDE NEGOTIATION OF HEALTH CARE BENEFITS FOR SCHOOL EMPLOYEES

(a) The Study Committee on Statewide Negotiation of Health Care Benefits for School Employee (Committee) is created to determine how to transition to a single, statewide health benefit plan for all school employees of supervisory unions and school districts.

(b)(1) The Committee shall comprise the following six members:

(A) three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House of Representatives; and

(B) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(2) If a member of the Committee ceases to serve as a member of the General Assembly, a replacement appointee who is a member of the General Assembly shall be appointed in the same manner as the initial appointment.

(c) The Committee shall propose draft legislation that addresses the following matters concerning the transition to a single, statewide health benefit plan for all school employees of supervisory unions and school districts:

(1) the structure and composition of parties to a statewide negotiation;

(2) a timeline for negotiations and impasse procedures;

(3) a process for statewide ratification of the agreement resulting from the statewide negotiation; and

(4) how income sensitization will be decided as part of the negotiations.

(d) The Committee's draft legislation shall include a requirement that any fact-finding required for impasse resolution shall give weight to:

(1) the financial capacity of the school district;

(2) the interest and welfare of the public and the financial ability of the school board to pay for increased costs of public services, including the cost of labor;

(3) comparisons of the wages, hours, and conditions of employment of the employees involved in the dispute with the wages, hours, and conditions of employment of State and municipal employees who are not employed by supervisory unions or school districts;

(4) the overall compensation currently received by the employees, including direct wages, fringe benefits, and continuity conditions and stability of employment, and all other benefits received; and

(5) the rate of growth of the economy of the State of Vermont for the year of negotiation as well as during the prior three-year period.

(e)(1) The Committee shall consult with the Secretary of Education and the Vermont Education Health Initiative as necessary.

(2) The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(f) On or before December 15, 2018, the Committee shall provide its proposed legislation to the House Committees on Education, on General, Housing, and Military Affairs, and on Ways and Means and the Senate Committees on Education, on Economic Development, Housing and General Affairs, and on Finance.

(g) The Speaker of the House shall call the first meeting of the Committee to occur on or before July 1, 2018. The Committee shall select a chair from among its members at the first meeting. A majority of the membership shall constitute a quorum. The Committee shall cease to exist on December 16, 2018.

(h) As used in this section, "supervisory union" and "school district" shall have the same meanings as set forth in 16 V.S.A. § 11.

* * * Mitigating Trauma and Toxic Stress During Childhood * * *

Sec. 21. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL SUPPORT TEAM

* * *

(b) The tiered system of supports shall:

(1) be aligned as appropriate with the general education curriculum;

(2) be designed to enhance the ability of the general education system to meet the needs of all students;

(3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;

(4) seek to identify and respond to students in need of support for at-risk behaviors and to students in need of specialized, individualized behavior supports; ~~and~~

(5) provide all students with a continuum of evidence-based and research-based behavior practices, including trauma-sensitive programming, that teach and encourage prosocial skills and behaviors schoolwide;

(6) promote collaboration with families, community supports, and the system of health and human services; and

(7) provide professional development as needed to support all staff in implementing the system.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition and to those students who have been exposed to trauma.

* * *

Sec. 22. 16 V.S.A. § 2904 is amended to read:

§ 2904. REPORTS

Annually, each superintendent shall report to the Secretary in a form prescribed by the Secretary~~,~~ on the status of the ~~educational support systems~~ multi-tiered system of supports in each school ~~in the supervisory union~~. The report shall describe the services and supports that are a part of the ~~education support system~~ multi-tiered system of supports, how they are funded, and how building the capacity of the ~~educational support system~~ multi-tiered system of supports has been addressed in the ~~school action plans,~~ school's continuous improvement plan and professional development and shall be in addition to the report required of the ~~educational support~~ multi-tiered system of supports team in subdivision 2902(c)(6) of this chapter. The superintendent's report shall include a description and justification of how funds received due to Medicaid reimbursement under section 2959a of this title were used.

Sec. 23. ALIGNMENT OF DESIGNATED AND SPECIALIZED SERVICE AGENCIES WITH SUPERVISORY UNIONS

The Agencies of Education and of Human Services shall discuss areas of geographical overlap to better coordinate the provision of their respective services. The Agencies shall jointly present the results of their efforts to the House and Senate Committees on Education on or before January 15, 2019.

Sec. 24. SCHOOL NURSES; HEALTH-RELATED BARRIERS TO LEARNING

On or before September 1, 2018, the Agency of Human Services' Director of Prevention and Health Improvement shall coordinate with the Vermont State School Nurse Consultant and with the Agency of Education systematically to support local education agencies, school administrators, and school nurses in ensuring that all students' health appraisal forms are completed on an annual basis to enable school nurses to identify students' health-related barriers to learning.

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

(a) Secs. 8 (Technical Correction) shall take effect July 1, 2019. Secs. 9, 11, and 12 (Prekindergarten Education) shall take effect on July 1, 2019 for the 2019-2020 school year and future school years.

(b) Sec. 10, which increases the weighting from 0.46 to 0.70 for a resident child enrolled in a public prekindergarten program with a duration of 20 hours or more per week for 35 weeks annually, shall take effect July 1, 2020 in order to provide sufficient time to determine how to better ensure equity and access to publicly funded hours across the private and public prekindergarten delivery systems.

(c) This section and the remaining sections shall take effect on passage, and Secs. 4(c) and 5 shall apply to the subsequent election of district officers of a unified union school district or a union school district.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Baruth, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

Rules Suspended; House Proposal of Amendment Concurred In

S. 276.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to rural economic development.

Was taken up for immediate consideration.

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

* * * Rural Economic Development Initiative * * *

Sec. 1. 10 V.S.A. § 325m is amended to read:

§ 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

(a) Definitions. As used in this subchapter:

(1) ~~"Industrial park" means an area of land permitted as an industrial park under chapter 151 of this title or under 24 V.S.A. chapter 117, or under both.~~

~~(2)~~ "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

~~(3)~~(2) "Small town" means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created ~~within the Vermont Housing and Conservation Board a~~ the Rural Economic Development Initiative ~~to promote and facilitate~~ to be administered by the Vermont Housing and Conservation Board for the purpose of promoting and facilitating community economic development in the small towns and rural areas of the State. The Rural Economic Development Initiative shall collaborate with municipalities, businesses, ~~industrial parks,~~ regional development corporations, regional planning commissions, and other appropriate entities to access funding and other assistance available to small towns and businesses in rural areas of the State when existing State resources or staffing assistance is not available.

(c) Services; access to funding.

~~(1)~~ The Rural Economic Development Initiative shall provide the following services to small towns and businesses in rural areas:

~~(A)~~(1) identification of grant or other funding opportunities ~~available to small towns, businesses in rural areas, and industrial parks in small towns and rural areas~~ that facilitate business development, ~~siting of businesses, workforce development, broadband deployment,~~ infrastructure development, or other economic development opportunities;

~~(B)~~(2) technical assistance ~~to small towns, businesses in rural areas, and industrial parks in small towns and rural areas~~ in writing grants, accessing ~~and completing the application process for identified grants or~~ other funding ~~opportunities, including writing applications for grants or other funding~~, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding.

~~(2)~~(d) Priority. In providing services under this ~~subsection~~ section, the Rural Economic Development Initiative shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation.

~~(d)~~(e) ~~Services; business development~~ Priority projects. The Rural Economic Development Initiative shall ~~provide small towns and rural areas with services to facilitate business development in these areas. These services shall include:~~

~~(1) Identifying businesses or business types suitable for a small town, rural areas, industrial parks in a small town or rural area, or coworker spaces or generator spaces in rural areas. In identifying businesses or business types,~~

~~the Rural Economic Development Initiative shall~~ seek to assist the following priority types of projects:

~~(A) identify businesses or business types in the following priority areas:~~

~~(i)~~(1) milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

~~(ii)~~(2) ~~the~~ outdoor recreation and equipment ~~or recreation industry~~ enterprises;

~~(iii)~~(3) ~~the~~ value-added food and forest products ~~industry~~ enterprises;

~~(iv)~~(4) ~~the value-added food industry~~ farm operations, including phosphorus removal technology for farm operations;

~~(v)~~(5) ~~phosphorus removal technology~~ coworking or business generator and accelerator spaces; ~~and~~

~~(vi)~~(6) commercial composting facilities; and

(7) restoration and rehabilitation of historic buildings in community centers.

~~(B) explore with a small town or rural area whether underused or closed school buildings are appropriate sites for coworker or generator spaces.~~

~~(2) Recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.~~

~~(3)~~(f) Coordination. In providing services under this ~~subsection~~ section, the Rural Economic Development Initiative shall coordinate with the Secretary of Commerce and Community Development ~~in order to avoid duplication by the Rural Economic Development Initiative of business recruitment and workforce development services provided by the Agency of Commerce and Community Development~~, regional development corporations, and regional planning commissions.

~~(e)~~(g) Report. Beginning on January ~~15, 2018~~ 31, 2019, and annually thereafter, the Rural Economic Development Initiative shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the Initiative as part of the report of the Vermont Farm and Forest Viability Program. The report shall ~~include:~~

~~(1) a summary of the Initiative's activities in the preceding calendar year;~~

~~(2) an evaluation of the effectiveness of the services provided by the Initiative to small towns, rural areas, and industrial parks;~~

~~(3) a summary of the Initiative's progress in attracting priority businesses to small towns and rural areas;~~

~~(4) an accounting of the grants or other funding that the Initiative facilitated or provided assistance with;~~

~~(5) an accounting of the funds acquired by the Rural Economic Development Initiative for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Initiative; and~~

~~(6) recommended changes to the program, including proposed legislative amendments to further economic development in small towns and rural areas in the State~~ summarize the Initiative's activities in the preceding year; evaluate the effectiveness of the services provided by the Initiative; provide an accounting of the grants or other funding that the Initiative facilitated or helped secure; and recommend any changes to the program to further economic development in small towns and rural areas of the State.

* * * Outdoor Recreation-Friendly Community Program * * *

Sec. 2. OUTDOOR RECREATION-FRIENDLY COMMUNITY PROGRAM

(a) Establishment. Upon receipt of funding, the Outdoor Recreation-Friendly Community Program (Program) is created to provide incentives for communities to leverage outdoor recreation assets to foster economic growth within a town, village, city, or region of the State.

(b) Administration. The Program shall be administered by the Department of Forests, Parks and Recreation in association with the Agency of Commerce and Community Development.

(c) Selection. The Commissioner of Forests, Parks and Recreation in consultation with the Agency of Commerce and Community Development and the Vermont Outdoor Recreation Economic Collaborative steering committee shall select communities for the Program using, at minimum, the following factors:

(1) community economic need;

(2) identification of outdoor recreation as a priority in a town plan or other pertinent planning document;

(3) community commitment to an outdoor recreation vision; demonstrated support from community officials, the public, local business, and local and statewide outdoor recreation nonprofit organizations; and commitment to adhere to accepted standards and recreation ethos;

(4) a community with a good foundation of outdoor recreation assets already in place with strong potential for growth on both private and public lands;

(5) a community with good opportunities for connecting assets within the community with assets of other nearby communities;

(6) a community with an existing solid network of local supporting businesses; and

(7) community commitment to track and measure outcomes to demonstrate economic and social success.

(d) Incentives. Communities accepted into the Program shall be offered, at minimum, the following incentives:

(1) preferential consideration to become part of the Vermont Trail System;

(2) preferential consideration when applying for grant assistance through the Recreational Trails Program and the Land and Water Conservation Fund Program;

(3) access to other economic development assistance if available and appropriate; and

(4) recognition as part of a network of Outdoor Recreation-Friendly Communities connected through a common branding and adherence to high standards of quality and service.

(e) Pilot project and appropriation. Upon receipt of funding to create the Outdoor Recreation Friendly Community Program, the Agency of Commerce and Community Development, in association with the Department of Forests, Parks and Recreation, shall approve pilot communities to serve as prototypes for the Program. The funding may be used for the following purposes:

(1) communitywide outdoor recreation planning, including assessment, mapping, and identifying possibilities and priorities;

(2) services of consultants and other technical assistance providers;

(3) public facing mapping and other informational materials;

(4) securing access;

(5) implementation of public access improvements;

(6) stewardship;

(7) marketing; and

(8) program administration.

(f) Reports. On or before January 15, 2019, the Commissioner of Forests, Parks and Recreation shall submit a report to the General Assembly detailing the progress made with the pilot project authorized under subsection (e) of this section. On or before January 15, 2020, the Commissioner of Forests, Parks and Recreation shall submit a report to the General Assembly detailing any measurable results of economic activity growth.

* * * Evaluation; Act 250; Recreational Trails * * *

Sec. 3. ACT 250 JURISDICTION; RECREATIONAL TRAILS; EVALUATION

(a) In addition to the currently assigned tasks under 2017 Acts and Resolves No. 47 (Act 47), the Commission on Act 250: the Next 50 Years (the Commission) established under that act shall evaluate the strengths and challenges associated with regulation of recreational trails under 10 V.S.A. chapter 151 (Act 250) and alternative structures for the planning, review, and construction of future trail networks and the extension of existing trail networks. The Commission shall include recommendations on this issue in its report to the General Assembly due on or before December 15, 2018 under Act 47.

(b) To provide information and recommendations to the Commission on the issue identified in subsection (a) of this section, the Commissioner of Forests, Parks and Recreation or designee and the Chair of the Natural Resources Board or designee shall form a recreational trails working group that shall include officers and employees of the Agency of Natural Resources designated by the Secretary of Natural Resources. The working group shall offer an opportunity for submission of information and recommendations from affected parties, including recreational trail and environmental organizations. The working group shall submit a report to the Commission on or before October 1, 2018.

(1) With respect to recreational trails, the working group's report shall examine multiple potential planning and regulatory structures, including possible revisions to Act 250; the creation of a trail oversight program within the Agency of Natural Resources that includes best development practices and an agency permitting process, including consideration of a general permit; and other options that the working group may identify.

(2) In considering alternative structures, the working group shall evaluate how best to foster the development of an interconnected recreational trail network in Vermont while safeguarding the State's natural resources, including water quality, wildlife habitat and populations, and sensitive natural communities and areas, and minimizing potential impacts on neighboring properties and host municipalities.

(3) The Commission shall consider the report of the working group during its deliberation and report preparation phase set forth in Act 47, Sec. 2(d)(3), and shall attach a copy of the working group's report to its own report to the General Assembly.

Sec. 4. [Deleted.]

* * * Farm and Forest Viability * * *

Sec. 5. 6 V.S.A. § 4710 is amended to read:

§ 4710. VERMONT FARM AND FOREST VIABILITY ~~ENHANCEMENT~~ PROGRAM

(a) The Vermont Farm and Forest Viability ~~Enhancement~~ Program is a voluntary program established in the Agency of Agriculture, Food and Markets to provide assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses to enhance the financial success and long-term viability of Vermont ~~agriculture~~ agricultural and forest sectors. In administering the Program, the Secretary shall:

(1) Collaborate with the Vermont Housing and Conservation Board~~,~~ to administer the program with other State and federal agencies, private entities, and service groups to develop, coordinate, and provide technical and financial assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses.

(2) ~~Include teams of~~ Secure and coordinate experts to assist ~~farmers~~ farm, food, and forest-sector business owners in areas such as ~~assessing farm resources and potential~~ business and financial planning, succession planning, diversifying, adopting new technologies, improving product quality, developing value-added products, and lowering costs of production ~~for Vermont's agricultural sector. The teams~~. Providers may include ~~farm~~ business management specialists, University of Vermont Extension professionals, ~~veterinarians,~~ and other experts to deliver the ~~informational and technological~~ educational and consulting services.

(3) Encourage agricultural or forest-sector economic development through investing in improvements to essential infrastructure and the promotion of ~~farm~~ businesses in ~~Vermont~~ these sectors.

(4) Enter into agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State and employ technical experts to carry out the purposes of this section.

(b) The ~~farm viability enhancement program~~ Farm and Forest Viability Program shall be assisted by an advisory board consisting of ~~ten~~ 12 members who shall include:

(1) The Secretary of Agriculture, Food and Markets. The Secretary shall serve as Chair of the Board.

(2) The Commissioner of Forests, Parks and Recreation or designee.

(3) The Commissioner of Economic Development or designee.

~~(3)~~(4) The Manager of the Vermont Economic Development Authority or designee.

~~(4)~~(5) The Director of University of Vermont Extension or designee.

~~(5)~~(6) The Executive Director of the Vermont Housing and Conservation Board or designee.

~~(6)~~(7) Four Vermont ~~farmers~~ agricultural or forest-sector business owners appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation. ~~The four farmers shall serve two-year terms, except for the first year, two farmers chosen by the Chair shall serve one-year terms~~ At least two of the four business owners shall be agricultural-sector business owners.

~~(7)~~(8) ~~A person who has~~ Two people who have expertise in agricultural or forest-sector economics, financing, or business ~~planning~~ development appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation.

(c) Members of the Advisory Board established in subsection (b) of this section other than ex officio members shall serve up to three two-year terms and shall be entitled to per diem expenses pursuant to 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each such member shall be reimbursed ~~from the fund created by this section~~ for his or her reasonable expenses incurred in carrying out his or her duties under this section.

(d) In consultation with the Advisory Board, the Secretary of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall establish ~~grant criteria,~~ performance goals, performance measures that demonstrate Program results, and other criteria to implement the Program. The ~~grant~~ criteria shall include at least the following requirements:

(1) ~~the application is developed in consultation with the producers who use or would use the Program and will address their needs;~~

~~(2)~~ the use of ~~the~~ funds available to the Program is likely to succeed in improving the economic viability of the ~~farm and the farm's producers~~ business;

~~(3)~~(2) the ~~producers are committed~~ enrollees demonstrate commitment to participating in the Program; and

~~(4)~~(3) an evaluation shall be completed by ~~enrolled farmers in conjunction with the teams~~ the enrollees.

(e)~~(1) The Farm Viability Enhancement Program Special Fund is established in the State Treasury and shall be administered by the Secretary of Agriculture, Food and Markets in accordance with the provisions of 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the fund shall be retained in the Fund. The Fund shall be used only for the purpose of implementing and effectuating the Farm Viability Enhancement Program established by this section. There shall be deposited in such Fund any monies appropriated by the General Assembly to, or received by, the Secretary of Agriculture, Food and Markets from any other source, public or private. The Fund shall be used only for the purposes of:~~

~~(A) providing funds for the Farm Viability Enhancement Program as established in this section;~~

~~(B) providing funds to enrolled farmers;~~

~~(C) providing funds to service providers for administrative expenses of the program; and~~

~~(D) leveraging other competitive public and private funds, grants, and contributions for the Farm Viability Enhancement Program.~~

~~(2)~~ The Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Vermont Housing and Conservation Board, separately or cooperatively, may solicit federal funds, grants, and private contributions for the Farm and Forest Viability ~~Enhancement~~ Program, but any Vermont Housing and Conservation Board funds used for the Farm and Forest Viability ~~Enhancement~~ Program shall be administered in accordance with 10 V.S.A. § 312.

(f)~~(1)~~ In collaboration with ~~the Vermont Housing and Conservation Board,~~ the Secretary of Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation, the Vermont Housing and Conservation Board shall report in writing to the Senate ~~Committee~~ Committees on Agriculture and on Economic Development, Housing and General Affairs and the House

~~Committee~~ Committees on Agriculture and Forestry and on Commerce and Economic Development on or before January 31 of each year with a report on the activities and performance of the Farm and Forest Viability ~~Enhancement~~ Program. At a minimum, the report shall include an evaluation of the Program utilizing the performance goals and performance measures established in consultation with the Advisory Board under subsection (d) of this section. ~~The report should assess potential demand for the Program over the succeeding three years.~~

~~(2) The Agency of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall describe in their annual budget submissions plans to develop adequate State, federal, and private funds to carry out this initiative.~~

(g)~~(1) The Agricultural Economic Development Special Account is established as a dedicated sub-account of the Vermont Farm Viability Enhancement Program Special Fund. There shall be deposited in such account any monies:~~

~~(A) appropriated by the General Assembly to the account; and~~

~~(B) received by the State or the Secretary of Agriculture, Food and Markets from any source, public or private, for use for any of the purposes for which the account was established.~~

~~(2) The Fund shall only be used for the purposes of:~~

~~(A) encouraging private investment in the economic initiative; and~~

~~(B) providing incentives for technology businesses, determined by the Agency of Agriculture, Food and Markets to provide critical technological solutions for the growth of Vermont's agricultural economy.~~

~~(3) Assistance from the Agricultural Economic Development Special Account shall be available in order to produce agricultural energy, harvest biomass, convert biomass into energy, or enable installation and usage of wind, solar, or other technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2), including:~~

~~(A) business and technical assistance for research and planning to aid a farmer or a group of farmers in developing business enterprises;~~

~~(B) cost-effective implementation assistance to leverage other sources of capital to assist a farmer or group of farmers in purchasing equipment, technology, or other assistance; and~~

~~(C) business, technical, and implementation assistance to persons that are not farmers for the development and implementation of technology or development of facilities designed to produce agricultural energy, harvest biomass, or convert biomass into energy, provided that the person is working in consultation with a Vermont farm, is creating an enterprise that utilizes Vermont resources, and provides Vermont a significant return on investment and meets any financial and technical criteria established by the Secretary by procedure.~~ [Repealed.]

* * * Nutrient Management Plans; Technical Service Providers * * *

Sec. 5a. 6 V.S.A. § 4989 is added to read:

§ 4989. CERTIFICATION OF NUTRIENT MANAGEMENT PLAN TECHNICAL SERVICE PROVIDERS

(a) On or before July 1, 2019, the Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a nutrient management technical service provider shall be certified to operate within the State. The certification process shall require a nutrient management technical service provider to complete eight hours of training over each five-year period regarding:

(1) calculating manure and agricultural waste generation;

(2) taking soil and manure samples;

(3) identifying and creating maps of all natural resource features;

(4) use of erosion calculation tools;

(5) reconciling plans using records;

(6) use of nutrient index tools; and

(7) requirements within the Required Agricultural Practices, Medium Farm Operation rules and general permit, and Large Farm Operation rules.

(b) Beginning on July 1, 2019, a nutrient management technical service provider shall not create a nutrient management plan for a farm unless certified by the Secretary of Agriculture, Food and Markets.

* * * Forest Products Industry; Act 250 * * *

Sec. 6. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF REVIEW

* * *

(g) When an application concerns the construction of improvements for one of the following, the application shall be processed as a minor application in accordance with subsections (b) through (e) of this section:

(1) a sawmill that produces three and one-half million board feet or less annually; or

(2) an operation that involves the primary processing of forest products of commercial value and that annually produces:

(A) 3,500 cords or less of firewood or cordwood; or

(B) 10,000 tons or less of bole wood, whole tree chips, or wood pellets.

Sec. 7. COMMISSION ON ACT 250; REVIEW OF FOREST PRODUCTS PROCESSING

The Commission on Act 250: the Next 50 Years (Commission) established under 2017 Acts and Resolves No. 47 (Act 47) shall review whether permit conditions in permits issued under 10 V.S.A. chapter 151 (Act 250) to forest processing operations negatively impact the ability of a forest processing operation to operate in an economically sustainable manner, including whether Act 250 permit conditions limit the ability of a forest processing operation to alter production or processing in order to respond to market conditions. If the Commission determines that Act 250 permit conditions have a significant negative economic impact on forestry processing operations, the Commission shall recommend alternatives for mitigating those negative economic impacts. The Commission shall include its findings and recommendation on this issue, if any, in the report due to the General Assembly on December 15, 2018 under Act 47.

* * * Environmental Permitting Fees * * *

Sec. 8. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

* * *

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection ~~(j)~~ and an application fee of:

(A) $0.75 per square foot of proposed impact to Class I or II wetlands.

(B) $0.25 per square foot of proposed impact to Class I or II wetland buffers.

(C) Maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use or for installation of a pipeline in a wetland for the transport of manure for the purpose of farming, as that term is defined in 10 V.S.A. § 6001(22), when the pipeline will serve or implement a water quality or conservation practice, $200.00 per application. As used in this subdivision, "cropland" means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees, or vines, and the production of Christmas trees.

Sec. 8a. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

* * *

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection ~~(j)~~ and an application fee of:

(A) $0.75 per square foot of proposed impact to Class I or II wetlands.

(B) $0.25 per square foot of proposed impact to Class I or II wetland buffers.

(C) Maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use ~~or for installation of a pipeline in a wetland for the transport of manure for the purpose of farming, as that term is defined in 10 V.S.A. § 6001(22), when the pipeline will serve or implement a water quality or conservation practice~~, $200.00 per application. As used in this subdivision, "cropland" means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees, or vines, and the production of Christmas trees.

* * *

Sec. 8b. ANR REPPORT ON WETLANDS PERMIT FEES

On or before January 15, 2019, the Secretary of Natural Resources shall submit to the House Committees on Appropriations, on Ways and Means, and

on Natural Resources, Fish, and Wildlife and the Senate Committees on Appropriations, on Finance, and on Natural Resources and Energy a report on whether and how the State should provide lower fees for activity or disturbance in a wetland or wetland buffer when the activity or disturbance provides a water quality benefit or implements a conservation practice.

* * *

* * * Electric Utility Demand Charges; Rural Towns * * *

Sec. 9. DEMAND CHARGES; REPORT

(a) On or before January 31, 2019, the Commissioner of Public Service (Commissioner), in consultation with the Secretary of Commerce and Community Development, shall submit a written report on electric utility demand charges in Vermont and their effect on the ability of industrial enterprises to locate in rural towns of the State.

(b) The Commissioner shall submit the report to the House Committees on Agriculture and Forestry, on Commerce and Community Development, and on Energy and Technology and the Senate Committees on Agriculture, on Economic Development, Housing and General Affairs, and on Finance.

(c) The report under this section shall include:

(1) a narrative summary of the terms, conditions, and rates for each demand charge tariff of each Vermont electric utility;

(2) a table that shows the rates and applicability of each such tariff, with such other information as the Commissioner may consider relevant, organized by electric utility;

(3) an analysis of the alternatives to these tariffs that will improve the ability of industrial enterprises to locate in rural towns of the State, including the use of energy efficiency, self-generation, and other measures to reduce the demand of such enterprises on the interconnecting electric utility;

(4) the Commissioner's recommendations on changes to demand charge tariffs and other methods to reduce demand that would encourage locating industrial enterprises in rural towns of the State or that would reduce or remove disincentives posed by demand charge tariffs to such locations.

(d) In this section, "rural town" shall have the same meaning as in 24 V.S.A. § 4303.

* * * Purchase and Use Tax; Forestry Equipment * * *

Sec. 10. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

(1) Motor vehicles owned or registered, or motor vehicles rented, by any state or province or any political subdivision thereof.

* * *

(23) The following motor vehicles used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimbers, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors, elevators, and screens.

Sec. 11. [Deleted.]

Sec. 12. [Deleted.]

Sec. 13. [Deleted.]

Sec. 14. [Deleted.]

Sec. 15. [Deleted.]

Sec. 16. [Deleted.]

* * *

* * * Produce Inspection * * *

Sec. 17. 6 V.S.A. § 21(b) is amended to read:

(b) The Secretary shall have the authority to:

(1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;

(2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and

(3) cooperate with the Department of Health and other State and federal agencies regarding:

(A) the prevention or remediation of the adulteration of raw agricultural commodities, food, or animal feed on farms; and

(B) application of the FDA Food Safety Modernization Act, ~~21 U.S.C. §§ 2201-2252~~ Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

Sec. 18. 6 V.S.A. § 852 is amended to read:

§ 852. AUTHORITY~~; ENFORCEMENT~~

(a) The Secretary may enforce in the State the requirements of:

(1) the rules adopted under the ~~federal~~ U.S. Food and Drug Administration Food Safety Modernization Act, ~~Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption~~ Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112; and

(2) the rules adopted under this chapter.

(b) The Agency may collaborate with the ~~Vermont~~ Department of Health regarding application of the ~~federal Food Safety Modernization Act and the rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety Modernization Act, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112, and application of the rules adopted under this chapter.

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

Sec. 19. 6 V.S.A. § 853 is amended to read:

§ 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

(b) ~~After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.~~

~~(c)~~ The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.

Sec. 20. 6 V.S.A. §§ 856 and 857 are added to read:

§ 856. ENFORCEMENT; CORRECTIVE ACTIONS

When the Secretary of Agriculture, Food and Markets determines that a person is violating the rules listed in section 852 of this title, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this section shall include:

(1) a description of the alleged violation;

(2) identification of this section;

(3) identification of the applicable rule violated; and

(4) the required corrective action that the person shall take to correct the violation.

§ 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

(a) Notwithstanding the requirements of section 856 of this title, the Secretary at any time may pursue one or more of the following:

(1) issue a cease and desist order in accordance to a person the Secretary believes to be in violation of the rules listed in section 852 of this title;

(2) issue a verbal order or written administrative order to protect public health, including orders for the stop sale, recall, embargo, destruction, quarantine, and release of produce, when:

(A) the U.S. Food and Drug Administration requires immediate State action; or

(B) an alleged violation, activity, or farm practice presents an immediate threat to the public health or welfare;

(3) order mandatory corrective actions;

(4) take any action authorized under chapter 1 of this title;

(5) seek administrative or civil penalties in accordance with the requirements of section 15, 16, or 17 of this title.

(b) When the Secretary of Agriculture, Food and Markets issues a cease and desist order, written administrative order, or required corrective action under subsection (a) of this section, the Secretary shall provide the person subject to the order or corrective action with a statement that the order or corrective action is effective upon receipt and the person has 15 days from the date the order or corrective action was issued to request a hearing.

(c) If the Secretary of Agriculture, Food and Markets issues a verbal order under this section, the Secretary shall issue written notice to the person subject to the order within five days of the issuance of the verbal order. The written notice shall include a statement that the person has 15 days from the date the written notice was received to request a hearing.

(d) If a person who receives a cease and desist order, a verbal order, an administrative order, or a mandatory corrective action under this section does not request in writing a hearing within 15 days of receipt of the order or within 15 days of written notice for a verbal order, the person's right to a hearing is waived. Upon receipt of a written request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order, verbal order, or administrative order issued under this section shall not stay the order.

(e) A person aggrieved by a final action or decision of the Secretary under this section may appeal de novo to the Civil Division of the Superior Court within 30 days of the final decision of the Secretary.

* * * Livestock and Poultry Transport for Slaughter * * *

Sec. 21. 6 V.S.A. § 1461a(c) is amended to read:

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

* * * Industrial Park Designation * * *

Sec. 22. AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT; INDUSTRIAL PARK DESIGNATION

(a) On or before December 15, 2018, the Secretary of Commerce and Community Development, after consultation with the Secretary of Natural Resources, the Chair of the Natural Resources Board, Regional Development Corporations, Regional Planning Commissions, the Vermont Natural Resources Council, and the Commission on Act 250, shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and to the House Committees on Commerce and Economic Development, on Agriculture and Forestry, and on Natural Resources, Fish, and Wildlife recommendations for establishing an economic development program under which defined parcels in rural areas of the State are designated

as industrial parks for the purposes of providing regulatory and permitting incentives to businesses sited within the industrial park. The report shall include:

(1) recommended criteria for establishing an industrial park in a rural area;

(2) eligibility criteria, if any, for a business to site within a designated industrial park in a rural area;

(3) recommended incentives for businesses sited within a designated industrial park in a rural area, including permitting incentives, permit fee reductions, reduced electric rates, net metering incentives, and other regulatory incentives;

(4) recommended technical or financial assistance that a business would be eligible to receive for locating within a designated industrial park in a rural area; and

(5) draft legislation necessary to implement any recommendation.

(b) The recommendations in the report shall be designed in a manner so that any recommended process or criteria maintains consistency with the land use goals of Vermont in 24 VS.A. § 4302 and the relevant regional plan adopted under 24 V.S.A. § 4348.

(c) As used in this section, "rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

Sec. 23. [Deleted.]

* * *

* * * Use Value Appraisal * * *

Sec. 24. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

* * *

(b) Managed forestland shall be eligible for use value appraisal under this subchapter only if:

(1) The land is subject to a forest management plan, or subject to a conservation management plan in the case of lands certified under 10 V.S.A. § 6306(b), ~~which~~ that is filed in the manner and form required by the Department of Forests, Parks and Recreation and that:

(A) ~~is~~ Is signed by the owner of the parcel~~;~~.

(B) ~~complies~~ Complies with subdivision 3752(9) of this title~~;~~.

(C) ~~is filed with and~~ Is approved by the Department of Forests, Parks and Recreation~~; and~~.

(D) ~~provides~~ Provides for continued conservation management or forest crop production on the parcel for 10 years. An initial forest management plan or conservation management plan must be filed with the Department of Forests, Parks and Recreation ~~no later than~~ on or before October 1 and shall be effective for a 10-year period beginning the following April 1. Prior to expiration of a 10-year plan and ~~no later than~~ on or before April 1 of the year in which the plan expires, the owner shall file a new conservation or forest management plan for the next succeeding 10 years to remain in the program.

(E) The Department may approve a forest management plan that provides for the maintenance and enhancement of the tract's wildlife habitat where clearly consistent with timber production and with minimum acceptable standards for forest management as established by the Commissioner of Forests, Parks and Recreation.

(F) The Department, upon giving due consideration to resource inventories submitted by applicants, may approve a conservation management plan, consistent with conservation management standards, so as to include appropriate provisions designed to preserve: areas with special ecological values; fragile areas; rare or endangered species; significant habitat for wildlife; significant wetlands; outstanding resource waters; rare and irreplaceable natural areas; areas with significant historical value; public water supply protection areas; areas that provide public access to public waters; and open or natural areas located near population centers or historically frequented by the public. In approving a plan, the Department shall give due consideration to: the need for restricted public access where required to protect the fragile nature of the resource; public accessibility where restricted access is not required; facilitation of appropriate, traditional public usage; and opportunities for traditional or expanded use for educational purposes and for research.

(2) A management report of whatever activity has occurred, signed by the owner, has been filed with the Department of ~~Forests, Parks and Recreation by~~ Taxes, Director of Property Valuation and Review on or before February 1 of the year following the year when the management activity occurred.

(3) There has not been filed with the Director an adverse inspection report by the Department stating that the management of the tract is contrary to the forest or conservation management plan, or contrary to the minimum

acceptable standards for forest or conservation management. The management activity report shall be on a form prescribed by the Commissioner of Forests, Parks and Recreation in consultation with the Commissioner of Taxes and shall ~~include a detachable section~~ be signed by all the owners ~~that~~ and shall contain the ~~federal~~ tax identification numbers of all the owners. ~~The section containing federal tax identification numbers shall not be made available to the general public, but shall be forwarded to the Commissioner of Taxes within 30 days after receipt and used for tax administration purposes.~~ All information contained within the management activity report shall be forwarded to the Department of Forests, Parks and Recreation, except for any tax identification number included in the report. If any owner ~~shall satisfy~~ satisfies the Department that he or she was prevented by accident, mistake, or misfortune from filing an initial or revised management plan ~~which~~ that is required to be filed on or before October 1, or a management plan update ~~which~~ that is required to be filed on or before April 1 of the year in which the plan expires, or a management activity report ~~which~~ that is required to be filed on or before February 1 of the year following the year when the management activity occurred, the ~~Department~~ owner may ~~receive~~ submit that management plan or management activity report at a later date; provided, however, no initial or revised management plan shall be received later than December 31, and no management plan update shall be received later than one year after April 1 of the year the plan expires, and no management activity report shall be received later than March 1.

(c) The Department of Forests, Parks and Recreation shall periodically review the management plans and each year review the management activity reports that have been filed.

(1) At intervals not to exceed 10 years, that Department shall inspect each parcel of managed forestland qualified for use value appraisal to verify that the terms of the management plan have been carried out in a timely fashion.

(2) The Department shall have the ability to enter parcels of managed forestland for the purpose of inspections. The Department may bring any other staff from the Agency of Natural Resources that have the expertise to evaluate compliance with this chapter or staff that may be required to ensure the safety of the Department while conducting the inspections.

(3) If that Department finds that the management of the tract is contrary to the conservation or forest management plan, or contrary to the minimum acceptable standards for conservation or forest management, it shall file with the owner, the assessing officials, and the Director an adverse inspection report within 30 days ~~of~~ after the conclusion of the inspection process.

(d) After managed forestland has been removed from use value appraisal due to an adverse inspection report under ~~subdivision 3756(i)(1)~~ subsection 3756(k) of this title, a new application for use value appraisal shall not be considered for a period of five years, and then the forest management plan shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new ~~application~~ forest management plan, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

* * *

* * * Sales and Use Tax; Advanced Wood Boilers * * *

Sec. 25. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(54) "Noncollecting vendor" means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) "Advanced wood boiler" means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and air emissions standards established by the Department of Environmental Conservation.

Sec. 26. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(52) Advanced wood boilers, as defined in section 9701 of this title.

Sec. 26a. TRANSFER FROM CEDF TO GENERAL FUND; TAX EXPENDITURE; ADVANCED WOOD BOILERS

(a) Beginning on July 1, 2018, the Clean Energy Development Fund quarterly shall calculate the foregone sales tax on advanced wood fired boilers resulting from the sales tax exemption under 32 V.S.A. § 9741(52) for advanced wood boilers. Beginning on October 1, 2018, the Clean Energy Development Fund shall notify the Department of Taxes of the amount of sales tax foregone in the preceding calendar quarter resulting from the sales tax exemption under 32 V.S.A. § 9741(52) for advanced wood boilers.

(b) In fiscal years 2019 and 2020, the Clean Energy Development Fund shall transfer from the Clean Energy Development Fund to the General Fund the amount of the tax expenditure resulting from the sales tax exemption under 32 V.S.A. § 9741(52) on advanced wood boilers up to a maximum of $200,000.00 for both fiscal years combined. The Department of Taxes shall deposit 64 percent of the monies transferred from the Clean Energy Development Fund into the General Fund under 32 V.S.A. § 435 and 36 percent of the monies in the Education Fund under 16 V.S.A. § 4025.

Sec. 26b. REPEALS

(a) 32 V.S.A. § 9741(52) (sales tax exemption for advanced wood boilers) shall be repealed on July 1, 2021.

(b) Sec. 26a of this act (transfer from CEDF) shall be repealed on July 1, 2021.

Sec. 27. 32 V.S.A. § 9706(ll) is added to read:

(ll) The statutory purpose of the exemption for advanced wood boilers in subdivision 9741(52) of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

Sec. 28. [Deleted.]

Sec. 29. [Deleted.]

* * * Effective Dates * * *

Sec. 30. EFFECTIVE DATES

(a) This section and Secs. 3 (Act 250; trails), 5a (technical service providers), 6 (Act 250 primary processing of forest products), 7 (Act 250; review of forest products processing), 8 (wetland permit fee), 8b (ANR report on wetland permit fees), 17–20 (produce inspection), and 21 (livestock transport) shall take effect on passage.

(b) Sec. 8a (repeal of wetland permit fee for manure pipelines) shall take effect on July 1, 2019.

(c) All other sections shall take effect on July 1, 2018.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; Bill Amended; Third Reading Ordered; Rules Suspended; Bill Passed

H. 928.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and Senate bill entitled:

An act relating to compensation for certain State employees (Pay Act).

Was taken up for immediate consideration.

Senator White, for the Committee on Government Operations, to which the bill was referred, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Executive Branch; Exempt Employees; Fiscal Years 2019 and 2020 * * *

Sec. 1. EXECUTIVE BRANCH; EXEMPT EMPLOYEES; PERMITTED SALARY INCREASES; FISCAL YEARS 2019 AND 2020

(a) Exempt employees in the Executive Branch may receive salary increases not to exceed:

(1) In Fiscal Year 2019:

(A) 1.9 percent beginning on July 8, 2018; and

(B) 1.35 percent beginning on January 6, 2019.

(2) In Fiscal Year 2020:

(A) 1.9 percent beginning on July 7, 2019; and

(B) 1.35 percent beginning on January 5, 2020.

(b) The permitted increases set forth in subsection (a) of this section are consistent with the collective bargaining agreement between the State and the Vermont State Employees' Association for classified employees in the Executive Branch, which provides for a 1.9 percent step increase in July 2018 and 2019 and a 1.35 percent across-the-board increase in January 2019 and 2020, resulting in an overall budgetary impact of 2.575 percent in Fiscal Year 2019 and of 3.25 percent in Fiscal Year 2020.

Sec. 2. EXECUTIVE BRANCH; EXEMPT AGENCY AND DEPARTMENT HEADS, DEPUTIES, AND EXECUTIVE ASSISTANTS; ANNUAL SALARY ADJUSTMENT AND SPECIAL SALARY INCREASE OR BONUS

For purposes of determining annual salary adjustments, special salary increases, and bonuses under 32 V.S.A. §§ 1003(b) and 1020(b), "the total rate of adjustment available to classified employees under the collective bargaining agreement" shall be the fiscal equivalent of compensation increases provided in the collective bargaining agreement, which is as follows:

(1) In Fiscal Year 2019, 2.575 percent.

(2) In Fiscal Year 2020, 3.25 percent.

* * * Executive Branch; Miscellaneous Statutory Salaries; Fiscal Year 2019 * * *

Sec. 3. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

(a) Each elective officer of the Executive Department is entitled to an annual salary as follows:

	~~Annual Salary as of July 10, 2016~~	~~Annual Salary as of July 09, 2017~~	Annual Salary as of July 8, 2018	Annual Salary as of January 6, 2019
Governor	~~$166,060~~	~~$172,619~~	$175,899	$178,274
Lieutenant Governor	~~70,490~~	~~73,274~~	74,666	75,674
Secretary of State	~~105,297~~	~~109,456~~	111,536	113,042
State Treasurer	~~105,297~~	~~109,456~~	111,536	113,042
Auditor of Accounts	~~105,297~~	~~109,456~~	111,536	113,042
Attorney General	~~126,055~~	~~131,034~~	133,524	135,327

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary ~~which~~ that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average of the total rate of

adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

	~~Base Salary as of July 10, 2016~~	~~Base Salary as of July 09, 2017~~	Base Salary as of July 8, 2018	Base Salary as of January 6, 2019
(A) Administration	~~$100,416~~	~~$104,382~~	$106,365	$107,801
(B) Agriculture, Food and Markets	~~100,416~~	~~104,382~~	106,365	107,801
(C) Financial Regulation	~~93,874~~	~~97,582~~	99,436	100,778
(D) Buildings and General Services	~~93,874~~	~~97,582~~	99,436	100,778
(E) Children and Families	~~93,874~~	~~97,582~~	99,436	100,778
(F) Commerce and Community Development	~~100,416~~	~~104,382~~	106,365	107,801
(G) Corrections	~~93,874~~	~~97,582~~	99,436	100,778
(H) Defender General	~~93,874~~	~~97,582~~	99,436	100,778
(I) Disabilities, Aging, and Independent Living	~~93,874~~	~~97,582~~	99,436	100,778
(J) Economic Development	~~85,154~~	~~88,518~~	90,200	91,418
(K) Education	~~100,416~~	~~104,382~~	106,365	107,801
(L) Environmental Conservation	~~93,874~~	~~97,582~~	99,436	100,778
(M) Finance and Management	~~93,874~~	~~97,582~~	99,436	100,778
(N) Fish and Wildlife	~~85,154~~	~~88,518~~	90,200	91,418

(O) Forests, Parks and Recreation	~~85,154~~	~~88,518~~	90,200	91,418
(P) Health	~~93,874~~	~~97,582~~	99,436	100,778
(Q) Housing and Community Development	~~85,154~~	~~88,518~~	90,200	91,418
(R) Human Resources	~~93,874~~	~~97,582~~	99,436	100,778
(S) Human Services	~~100,416~~	~~104,382~~	106,365	107,801
(T) ~~Information and Innovation~~ Digital Services	~~93,874~~	~~97,582~~	106,365	107,801
(U) Labor	~~93,874~~	~~97,582~~	99,436	100,778
(V) Libraries	~~85,154~~	~~88,518~~	90,200	91,418
(W) Liquor Control	~~85,154~~	~~88,518~~	90,200	91,418
(X) Lottery	~~85,154~~	~~88,518~~	90,200	91,418
(Y) Mental Health	~~93,874~~	~~97,582~~	99,436	100,778
(Z) Military	~~93,874~~	~~97,582~~	99,436	100,778
(AA) Motor Vehicles	~~85,154~~	~~88,518~~	90,200	91,418
(BB) Natural Resources	~~100,416~~	~~104,382~~	106,365	107,801
(CC) Natural Resources Board ~~Chairperson~~ Chair	~~85,154~~	~~88,518~~	90,200	91,418
(DD) Public Safety	~~93,874~~	~~97,582~~	99,436	100,778
(EE) Public Service	~~93,874~~	~~97,582~~	99,436	100,778
(FF) Taxes	~~93,874~~	~~97,582~~	99,436	100,778
(GG) Tourism and Marketing	~~85,154~~	~~88,518~~	90,200	91,418
(HH) Transportation	~~100,416~~	~~104,382~~	106,365	107,801
(II) Vermont Health Access	~~93,874~~	~~97,582~~	99,436	100,778
(JJ) Veterans' Home	~~93,874~~	~~97,582~~	99,436	100,778

(2) The Secretary of Administration may include the Director of the Office of Professional Regulation in any pay plans that may be established under the authority of subsection 1020(c) of this title, provided the minimum hiring rate does not fall below a base salary, as of ~~July 10, 2016, of $72,192.00~~

~~and as of July 09, 2017, of $75,044.00~~ July 8, 2018 of $76,470.00 and as of January 6, 2019 of $77,502.00.

(3) If the Chair of the Natural Resources Board is employed on less than a full-time basis, the hiring and salary maximums for that position shall be reduced proportionately.

(4) When a permanent employee is appointed to an exempt position, the Governor may authorize such employee to retain the present salary even though it is in excess of any salary maximum provided in statute.

* * *

* * * Executive Branch; Miscellaneous Statutory Salaries; Fiscal Year 2020 * * *

Sec. 4. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

(a) Each elective officer of the Executive Department is entitled to an annual salary as follows:

	~~Annual Salary as of July 8, 2018~~	~~Annual Salary as of January 6, 2019~~	Annual Salary as of July 7, 2019	Annual Salary as of January 5, 2020
Governor	~~$175,899~~	~~$178,274~~	$181,661	$184,113
Lieutenant Governor	~~74,666~~	~~75,674~~	77,112	78,153
Secretary of State	~~111,536~~	~~113,042~~	115,190	116,745
State Treasurer	~~111,536~~	~~113,042~~	115,190	116,745
Auditor of Accounts	~~111,536~~	~~113,042~~	115,190	116,745
Attorney General	~~133,524~~	~~135,327~~	137,898	139,760

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified

in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

	~~Base Salary as of July 8, 2018~~	~~Base Salary as of January 6, 2019~~	Base Salary as of July 7, 2019	Base Salary as of January 5, 2020
(A) Administration	~~$106,365~~	~~$107,801~~	$109,849	$111,332
(B) Agriculture, Food and Markets	~~106,365~~	~~107,801~~	109,849	111,332
(C) Financial Regulation	~~99,436~~	~~100,778~~	102,693	104,079
(D) Buildings and General Services	~~99,436~~	~~100,778~~	102,693	104,079
(E) Children and Families	~~99,436~~	~~100,778~~	102,693	104,079
(F) Commerce and Community Development	~~106,365~~	~~107,801~~	109,849	111,332
(G) Corrections	~~99,436~~	~~100,778~~	102,693	104,079
(H) Defender General	~~99,436~~	~~100,778~~	102,693	104,079
(I) Disabilities, Aging, and Independent Living	~~99,436~~	~~100,778~~	102,693	104,079
(J) Economic Development	~~90,200~~	~~91,418~~	93,155	94,413
(K) Education	~~106,365~~	~~107,801~~	109,849	111,332
(L) Environmental Conservation	~~99,436~~	~~100,778~~	102,693	104,079
(M) Finance and Management	~~99,436~~	~~100,778~~	102,693	104,079
(N) Fish and Wildlife	~~90,200~~	~~91,418~~	93,155	94,413
(O) Forests, Parks and Recreation	~~90,200~~	~~91,418~~	93,155	94,413

(P) Health	~~99,436~~	~~100,778~~	102,693	104,079
(Q) Housing and Community Development	~~90,200~~	~~91,418~~	93,155	94,413
(R) Human Resources	~~99,436~~	~~100,778~~	102,693	104,079
(S) Human Services	~~106,365~~	~~107,801~~	109,849	111,332
(T) Digital Services	~~106,365~~	~~107,801~~	109,849	111,332
(U) Labor	~~99,436~~	~~100,778~~	102,693	104,079
(V) Libraries	~~90,200~~	~~91,418~~	93,155	94,413
(W) Liquor Control	~~90,200~~	~~91,418~~	93,155	94,413
(X) Lottery	~~90,200~~	~~91,418~~	93,155	94,413
(Y) Mental Health	~~99,436~~	~~100,778~~	102,693	104,079
(Z) Military	~~99,436~~	~~100,778~~	102,693	104,079
(AA) Motor Vehicles	~~90,200~~	~~91,418~~	93,155	94,413
(BB) Natural Resources	~~106,365~~	~~107,801~~	109,849	111,332
(CC) Natural Resources Board Chair	~~90,200~~	~~91,418~~	93,155	94,413
(DD) Public Safety	~~99,436~~	~~100,778~~	102,693	104,079
(EE) Public Service	~~99,436~~	~~100,778~~	102,693	104,079
(FF) Taxes	~~99,436~~	~~100,778~~	102,693	104,079
(GG) Tourism and Marketing	~~90,200~~	~~91,418~~	93,155	94,413
(HH) Transportation	~~106,365~~	~~107,801~~	109,849	111,332
(II) Vermont Health Access	~~99,436~~	~~100,778~~	102,693	104,079
(JJ) Veterans' Home	~~99,436~~	~~100,778~~	102,693	104,079

(2) The Secretary of Administration may include the Director of the Office of Professional Regulation in any pay plans that may be established under the authority of subsection 1020(c) of this title, provided the minimum hiring rate does not fall below a base salary, as of ~~July 8, 2018, of $76,470.00 and as of January 6, 2019, of $77,502.00~~ July 7, 2019 of $78,975.00 and as of January 5, 2020 of $80,041.00.

(3) If the Chair of the Natural Resources Board is employed on less than a full-time basis, the hiring and salary maximums for that position shall be reduced proportionately.

(4) When a permanent employee is appointed to an exempt position, the Governor may authorize such employee to retain the present salary even though it is in excess of any salary maximum provided in statute.

* * *

* * * Judicial Branch; Statutory Salaries; Fiscal Year 2019 * * *

Sec. 5. 32 V.S.A. § 1003(c) is amended to read:

(c) The officers of the Judicial Branch named below shall be entitled to annual salaries as follows:

	~~Annual Salary as of July 10, 2016~~	~~Annual Salary as of July 09, 2017~~	Annual Salary as of July 8, 2018	Annual Salary as of January 6, 2019
(1) Chief Justice of Supreme Court	~~$159,827~~	~~$166,140~~	$169,297	$171,583
(2) Each Associate Justice	~~152,538~~	~~158,563~~	161,576	163,757
(3) Administrative judge	~~152,538~~	~~158,563~~	161,576	163,757
(4) Each Superior judge	~~145,011~~	~~150,739~~	153,603	155,677
(5) [Repealed.]				
(6) Each magistrate	~~109,337~~	~~113,656~~	115,815	117,379
(7) Each Judicial Bureau hearing officer	~~109,337~~	~~113,656~~	115,815	117,379

Sec. 6. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES

(a)(1) Each assistant judge of the Superior Court shall be entitled to receive compensation in the amount of ~~$167.63 a day as of July 10, 2016 and $174.25 a day as of July 09, 2017~~ $177.56 a day as of July 8, 2018 and $179.96 a day as of January 6, 2019 for time spent in the performance of official duties and necessary expenses as allowed to classified State employees. Compensation under this section shall be based on a two-hour minimum and hourly thereafter.

* * *

Sec. 7. 32 V.S.A. § 1142 is amended to read:

§ 1142. PROBATE JUDGES

(a) The Probate judges in the several Probate Districts shall be entitled to receive the following annual salaries, which shall be paid by the State in lieu of all fees or other compensation:

	~~Annual Salary as of July 10, 2016~~	~~Annual Salary as of July 09, 2017~~	Annual Salary as of July 8, 2018	Annual Salary as of January 6, 2019
(1) Addison	~~$57,169~~	~~$59,427~~	$60,556	$61,374
(2) Bennington	~~72,271~~	~~75,126~~	76,553	77,586
(3) Caledonia	~~50,698~~	~~52,701~~	53,702	54,427
(4) Chittenden	~~120,608~~	~~125,372~~	127,754	129,479
(5) Essex	~~14,163~~	~~14,722~~	15,002	15,205
(6) Franklin	~~57,169~~	~~59,427~~	60,556	61,374
(7) Grand Isle	~~14,163~~	~~14,722~~	15,002	15,205
(8) Lamoille	~~39,911~~	~~41,487~~	42,275	42,846
(9) Orange	~~47,460~~	~~49,335~~	50,272	50,951
(10) Orleans	~~46,383~~	~~48,215~~	49,131	49,794
(11) Rutland	~~102,473~~	~~106,521~~	108,545	110,010
(12) Washington	~~78,741~~	~~81,851~~	83,406	84,532
(13) Windham	~~63,641~~	~~66,155~~	67,412	68,322
(14) Windsor	~~86,293~~	~~89,702~~	91,406	92,640

* * *

* * * Judicial Branch; Statutory Salaries; Fiscal Year 2020 * * *

Sec. 8. 32 V.S.A. § 1003(c) is amended to read:

(c) The officers of the Judicial Branch named below shall be entitled to annual salaries as follows:

	~~Annual Salary as of July 8,~~	~~Annual Salary as of January 6,~~	Annual Salary as of July 7,	Annual Salary as of January 5,

	~~2018~~	~~2019~~	2019	2020
(1) Chief Justice of Supreme Court	~~$169,297~~	~~$171,583~~	$174,843	$177,203
(2) Each Associate Justice	~~161,576~~	~~163,757~~	166,868	169,121
(3) Administrative judge	~~161,576~~	~~163,757~~	166,868	169,121
(4) Each Superior judge	~~153,603~~	~~155,677~~	158,635	160,777
(5) [Repealed.]				
(6) Each magistrate	~~115,815~~	~~117,379~~	119,609	121,224
(7) Each Judicial Bureau hearing officer	~~115,815~~	~~117,379~~	119,609	121,224

Sec. 9. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES

(a)(1) Each assistant judge of the Superior Court shall be entitled to receive compensation in the amount of ~~$177.56 day as of July 8, 2018 and $179.96 a day as of January 6, 2019~~ $183.38 a day as of July 7, 2019 and $185.86 a day as of January 5, 2020 for time spent in the performance of official duties and necessary expenses as allowed to classified State employees. Compensation under this section shall be based on a two-hour minimum and hourly thereafter.

* * *

Sec. 10. 32 V.S.A. § 1142 is amended to read:

§ 1142. PROBATE JUDGES

(a) The Probate judges in the several Probate Districts shall be entitled to receive the following annual salaries, which shall be paid by the State in lieu of all fees or other compensation:

	~~Annual Salary as of July 8, 2018~~	~~Annual Salary as of January 6, 2019~~	Annual Salary as of July 7, 2019	Annual Salary as of January 5, 2020
(1) Addison	~~$60,556~~	~~$61,374~~	$62,540	$63,384
(2) Bennington	~~76,553~~	~~77,586~~	79,060	80,127
(3) Caledonia	~~53,702~~	~~54,427~~	55,461	56,210
(4) Chittenden	~~127,754~~	~~129,479~~	131,939	133,720

(5) Essex	~~15,002~~	~~15,205~~	15,494	15,703
(6) Franklin	~~60,556~~	~~61,374~~	62,540	63,384
(7) Grand Isle	~~15,002~~	~~15,205~~	15,494	15,703
(8) Lamoille	~~42,275~~	~~42,846~~	43,660	44,249
(9) Orange	~~50,272~~	~~50,951~~	51,919	52,620
(10) Orleans	~~49,131~~	~~49,794~~	50,740	51,425
(11) Rutland	~~108,545~~	~~110,010~~	112,100	113,613
(12) Washington	~~83,406~~	~~84,532~~	86,138	87,301
(13) Windham	~~67,412~~	~~68,322~~	69,620	70,560
(14) Windsor	~~91,406~~	~~92,640~~	94,400	95,674

* * *

* * * Sheriffs; Statutory Salaries; Fiscal Year 2019 * * *

Sec. 11. 32 V.S.A. § 1182 is amended to read:

§ 1182. SHERIFFS

(a) The sheriffs of all counties except Chittenden shall be entitled to receive salaries in the amount of ~~$77,672.00 as of July 10, 2016 and $80,740.00 as of July 09, 2017~~ $82,274.00 as of July 8, 2018 and $83,385.00 as of January 6, 2019. The Sheriff of Chittenden County shall be entitled to an annual salary in the amount of ~~$82,197.00 as of July 10, 2016 and $85,444.00 as of July 09, 2017~~ $87,067.00 as of July 8, 2018 and $88,242.00 as of January 6, 2019.

* * *

* * * Sheriffs; Statutory Salaries; Fiscal Year 2020 * * *

Sec. 12. 32 V.S.A. § 1182 is amended to read:

§ 1182. SHERIFFS

(a) The sheriffs of all counties except Chittenden shall be entitled to receive salaries in the amount of ~~$82,274.00 as of July 8, 2018 and $83,385.00 as of January 6, 2019~~ $84,969.00 as of July 7, 2019 and $86,116.00 as of January 5, 2020. The Sheriff of Chittenden County shall be entitled to an annual salary in the amount of ~~$87,067.00 as of July 8, 2018 and $88,242.00 as of January 6, 2019~~ $89,919.00 as of July 7, 2019 and $91,133.00 as of January 5, 2020.

* * *

* * * State's Attorneys; Statutory Salaries; Fiscal Year 2019 * * *

Sec. 13. 32 V.S.A. § 1183 is amended to read:

§ 1183. STATE'S ATTORNEYS

(a) The State's Attorneys shall be entitled to receive annual salaries as follows:

	~~Annual Salary as of July 10, 2016~~	~~Annual Salary as of July 09, 2017~~	Annual Salary as of July 8, 2018	Annual Salary as of January 6, 2019
(1) Addison County	~~$105,064~~	~~$109,214~~	$111,289	$112,791
(2) Bennington County	~~105,064~~	~~109,214~~	111,289	112,791
(3) Caledonia County	~~105,064~~	~~109,214~~	111,289	112,791
(4) Chittenden County	~~109,841~~	~~114,180~~	116,349	117,920
(5) Essex County	~~78,799~~	~~81,912~~	83,468	84,595
(6) Franklin County	~~105,064~~	~~109,214~~	111,289	112,791
(7) Grand Isle County	~~78,799~~	~~81,912~~	83,468	84,595
(8) Lamoille County	~~105,064~~	~~109,214~~	111,289	112,791
(9) Orange County	~~105,064~~	~~109,214~~	111,289	112,791
(10) Orleans County	~~105,064~~	~~109,214~~	111,289	112,791
(11) Rutland County	~~105,064~~	~~109,214~~	111,289	112,791
(12) Washington County	~~105,064~~	~~109,214~~	111,289	112,791
(13) Windham County	~~105,064~~	~~109,214~~	111,289	112,791
(14) Windsor County	~~105,064~~	~~109,214~~	111,289	112,791

* * *

* * * State's Attorneys; Statutory Salaries; Fiscal Year 2020 * * *

Sec. 14. 32 V.S.A. § 1183 is amended to read:

§ 1183. STATE'S ATTORNEYS

(a) The State's Attorneys shall be entitled to receive annual salaries as follows:

	~~Annual Salary as of July 8, 2018~~	~~Annual Salary as of January 6, 2019~~	Annual Salary as of July 7, 2019	Annual Salary as of January 5, 2020
(1) Addison County	~~$111,289~~	~~$112,791~~	$114,934	$116,486
(2) Bennington County	~~111,289~~	~~112,791~~	114,934	116,486
(3) Caledonia County	~~111,289~~	~~112,791~~	114,934	116,486
(4) Chittenden County	~~116,349~~	~~117,920~~	120,160	121,782
(5) Essex County	~~83,468~~	~~84,595~~	86,202	87,366
(6) Franklin County	~~111,289~~	~~112,791~~	114,934	116,486
(7) Grand Isle County	~~83,468~~	~~84,595~~	86,202	87,366
(8) Lamoille County	~~111,289~~	~~112,791~~	114,934	116,486
(9) Orange County	~~111,289~~	~~112,791~~	114,934	116,486
(10) Orleans County	~~111,289~~	~~112,791~~	114,934	116,486
(11) Rutland County	~~111,289~~	~~112,791~~	114,934	116,486
(12) Washington County	~~111,289~~	~~112,791~~	114,934	116,486
(13) Windham County	~~111,289~~	~~112,791~~	114,934	116,486
(14) Windsor County	~~111,289~~	~~112,791~~	114,934	116,486

* * *

* * * Appropriations * * *

Sec. 15. PAY ACT APPROPRIATIONS

(a) Executive Branch. The two-year agreements between the State of Vermont and the Vermont State Employees' Association for the Defender General, nonmanagement, supervisory, and corrections bargaining units for the period of July 1, 2018 through June 30, 2020; the collective bargaining agreement with the Vermont Troopers' Association for the period of July 1, 2018 through June 30, 2020; and salary increases for employees in the Executive Branch not covered by the bargaining agreements shall be funded as follows:

(1) Fiscal Year 2019.

(A) General Fund. The amount of $6,666,000.00 is appropriated from the General Fund to the Secretary of Administration for distribution to

departments to fund the fiscal year 2019 collective bargaining agreements and the requirements of this act.

(B) Transportation Fund. The amount of $1,850,000.00 is appropriated from the Transportation Fund to the Secretary of Administration for distribution to the Agency of Transportation and the Department of Public Safety to fund the fiscal year 2019 collective bargaining agreements and the requirements of this act.

(C) Other funds. The Administration shall provide additional spending authority to departments through the existing process of excess receipts to fund the fiscal year 2019 collective bargaining agreements and the requirements of this act. The estimated amounts are $8,362,000.00 from special fund, federal, and other sources.

(D) Transfers. With due regard to the possible availability of other funds, for fiscal year 2019, the Secretary of Administration may transfer from the various appropriations and various funds and from the receipts of the Liquor Control Board such sums as the Secretary may determine to be necessary to carry out the purposes of this act to the various agencies supported by State funds.

(2) Fiscal Year 2020.

(A) General Fund. The amount of $8,569,000.00 is appropriated from the General Fund to the Secretary of Administration for distribution to departments to fund the fiscal year 2020 collective bargaining agreements and the requirements of this act.

(B) Transportation Fund. The amount of $2,368,000.00 is appropriated from the Transportation Fund to the Secretary of Administration for distribution to the Agency of Transportation and the Department of Public Safety to fund the fiscal year 2020 collective bargaining agreements and the requirements of this act.

(C) Other funds. The administration shall provide additional spending authority to departments through the existing process of excess receipts to fund the fiscal year 2020 collective bargaining agreements and the requirements of this act. The estimated amounts are $11,308,000.00 from special fund, federal, and other sources.

(D) Transfers. With due regard to the possible availability of other funds, for fiscal year 2020, the Secretary of Administration may transfer from the various appropriations and various funds and from the receipts of the Liquor Control Board such sums as the Secretary may determine to be necessary to carry out the purposes of this act to the various agencies supported by State funds.

(3) This section shall include sufficient funding to ensure administration of exempt pay plans authorized by 32 V.S.A. § 1020(c).

(b) Judicial Branch.

(1) The Chief Justice of the Vermont Supreme Court may extend the provisions of the Judiciary's collective bargaining agreement to Judiciary employees who are not covered by the bargaining agreement.

(2) The two-year agreements between the State of Vermont and the Vermont State Employees' Association for the judicial bargaining unit for the period of July 1, 2018 through June 30, 2020 and salary increases for employees in the Judicial Branch not covered by the bargaining agreements shall be funded as follows:

(A) Fiscal Year 2019. The amount of $810,000.00 is appropriated from the General Fund to the Judiciary to fund the fiscal year 2019 collective bargaining agreement and the requirements of this act.

(B) Fiscal Year 2020. The amount of $1,090,441.00 is appropriated from the General Fund to the Judiciary to fund the fiscal year 2020 collective bargaining agreement and the requirements of this act.

(c) Legislative Branch. For the period of July 1, 2018 through June 30, 2020, the General Assembly shall be funded as follows:

(1) Fiscal Year 2019. The amount of $240,000.00 is appropriated from the General Fund to the Legislative Branch.

(2) Fiscal Year 2020. The amount of $307,000.00 is appropriated from the General Fund to the Legislative Branch.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except that the following shall take effect on July 1, 2019:

(1) Sec. 4 (Executive Branch; Miscellaneous Statutory Salaries; Fiscal Year 2020);

(2) Secs. 8–10 (Judicial Branch; Statutory Salaries; Fiscal Year 2020);

(3) Sec. 12 (Sheriffs; Statutory Salaries; Fiscal Year 2020); and

(4) Sec. 14 (State's Attorneys; Statutory Salaries; Fiscal Year 2020).

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.

Thereupon, on motion of Senator White, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

House Proposal of Amendment Concurred In with Amendment

S. 260.

House proposal of amendment to Senate bill entitled:

An act relating to funding the cleanup of State waters.

Was taken up.

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

* * * Clean Water Funding * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Within Vermont there are 7,100 miles of rivers and streams and 812 lakes and ponds of at least five acres in size.

(2) Currently, over 350 waters or water segments in the State do not meet water quality standards, are at risk of not meeting water quality standards, or are altered due to the presence of aquatic nuisances.

(3) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64, an act relating to improving the quality of State waters (Act 64), for the purpose, among others, of providing mechanisms, staffing, and financing necessary for the State to achieve and maintain compliance with the Vermont Water Quality Standards for all State waters.

(4) Act 64 directed the State Treasurer to recommend to the General Assembly a long-term mechanism for financing water quality improvement in the State, including proposed revenue sources for water quality improvement programs.

(5) The State Treasurer submitted a Clean Water Report in January 2017 that included:

(A) an estimate that over 20 years it would cost $2.3 billion to achieve compliance with water quality requirements;

(B) a projection that revenue available for water quality over the 20-year period would be approximately $1.06 billion, leaving a 20-year total funding gap of $1.3 billion;

(C) an estimate of annual compliance costs of $115.6 million, which, after accounting for projected revenue, would leave a funding gap of $48.5 million to pay for the costs of compliance with the first tier of federal and State water quality requirements; and

(D) a financing plan to provide more than $25 million annually in additional State funds for water quality programs.

(6) After determining that a method to achieve equitable and effective long-term funding methods to support clean water efforts in Vermont was necessary, the General Assembly established in 2017 Acts and Resolves No. 73, Sec. 26 the Working Group on Water Quality Funding to develop draft legislation to accomplish this purpose.

(7) The Act 73 Working Group did not recommend a long-term funding method to support clean water efforts in Vermont and instead recommended that the General Assembly maintain a Capital Bill clean water investment of $15 million a year through fiscal years 2020 and 2021.

(8) In the years beyond fiscal year 2021, the Act 73 Working Group acknowledged that capital funds would need to be reduced to $10 to $12 million a year and that additional revenues would need to be raised.

(9) The U.S. Environmental Protection Agency (EPA) in a letter to the General Assembly stated that it is important for the State of Vermont to establish a long-term revenue source to support water quality improvement in order to comply with the accountability framework of the Lake Champlain Total Maximum Daily Load plan.

(10) The General Assembly should in this act establish the necessary long-term revenue sources to support water quality improvement and should encourage the Executive Branch and other interested parties to propose additional or alternative revenue sources sufficient to achieve the State goals for water quality improvement.

Sec. 1a. INTENT OF THE GENERAL ASSEMBLY ON WATER QUALITY

(a) It is the intent of the General Assembly to provide long-term funding for the clean water initiatives through the following mechanisms and approaches:

(1) Develop and impose excise taxes on all materials that contribute to water pollution directly or indirectly through land use and activities in order to reduce their use, with the tax percentage of sufficient magnitude to raise needed revenue as that figure becomes more certain, with the resulting revenue to be deposited in the Clean Water Fund.

(2) Examine the Vermont tax code in order to:

(A) identify all provisions that function to subsidize or reduce the after-tax cost of any material or activity that contributes to water pollution; and

(B) eliminate or modify all such provisions to remove such inappropriate cost reductions, allocating any resulting revenue increases to the Clean Water Fund.

(3) Facilitate the formation of local storm water utility districts to finance storm water treatment through assessments on impervious surfaces in municipalities with sufficient density of development and impervious surfaces to warrant such an approach.

(b) No later than November 15, 2018, the Joint Fiscal Office, with the assistance of the Department of Taxes, shall report to the General Assembly with recommendations on how to implement the intent of the General Assembly, as outlined in subsection (a) of this section.

* * * Rooms and Meals Tax * * *

Sec. 2. 32 V.S.A. § 9241 is amended to read:

§ 9241. IMPOSITION OF TAX

(a) An operator shall collect a tax of nine and one quarter percent of the rent of each occupancy.

(b) An operator shall collect a tax on the sale of each taxable meal at the rate of nine and one quarter percent of each full dollar of the total charge and on each sale for less than one dollar and on each part of a dollar in excess of a full dollar in accordance with the following formula:

~~$0.01-0.11~~	~~$0.01~~
~~0.12-0.22~~	~~0.02~~
~~0.23-0.33~~	~~0.03~~
~~0.34-0.44~~	~~0.04~~
~~0.45-0.55~~	~~0.05~~
~~0.56-0.66~~	~~0.06~~
~~0.67-0.77~~	~~0.07~~
~~0.78-0.88~~	~~0.08~~
~~0.89-1.00~~	~~0.09~~
0.01-0.11	0.01

0.12-0.22	0.02
0.23-0.32	0.03
0.33-0.43	0.04
0.44-0.54	0.05
0.55-0.65	0.06
0.66-0.76	0.07
0.77-0.86	0.08
0.87-1.00	0.09

* * *

Sec. 3. 32 V.S.A. § 9242(c) is amended to read:

(c) A tax of nine and one-quarter percent of the gross receipts from meals and occupancies and 10 percent of the gross receipts from alcoholic beverages, exclusive of taxes collected pursuant to section 9241 of this title, received from occupancy rentals, taxable meals, and alcoholic beverages by an operator, is hereby levied and imposed and shall be paid to the State by the operator as herein provided. Every person required to file a return under this chapter shall, at the time of filing the return, pay the Commissioner the taxes imposed by this chapter as well as all other monies collected by him or her under this chapter; provided, however, that every person who collects the taxes on taxable meals and alcoholic beverages according to the tax bracket schedules of section 9241 of this title shall be allowed to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter as compensation for the keeping of prescribed records and the proper account and remitting of taxes.

* * * Unclaimed Beverage Container Deposits * * *

Sec. 4. 10 V.S.A. § 1530 is added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; ESCHEATS

(a) As used in this section, "deposit initiator" means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

(b) A deposit initiator shall open a separate interest-bearing account in a Vermont branch of a financial institution to be known as the deposit transaction account. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(c) Beginning on October 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.

(d) Beginning on January 1, 2020, and quarterly thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding quarter. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

(1) the balance of the account at the beginning of the preceding quarter;

(2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;

(3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;

(4) the amount of refund payments made from the deposit transaction account in the preceding quarter;

(5) any income earned on the deposit transaction account in the preceding quarter;

(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and

(7) any additional information required by the Commissioner of Taxes.

(e)(1) On or before January 1, 2020, and quarterly thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:

(A) income earned on amounts on the account during that quarter; and

(B) the total amount of refund value paid out by the deposit initiator for beverage containers during that quarter.

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the funds that are or should be in the deposit initiator's deposit transaction account. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the funds in the deposit initiator's deposit transaction action are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection (e) in the preceding 12 months less amounts paid to the initiator pursuant to this subdivision (2) during that same 12-month period.

(f) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

* * * Clean Water Fund; General Fund; * * *

Sec. 4a. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the "Clean Water Fund" to be administered by the Secretary of Administration. The Fund shall consist of:

(1) revenues ~~dedicated for deposit into the Fund by the General Assembly, including~~ from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a; ~~and~~

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the amount equal to the increase from nine percent to nine and one-quarter percent of the rooms tax imposed by 32 V.S.A. § 9241(a) and the revenue from the increase from nine percent to nine and one-quarter percent of the meals tax imposed by 32 V.S.A. § 9241(b);

(4) the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title; and

(5) other revenues dedicated for deposit into the Fund by the General Assembly.

* * *

Sec. 4b. 32 V.S.A. § 435 is amended to read:

§ 435. GENERAL FUND

(a) There is established the General Fund which shall be the basic operating fund of the State. The General Fund shall be used to finance all expenditures for which no special revenues have otherwise been provided by law.

(b) The General Fund shall be composed of revenues from the following sources:

(1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;

* * *

(7) Meals and rooms taxes levied pursuant to chapter 225 of this title less the amount deposited in the Clean Water Fund under 10 V.S.A. § 1388;

* * *

* * * Clean Water Fund Board * * *

Sec. 5. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation.

(1) There is created the Clean Water Fund Board ~~which~~ that shall recommend to the Secretary of Administration ~~expenditures~~:

(A) appropriations from the Clean Water Fund; and

(B) clean water projects to be funded by capital appropriations.

(2) The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee;

(5) the Secretary of Transportation or designee; and

(6) two members of the public who are not legislators, one of whom shall represent a municipality subject to the municipal separate storm sewer system (MS4) permit and one of whom shall represent a municipality that is not subject to the MS4 permit, appointed as follows:

(A) the Speaker of the House shall appoint the member from an MS4 municipality; and

(B) the Committee on Committees shall appoint the member who is not from an MS4 municipality.

(c) Officers; committees; rules.

(1) The ~~Clean Water Fund Board shall annually elect a chair from its members~~ Secretary of Administration shall serve as the Chair of the Board. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board 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 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

(d) Powers and duties of the Clean Water Fund Board. The Clean Water Fund Board shall have the following powers and authority:

(1) The Clean Water Fund Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment. The recommendations of the Clean Water Fund Board shall be open to inspection and copying under the Public Records Act, and the Clean Water Fund Board shall submit to the Senate Committees on Appropriations, on Finance, on Agriculture, and on Natural Resources and Energy and the House Committees on Appropriations, on Ways and Means, on Agriculture and Forestry, and on Natural Resources, Fish, and Wildlife a copy of any recommendations provided to the Governor.

(2) The Clean Water Fund Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(3) The Clean Water Fund Board shall:

(A) establish a process by which watershed organizations, State agencies, and other interested parties may propose water quality projects or programs for financing from the Clean Water Fund;

(B) develop an annual revenue estimate and proposed budget for the Clean Water Fund;

(C) establish measures for determining progress and effectiveness of expenditures for clean water restoration efforts;

(D) issue the annual Clean Water Investment Report required under section 1389a of this title; ~~and~~

(E) solicit, consult with, and accept public comment from organizations interested in improving water quality in Vermont regarding recommendations under this subsection (d) for the allocation of funds from the Clean Water Fund; and

(F) establish a process under which a watershed organization, State agency, or other interested party may propose that a water quality project or program identified in a watershed basin plan receive funding from the Clean Water Fund.

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);

(B) funding to projects that address sources of water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(C) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(E) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;

(F) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy;

(G) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices; ~~and~~

(H) funding to municipalities for the establishment and operation of stormwater utilities; and

(I) investment in watershed basin planning, water quality project identification screening, water quality project evaluation, and conceptual plan development of water quality projects.

(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements~~,~~ and to municipalities for the establishment and operation of stormwater utilities.

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide ~~for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State~~ investment in all watersheds of the State based on the needs identified in watershed basin plans.

(f) Assistance. The Clean Water Fund Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

(g) Terms; appointed members. Members who are appointed to the Clean Water Fund Board shall be appointed for terms of four years, except initial appointments shall be made such that the member appointed by the Speaker shall be appointed for a term of two years. Vacancies on the Board shall be

filled for the remaining period of the term in the same manner as initial appointments.

* * * Coordinated Water Quality Grants; Performance Grants * * *

Sec. 6. COORDINATED WATER QUALITY GRANTS

The Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall coordinate prior to awarding water quality grants or funding in order to maximize the water quality benefit or impact of funded projects in a watershed planning basin. When grants are issued, the Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall, when allowed by law, authorize funds or identify other funding opportunities that may be used to support capacity to implement projects in the watershed basin.

Sec. 7. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forestry, on Natural Resources ~~and Energy, and on Fish, Wildlife and Water Resources~~, Fish, and Wildlife, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(G) develop, in consultation with the regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, ~~contract with a regional planning commission or~~ negotiate and issue performance grants to the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection in a manner consistent with the authority of regional planning commissions under 24 V.S.A. chapter 117 and the authority of the natural resources conservation districts under chapter 31 of this title. When ~~contracting~~ negotiating a scope of work with ~~a regional planning commission or~~ the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or produce a basin plan, the Secretary may require the ~~regional planning commission~~ Vermont Association of Planning and Development Agencies or the Natural Resources Conservation Council to:

(A) conduct any of the activities required under subdivision (2) of this subsection (d);

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations ~~to~~ better to meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure ~~cost effective~~ cost-effective use of State and federal funds.

* * * Lakes in Crisis * * *

Sec. 8. 10 V.S.A. chapter 47, subchapter 2A is added to read:

Subchapter 2A. Lake in Crisis

§ 1310. DESIGNATION OF LAKE IN CRISIS

(a) The Secretary of Natural Resources (Secretary) shall review whether a lake in the State should be designated as a lake in crisis upon the Secretary's own motion or upon petition of 15 or more persons or a selectboard of a municipality in which the lake or a portion of the lake is located.

(b) The Secretary shall designate a lake as a lake in crisis if, after review under subsection (a) of this section, the Secretary determines that:

(1) the lake or segments of the lake have been listed as impaired;

(2) the condition of the lake will cause:

(A) a potential harm to the public health; and

(B) a risk of damage to the environment or natural resources; and

(3) a municipality in which the lake or a portion of the lake is located has reduced the valuation of real property due to the condition of the lake.

§ 1311. STATE RESPONSE TO A LAKE IN CRISIS

(a) Adoption of crisis response plan. When a lake is declared in crisis, the Secretary shall within 90 days after the designation of the lake in crisis issue a comprehensive crisis response plan for the management of the lake in crisis in order to improve water quality in the lake or to mitigate or eliminate the potential harm to public health or the risk of damages to the environment or natural resources. The Secretary shall coordinate with the Secretary of Agriculture, Food and Markets and the Secretary of Transportation in the development of the crisis response plan. The crisis response plan may require implementation of one or both of the following in the watershed of the lake in crisis:

(1) water quality requirements necessary to address specific harms to public health or risks to the environment or natural resources; or

(2) implementation of or compliance with existing water quality requirements under one or more of the following:

(A) water quality requirements under chapter 47 of this title, including requiring a property owner to obtain a permit or implement best management practices for the discharge of stormwater runoff from any size of impervious surfaces if the Secretary determines that the treatment of the discharge of stormwater runoff is necessary to reduce the adverse impacts to water quality of the discharge or stormwater on the lake in crisis;

(B) agricultural water quality requirements under 6 V.S.A. chapter 215, including best management practices under 6 V.S.A. § 4810 to reduce runoff from the farm; or

(C) water quality requirements adopted under section 1264 of this section for stormwater runoff from municipal or State roads.

(b) Public hearing. The Secretary shall hold at least one public hearing in the watershed of the lake in crisis and shall provide an opportunity for public notice and comment for a proposed lake in crisis response plan.

(c) Term of designation. A lake shall remain designated as in crisis under this section until the Secretary determines that the lake no longer satisfies the criteria for designation under subsection (b) of this section.

(d) Agency cooperation and services. All other State agencies shall cooperate with the Secretary in responding to the lake in crisis, and the Secretary shall be entitled to seek technical and scientific input or services from the Agency of Agriculture, Food and Markets, the Agency of Transportation, or other necessary State agencies.

§ 1312. LAKE IN CRISIS ORDER

The Secretary, after consultation with the Secretary of Agriculture, Food and Markets, may issue a lake in crisis order as an administrative order under chapter 201 of this title to require a person to:

(1) take an action identified in the lake in crisis response plan;

(2) cease or remediate any acts, discharges, site conditions, or processes contributing to the impairment of the lake in crisis;

(3) mitigate a significant contributor of a pollutant to the lake in crisis; or

(4) conduct testing, sampling, monitoring, surveying, or other analytical operations required to determine the nature, extent, duration, or severity of the potential harm to the public health or a risk of damage to the environment or natural resources.

§ 1313. ASSISTANCE

(a) A person subject to a lake in crisis order shall be eligible for technical and financial assistance from the Secretary to be paid from the Lake in Crisis Response Program Fund. The Secretary shall adopt by procedure the process for application for assistance under this section.

(b) State financial assistance awarded under this section shall be in the form of a grant. An applicant for a State grant shall pay at least 35 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 35 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded.

(c) A grant awarded under this section shall comply with all terms and conditions for the issuance of State grants.

§ 1314. FUNDING OF STATE RESPONSE TO A LAKE IN CRISIS

(a) Initial response. Upon designation of a lake in crisis, the Secretary may, for the purposes of the initial response to the lake in crisis, expend up to $50,000.00 appropriated to the Agency of Natural Resources from the Clean Water Fund for authorized contingency spending.

(b) Long-term funding. Annually, the Secretary of Natural Resources shall present to the House and Senate Committees on Appropriations a multi-year plan for the funding of all lakes designated in crisis under this subchapter. Based on the multi-year plan, the Secretary of Administration annually shall recommend to the House and Senate Committees on Appropriations recommended appropriations to the Lake in Crisis Response Program Fund for the subsequent fiscal year.

§ 1315. LAKE IN CRISIS RESPONSE PROGRAM FUND

(a) There is created a special fund known as the Lake in Crisis Response Program Fund to be administered by the Secretary of Natural Resources. The Fund shall consist of:

(1) funds that may be appropriated by the General Assembly; and

(2) other gifts, donations, or funds received from any source, public or private, dedicated for deposit into the Fund.

(b) The Secretary shall use monies deposited in the Fund for the Secretary's implementation of a crisis response plan for a lake in crisis and for financial assistance under section 1313 of this title to persons subject to a lake in crisis order.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3) and (4), interest earned by the Fund and the balance of the Fund at the end of the fiscal

year shall be carried forward in the Fund and shall not revert to the General Fund.

Sec. 9. LAKE CARMI; LAKE IN CRISIS

The General Assembly declares Lake Carmi as a lake in crisis under 10 V.S.A. chapter 47, subchapter 2A. The crisis response plan for Lake Carmi shall include implementation of runoff controls.

Sec. 10. 10 V.S.A. § 8003(a) is amended to read:

(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:

(1) 10 V.S.A. chapter 23, relating to air quality;

(2) 10 V.S.A. chapter 32, relating to flood hazard areas;

(3) 10 V.S.A. chapters 47 and 56, relating to water pollution control, water quality standards, ~~and~~ public water supply, and lakes in crisis;

* * *

Sec. 11. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

(A) chapter 23 (air pollution control);

(B) chapter 50 (aquatic nuisance control);

(C) chapter 41 (regulation of stream flow);

(D) chapter 43 (dams);

(E) chapter 47 (water pollution control; lakes in crisis);

* * *

* * * ANR Report on Future Farming Practices * * *

Sec. 12. AGENCY OF AGRICULTURE, FOOD AND MARKETS REPORT ON FARMING PRACTICES IN VERMONT

(a) The Nutrient Management Commission convened by the Secretary of Agriculture, Food and Markets as a requirement of the U.S. Environmental

Protection Agency's approved implementation plan for the Lake Champlain total maximum daily load plan shall review whether and how to revise farming practices in Vermont in a manner that mitigates existing environmental impacts while maintaining economic viability. In conducting its review, the Commission shall consider whether and how to:

(1) revise farming practice to improve or build healthy soils;

(2) reduce agriculturally based pollution in areas of high pollution, stressed, or impaired waters;

(3) establish a carrying capacity or maximum number of livestock that the land used for nutrient application on a farm can support without contribution of nutrients to a water;

(4) provide financial and technical support to facilitate the transition by farms to less-polluting practices through one or more of the following:

(A) cover cropping;

(B) reduced tillage or no tillage;

(C) accelerated implementation of best management practices (BMPs);

(D) evaluation of the effectiveness of using riparian buffers in excess of 25 feet;

(E) increased use of direct manure injection;

(F) crop rotations to build soil health, including limits on the planting of continuous corn;

(G) elimination or reduction of the use of herbicides in the termination of cover crops; and

(H) diversification of dairy farming.

(b) On or before January 15, 2019, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry any recommendation of the Nutrient Management Commission regarding any of the farming practices or subject areas listed under subdivisions (a)(1)–(4) of this section.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 2–3 (rooms and meals tax), 4a (Clean Water Fund), and 4b (General Fund) shall take effect on January 1, 2020.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Bray moved that the Senate concur in the House proposal of amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Clean Water Board * * *

Sec. 1. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER ~~FUND~~ BOARD

(a) Creation.

(1) There is created the Clean Water ~~Fund~~ Board ~~which~~ that shall:

(A) be responsible and accountable for planning, coordinating, and financing of the remediation, improvement, and protection of the quality of State waters;

(B) recommend to the Secretary of Administration expenditures:

(i) appropriations from the Clean Water Fund; and

(ii) clean water projects to be funded by capital appropriations.

(2) The Clean Water ~~Fund~~ Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water ~~Fund~~ Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee;

(5) the Secretary of Transportation or designee; and

(6) four members of the public, who are not legislators, with expertise in one or more of the following subject matters: public management, civil engineering, agriculture, ecology, wetlands, stormwater system management, forestry, transportation, law, banking, finance, and investment, to be appointed by the Governor.

(c) Officers; committees; rules; compensation; term.

(1) The ~~Clean Water Fund Board shall annually elect a chair from its members~~ Secretary of Administration shall serve as the Chair of the Board. The Clean Water ~~Fund~~ Board may elect additional officers from its members,

establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board 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 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

(3) Members who are appointed to the Clean Water Board shall be appointed for terms of four years, except initial appointments shall be made such that two members appointed by the Governor shall be appointed for a term of two years. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

(d) Powers and duties of the Clean Water ~~Fund~~ Board. The Clean Water ~~Fund~~ Board shall have the following powers and authority:

(1) The Clean Water ~~Fund~~ Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment. The recommendations of the Clean Water Board shall be open to inspection and copying under the Public Records Act, and the Clean Water Board shall submit to the Senate Committees on Appropriations, on Finance, on Agriculture, and on Natural Resources and Energy and the House Committees on Appropriations, on Ways and Means, on Agriculture and Forestry, and on Natural Resources, Fish, and Wildlife a copy of any recommendations provided to the Governor.

(2) The Clean Water ~~Fund~~ Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(3) The Clean Water ~~Fund~~ Board shall:

(A) establish a process by which watershed organizations, State agencies, and other interested parties may propose water quality projects or programs for financing from the Clean Water Fund;

(B) develop an annual revenue estimate and proposed budget for the Clean Water Fund;

(C) establish measures for determining progress and effectiveness of expenditures for clean water restoration efforts;

(D) issue the annual Clean Water Investment Report required under section 1389a of this title; ~~and~~

(E) solicit, consult with, and accept public comment from organizations interested in improving water quality in Vermont regarding recommendations under this subsection (d) for the allocation of funds from the Clean Water Fund; and

(F) establish a process under which a watershed organization, State agency, or other interested party may propose that a water quality project or program identified in a watershed basin plan receive funding from the Clean Water Fund.

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);

(B) funding to projects that address sources of water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(C) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(E) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;

(F) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy;

(G) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices; ~~and~~

(H) funding to municipalities for the establishment and operation of stormwater utilities; and

(I) investment in watershed basin planning, water quality project identification screening, water quality project evaluation, and conceptual plan development of water quality projects.

(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water ~~Fund~~ Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements~~,~~ and to municipalities for the establishment and operation of stormwater utilities.

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide ~~for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State~~ investment in all watersheds of the State based on the needs identified in watershed basin plans.

(f) Assistance. The Clean Water ~~Fund~~ Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

Sec. 2. 10 V.S.A. § 1389a is amended to read:

§ 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Secretary of Administration shall publish the Clean Water Investment Report. The Report shall summarize all investments, including their cost-effectiveness, made by the Clean Water ~~Fund~~ Board and other State agencies for clean water restoration over the prior calendar year. The Report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source.

* * *

* * * Coordinated Water Quality Grants; Performance Grants * * *

Sec. 3. COORDINATED WATER QUALITY GRANTS

The Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall coordinate prior to awarding water quality grants or funding in order to maximize the water quality benefit or impact of funded projects in a watershed planning basin. When grants are issued, the Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall, when allowed by law, authorize funds or identify other funding opportunities that may be used to support capacity to implement projects in the watershed basin.

Sec. 4. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forestry, and on Natural Resources ~~and Energy, and on Fish, Wildlife and Water Resources~~, Fish, and Wildlife and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(G) develop, in consultation with the regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, ~~contract with a regional planning commission or~~ negotiate and issue performance grants to the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection in a manner consistent with the authority of regional planning commissions under 24 V.S.A. chapter 117 and the authority of the natural resources conservation districts under chapter 31 of this title. When ~~contracting~~ negotiating a scope of work with ~~a regional planning commission or~~ the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or produce a basin plan, the Secretary may require the ~~regional planning commission~~ Vermont Association of Planning and Development Agencies or the Natural Resources Conservation Council to:

(A) conduct any of the activities required under subdivision (2) of this subsection (d);

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations ~~to~~ better to meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure ~~cost effective~~ cost-effective use of State and federal funds.

* * * Lakes in Crisis * * *

Sec. 5. 10 V.S.A. chapter 47, subchapter 2A is added to read:

Subchapter 2A. Lake in Crisis

§ 1310. DESIGNATION OF LAKE IN CRISIS

(a) The Secretary of Natural Resources (Secretary) shall review whether a lake in the State should be designated as a lake in crisis upon the Secretary's own motion or upon petition of 15 or more persons or a selectboard of a municipality in which the lake or a portion of the lake is located.

(b) The Secretary shall designate a lake as a lake in crisis if, after review under subsection (a) of this section, the Secretary determines that:

(1) the lake or segments of the lake have been listed as impaired;

(2) the condition of the lake will cause:

(A) a potential harm to the public health; and

(B) a risk of damage to the environment or natural resources; and

(3) a municipality in which the lake or a portion of the lake is located has reduced the valuation of real property due to the condition of the lake.

§ 1311. STATE RESPONSE TO A LAKE IN CRISIS

(a) Adoption of crisis response plan. When a lake is declared in crisis, the Secretary shall within 90 days after the designation of the lake in crisis issue a comprehensive crisis response plan for the management of the lake in crisis in order to improve water quality in the lake or to mitigate or eliminate the potential harm to public health or the risk of damages to the environment or natural resources. The Secretary shall coordinate with the Secretary of Agriculture, Food and Markets and the Secretary of Transportation in the development of the crisis response plan. The crisis response plan may require implementation of one or both of the following in the watershed of the lake in crisis:

(1) water quality requirements necessary to address specific harms to public health or risks to the environment or natural resources; or

(2) implementation of or compliance with existing water quality requirements under one or more of the following:

(A) water quality requirements under chapter 47 of this title, including requiring a property owner to obtain a permit or implement best management practices for the discharge of stormwater runoff from any size of impervious surfaces if the Secretary determines that the treatment of the discharge of stormwater runoff is necessary to reduce the adverse impacts to water quality of the discharge or stormwater on the lake in crisis;

(B) agricultural water quality requirements under 6 V.S.A. chapter 215, including best management practices under 6 V.S.A. § 4810 to reduce runoff from the farm; or

(C) water quality requirements adopted under section 1264 of this section for stormwater runoff from municipal or State roads.

(b) Public hearing. The Secretary shall hold at least one public hearing in the watershed of the lake in crisis and shall provide an opportunity for public notice and comment for a proposed lake in crisis response plan.

(c) Term of designation. A lake shall remain designated as in crisis under this section until the Secretary determines that the lake no longer satisfies the criteria for designation under subsection (b) of this section.

(d) Agency cooperation and services. All other State agencies shall cooperate with the Secretary in responding to the lake in crisis, and the Secretary shall be entitled to seek technical and scientific input or services from the Agency of Agriculture, Food and Markets, the Agency of Transportation, or other necessary State agencies.

§ 1312. LAKE IN CRISIS ORDER

The Secretary, after consultation with the Secretary of Agriculture, Food and Markets, may issue a lake in crisis order as an administrative order under chapter 201 of this title to require a person to:

(1) take an action identified in the lake in crisis response plan;

(2) cease or remediate any acts, discharges, site conditions, or processes contributing to the impairment of the lake in crisis;

(3) mitigate a significant contributor of a pollutant to the lake in crisis; or

(4) conduct testing, sampling, monitoring, surveying, or other analytical operations required to determine the nature, extent, duration, or severity of the potential harm to the public health or a risk of damage to the environment or natural resources.

§ 1313. ASSISTANCE

(a) A person subject to a lake in crisis order shall be eligible for technical and financial assistance from the Secretary to be paid from the Lake in Crisis Response Program Fund. The Secretary shall adopt by procedure the process for application for assistance under this section.

(b) State financial assistance awarded under this section shall be in the form of a grant. An applicant for a State grant shall pay at least 35 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 35 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded.

(c) A grant awarded under this section shall comply with all terms and conditions for the issuance of State grants.

§ 1314. FUNDING OF STATE RESPONSE TO A LAKE IN CRISIS

(a) Initial response. Upon designation of a lake in crisis, the Secretary may, for the purposes of the initial response to the lake in crisis, expend up to $50,000.00 appropriated to the Agency of Natural Resources from the Clean Water Fund for authorized contingency spending.

(b) Long-term funding. Annually, the Secretary of Natural Resources shall present to the House and Senate Committees on Appropriations a multiyear plan for the funding of all lakes designated in crisis under this subchapter. Based on the multiyear plan, the Secretary of Administration annually shall recommend to the House and Senate Committees on Appropriations recommended appropriations to the Lake in Crisis Response Program Fund for the subsequent fiscal year.

§ 1315. LAKE IN CRISIS RESPONSE PROGRAM FUND

(a) There is created a special fund known as the Lake in Crisis Response Program Fund to be administered by the Secretary of Natural Resources. The Fund shall consist of:

(1) funds that may be appropriated by the General Assembly; and

(2) other gifts, donations, or funds received from any source, public or private, dedicated for deposit into the Fund.

(b) The Secretary shall use monies deposited in the Fund for the Secretary's implementation of a crisis response plan for a lake in crisis and for financial assistance under section 1313 of this title to persons subject to a lake in crisis order.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3) and (4), interest earned by the Fund and the balance of the Fund at the end of the fiscal

year shall be carried forward in the Fund and shall not revert to the General Fund.

Sec. 6. LAKE CARMI; LAKE IN CRISIS

The General Assembly declares Lake Carmi as a lake in crisis under 10 V.S.A. chapter 47, subchapter 2A. The crisis response plan for Lake Carmi shall include implementation of runoff controls.

Sec. 7. 10 V.S.A. § 8003(a) is amended to read:

(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:

(1) 10 V.S.A. chapter 23, relating to air quality;

(2) 10 V.S.A. chapter 32, relating to flood hazard areas;

(3) 10 V.S.A. chapters 47 and 56, relating to water pollution control, water quality standards, ~~and~~ public water supply, and lakes in crisis;

* * *

Sec. 8. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

(A) chapter 23 (air pollution control);

(B) chapter 50 (aquatic nuisance control);

(C) chapter 41 (regulation of stream flow);

(D) chapter 43 (dams);

(E) chapter 47 (water pollution control; lakes in crisis);

* * *

* * * ANR Report on Future Farming Practices * * *

Sec. 9. AGENCY OF AGRICULTURE, FOOD AND MARKETS REPORT ON FARMING PRACTICES IN VERMONT

(a) The Nutrient Management Commission convened by the Secretary of Agriculture, Food and Markets as a requirement of the U.S. Environmental

Protection Agency's approved implementation plan for the Lake Champlain total maximum daily load plan shall review whether and how to revise farming practices in Vermont in a manner that mitigates existing environmental impacts while maintaining economic viability. In conducting its review, the Commission shall consider whether and how to:

(1) revise farming practice to improve or build healthy soils;

(2) reduce agriculturally based pollution in areas of high pollution, stressed, or impaired waters;

(3) establish a carrying capacity or maximum number of livestock that the land used for nutrient application on a farm can support without contribution of nutrients to a water;

(4) provide financial and technical support to facilitate the transition by farms to less-polluting practices through one or more of the following:

(A) cover cropping;

(B) reduced tillage or no tillage;

(C) accelerated implementation of best management practices (BMPs);

(D) evaluation of the effectiveness of using riparian buffers in excess of 25 feet;

(E) increased use of direct manure injection;

(F) crop rotations to build soil health, including limits on the planting of continuous corn;

(G) elimination or reduction of the use of herbicides in the termination of cover crops; and

(H) diversification of dairy farming.

(b) On or before January 15, 2019, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry any recommendation of the Nutrient Management Commission regarding any of the farming practices or subject areas listed under subdivisions (a)(1)–(4) of this section.

* * * Petroleum Cleanup Fund * * *

Sec. 10. 10 V.S.A. § 1941(b) is amended to read:

(b) The Secretary may authorize disbursements from the Fund for the purpose of the cleanup and restoration of contaminated soil and groundwater caused by releases of petroleum from underground storage tanks and

aboveground storage tanks, including air emissions for remedial actions, and for compensation of third parties for injury and damage caused by a release. This Fund shall be used for no other governmental purposes, nor shall any portion of the Fund ever be available to borrow from by any branch of government; it being the intent of the General Assembly that this Fund and its increments shall remain intact and inviolate for the purposes set out in this chapter. Disbursements under this section may be made only for uninsured costs incurred after January 1, 1987 and for which a claim is made prior to July 1, ~~2019~~ 2029 and judged to be in conformance with prevailing industry rates. This includes:

* * *

Sec. 11. 10 V.S.A. § 1942 is amended to read:

§ 1942. PETROLEUM DISTRIBUTOR LICENSING FEE

(a) There is hereby established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in this State, ~~which~~ that will be assessed against every distributor, dealer, or user as defined in 23 V.S.A. chapters 27 and 28, and ~~which~~ that will be deposited into the Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The Secretary, in consultation with the Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall annually report to the General Assembly on the balance of the Motor Fuel Account and shall make recommendations, if any, for changes to the program. The Secretary shall also determine the unencumbered balance of the Motor Fuel Account as of May 15 of each year, and if the balance is equal to or greater than $7,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee ~~will~~ shall be paid in the same manner, at the same time, and subject to the same restrictions or limitations as the tax on motor fuels. The fee ~~will~~ shall be collected by the Commissioner of Motor Vehicles and deposited into the Petroleum Cleanup Fund. This fee requirement shall terminate on April 1, ~~2021~~ 2031.

(b) There is assessed a licensing fee of one cent per gallon for the bulk retail sale of heating oil, kerosene, or other dyed diesel fuel sold in this State. This fee shall be subject to the collection, administration, and enforcement provisions of 32 V.S.A. chapter 233, and the fees collected under this subsection by the Commissioner of Taxes shall be deposited into the Petroleum Cleanup Fund established pursuant to subsection 1941(a) of this title. The Secretary, in consultation with the Petroleum Cleanup Fund Advisory Committee established pursuant to subsection 1941(e) of this title, shall

annually report to the General Assembly on the balance of the Heating Fuel Account and shall make recommendations, if any, for changes to the program. The Secretary shall also determine the unencumbered balance of the Heating Fuel Account as of May 15 of each year, and if the balance is equal to or greater than $3,000,000.00, then the licensing fee shall not be assessed in the upcoming fiscal year. The Secretary shall promptly notify all sellers assessing this fee of the status of the fee for the upcoming fiscal year. This fee provision shall terminate on April 1, ~~2021~~ 2031.

Sec. 12. 10 V.S.A. § 1943(c) is amended to read:

(c) This tank assessment shall terminate on July 1, ~~2019~~ 2029.

* * * Effective Date * * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

Which was agreed to.

Committees of Conference Appointed

S. 257.

An act relating to miscellaneous changes to education law.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Baruth
Senator Balint
Senator Branagan

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 913.

An act relating to boards and commissions.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Ayer
Senator Clarkson
Senator Pearson

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S.40, S. 222, S. 244, S. 257, S. 260, S. 261, S. 276, H. 143, H. 711, H. 764, H. 780, H. 897, H. 910, H. 913, H. 928.

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 Reps. Murphy and others,

By Senators Branagan and Brock,

H.C.R. 388.

House concurrent resolution honoring exemplary BFA-Fairfax educator Judith Stewart.

By Reps. Grad and Read,

H.C.R. 389.

House concurrent resolution honoring Carla Lewis for her 40 years of outstanding service as a Fayston Elementary School teacher.

By the Committee on Corrections and Institutions,

H.C.R. 390.

House concurrent resolution honoring Dartmouth College undergraduate students Nicole Beckman, Hanna Bliska, and Eliza Jane Schaeffer for their research report entitled "Medication Assisted Treatment Programs in State Correctional Facilities in Vermont".

By Reps. Smith and Norris,

H.C.R. 391.

House concurrent resolution in memory of James H. Foster Jr..

By All Members of the House,

By Senators Westman, Brooks, Cummings and Pollina,

H.C.R. 392.

House concurrent resolution honoring Professor and former State Senator William T. Doyle on the conclusion of his distinguished academic career at Johnson State College.

By Rep. Myers,

H.C.R. 393.

House concurrent resolution congratulating the 75th Annual Vermont Conference on Recreation.

By All Members of the House,

By All Members of the Senate,

H.C.R. 394.

House concurrent resolution honoring Vermont Assistant Adjutant General-Army, Brigadier General Michael T. Heston for his outstanding military and law enforcement leadership.

By Reps. Toll and others,

H.C.R. 395.

House concurrent resolution honoring Robert Davis for his achievements as a television news photographer.

By Reps. Strong and Young,

By Senators Rodgers and Starr,

H.C.R. 396.

House concurrent resolution honoring Curtis R. Whiteway of Craftsbury for his military valor, his participation in the liberation of Nazi concentration and death camps, and as a passionate Holocaust educator.

By Reps. Masland and Briglin,

H.C.R. 397.

House concurrent resolution congratulating the Thetford Academy Drama Club on winning a New England Drama Council commendation.

By Reps. Till and others,

H.C.R. 398.

House concurrent resolution honoring Peter Geiss for his exemplary public service as a school board member in the Underhill Central School and Mount Mansfield Modified Union School districts.

By Rep. Macaig,

H.C.R. 399.

House concurrent resolution welcoming to Vermont the Association of Food and Drug Officials' 122nd Annual Educational Conference.

By Reps. Walz and others,

H.C.R. 400.

House concurrent resolution recognizing May 20–26 as National Public Works Week in Vermont.

By Reps. Hooper and others,

By Senators Brooks, Cummings and Pollina,

H.C.R. 401.

House concurrent resolution honoring Nathaniel Frothingham as an outstanding educator and for his wise journalistic leadership of the Montpelier Bridge.

By Reps. Beck and others,

By Senators Kitchel and Benning,

H.C.R. 402.

House concurrent resolution congratulating the St. Johnsbury Academy chess team on winning the 2018 Vermont State Scholastic Chess Championships.

By All Members of the House,

By All Members of the Senate,

H.C.R. 403.

House concurrent resolution in memory of former Governor Philip Henderson Hoff.

By Reps. Kitzmiller and Devereux,

H.C.R. 404.

House concurrent resolution commemorating the 80-year history of the second Statue of Agriculture on the Vermont State House dome.

By Reps. Partridge and others,

H.C.R. 405.

House concurrent resolution congratulating Dr. Delores Barbeau on her receipt of the 2018 George F. Leland Community Health Service Award.

By the Committee on Agriculture and Forestry,

H.C.R. 406.

House concurrent resolution recognizing June as National Dairy Month in Vermont.

By Reps. Keenan and Connor,

H.C.R. 407.

House concurrent resolution honoring former Representative Jeff Young of St. Albans City for his civic and horticultural accomplishments.

By Reps. McCormack and others,

H.C.R. 408.

House concurrent resolution in memory of Vermont folklorist Gregory L. Sharrow.

Adjournment

On motion of Senator Ashe, the Senate adjourned until nine o'clock in the morning.

SATURDAY, MAY 12, 2018

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. 78

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

H. 608. An act relating to creating an Older Vermonters Act working group.

The House has receded from its proposal of amendment and has concurred in the Senate proposal of amendment.

Message from the House No. 79

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 273. An act relating to miscellaneous law enforcement amendments.

And has adopted the same on its part.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 675. An act relating to conditions of release prior to trial.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House bill of the following title:

H. 901. An act relating to health information technology and health information exchange.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 80

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 241. An act relating to the makeup and duties of the Emergency Medical Services Advisory Committee.

And has passed the same in concurrence.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 257. An act relating to miscellaneous changes to education law.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Sharpe of Bristol
Reps. Cupoli of Rutland City
Rep. Long of Newfane.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 289. An act relating to protecting consumers and promoting an open Internet in Vermont.

And has adopted the same on its part.

The House has considered Senate proposals of amendment to House proposal of amendment to Senate bill of the following title:

S. 285. An act relating to universal recycling requirements.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 81

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered a bill originating in the Senate of the following title:

S. 165. An act relating to preemployment health screenings for hospital employees.

And has passed the same in concurrence.

Message from the House No. 82

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 388. House concurrent resolution honoring exemplary BFA-Fairfax educator Judith Stewart.

H.C.R. 389. House concurrent resolution honoring Carla Lewis for her 40 years of outstanding service as a Fayston Elementary School teacher.

H.C.R. 390. House concurrent resolution honoring Dartmouth College undergraduate students Nicole Beckman, Hanna Bliska, and Eliza Jane Schaeffer for their research report entitled "Medication Assisted Treatment Programs in State Correctional Facilities in Vermont".

H.C.R. 391. House concurrent resolution in memory of James H. Foster Jr.

H.C.R. 392. House concurrent resolution honoring Professor and former State Senator William T. Doyle on the conclusion of his distinguished academic career at Johnson State College.

H.C.R. 393. House concurrent resolution congratulating the 75th Annual Vermont Conference on Recreation.

H.C.R. 394. House concurrent resolution honoring Vermont Assistant Adjutant General-Army, Brigadier General Michael T. Heston for his outstanding military and law enforcement leadership.

H.C.R. 395. House concurrent resolution honoring Robert Davis for his achievements as a television news photographer.

H.C.R. 396. House concurrent resolution honoring Curtis R. Whiteway of Craftsbury for his military valor, his participation in the liberation of Nazi concentration and death camps, and as a passionate Holocaust educator.

H.C.R. 397. House concurrent resolution congratulating the Thetford Academy Drama Club on winning a New England Drama Council commendation.

H.C.R. 398. House concurrent resolution honoring Peter Geiss for his exemplary public service as a school board member in the Underhill Central School and Mount Mansfield Modified Union School districts.

H.C.R. 399. House concurrent resolution welcoming to Vermont the Association of Food and Drug Officials' 122nd Annual Educational Conference.

H.C.R. 400. House concurrent resolution recognizing May 20–26 as National Public Works Week in Vermont.

H.C.R. 401. House concurrent resolution honoring Nathaniel Frothingham as an outstanding educator and for his wise journalistic leadership of the Montpelier Bridge.

H.C.R. 402. House concurrent resolution congratulating the St. Johnsbury Academy chess team on winning the 2018 Vermont State Scholastic Chess Championships.

H.C.R. 403. House concurrent resolution in memory of former Governor Philip Henderson Hoff.

H.C.R. 404. House concurrent resolution commemorating the 80-year history of the second Statue of Agriculture on the Vermont State House dome.

H.C.R. 405. House concurrent resolution congratulating Dr. Delores Barbeau on her receipt of the 2018 George F. Leland Community Health Service Award.

H.C.R. 406. House concurrent resolution recognizing June as National Dairy Month in Vermont.

H.C.R. 407. House concurrent resolution honoring former Representative Jeff Young of St. Albans City for his civic and horticultural accomplishments.

H.C.R. 408. House concurrent resolution in memory of Vermont folklorist Gregory L. Sharrow.

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

Message from the House No. 83

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on May 11, 2018, he approved and signed bills originating in the House of the following titles:

H. 294. An act relating to inquiries about an applicant's salary history.

H. 333. An act relating to identification of gender-free restrooms in public buildings and places of public accommodation.

Bill Passed in Concurrence with Proposal of Amendment

H. 559.

House bill of the following title

An act relating to miscellaneous environmental subjects.

Was read the third time and passed in concurrence with proposals of amendment on a division of the Senate Yeas 10, Nays 8.

Bill Passed in Concurrence

H. 904.

House bill of the following title was read the third time and passed in concurrence:

An act relating to miscellaneous agricultural subjects.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 85.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to simplifying government for small businesses.

Was taken up for immediate consideration.

Senator Clarkson, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 85. An act relating to simplifying government for small businesses.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SIMPLIFYING GOVERNMENT FOR SMALL BUSINESSES

(a) The Secretary of State shall serve as the chair of a steering committee, composed of the Secretary of State, the Secretary of Commerce and Community Development, and the Secretary of Digital Services or their designees.

(b) The Secretary of State, in collaboration with the steering committee, and in collaboration with other State agencies and departments and interested stakeholders as necessary, shall:

(1) review and consider the necessary procedural and substantive steps to enhance the Secretary of State's one-stop business portal for businesses, entrepreneurs, and citizens to provide information about starting and operating a business in Vermont; and

(2) submit on or before December 15, 2018:

(A) a design proposal that includes a project scope, timeline, roadmap, and cost projections; and

(B) any statutory or regulatory changes needed to implement the proposal.

(c) The steering committee shall evaluate the cost and efficacy, and integrate into the current one-stop portal to the extent feasible, features that:

(1) enhance State websites to simplify registrations and provide a clear compilation of other State business requirements, including permits and licenses;

(2) simplify the mechanism for making payments to the State by allowing a person to pay amounts he or she owes to the State for taxes, fees, or other charges to a single recipient within State government;

(3) simplify annual filing requirements by allowing a person to make a single filing to a single recipient within State government and check a box if nothing substantive has changed from the prior year;

(4) provide guidance, assistance with navigation, and other support to persons who are forming or operating a small business;

(5) after registration, provide information about additional and ongoing State requirements and a point of contact to discuss questions or explore any assistance needed;

(6) provide guidance and information about State and federal programs and initiatives, as well as State partner organizations and Vermont-based businesses of interest; and

(7) map communication channels for project updates, including digital channels such as e-mail, social media, and other communications.

(d) State agencies and departments shall provide assistance to the steering committee upon its request.

(e) The steering committee shall focus its review on providing services through the one-stop business portal primarily for the benefit of businesses with 20 or fewer employees.

(f) The Agency of Digital Services shall assign a project manager or business analyst to report directly to the Secretary of State to assist with the implementation of this act through June 30, 2019 for the purpose of developing and implementing a one-stop navigable portal for businesses, entrepreneurs, and citizens to access information about starting a business in Vermont, and to provide ongoing support to businesses interfacing with State government.

Sec. 2. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 1(f) shall take effect on July 1, 2018.

ALISON CLARKSON
DAVID J. SOUCY
MICHAEL D. SIROTKIN

Committee on the part of the Senate

LINDA K. MYERS
AMY D. SHELDON
CHARLES A. KIMBELL

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 179.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to community justice centers.

Was taken up for immediate consideration.

Senator Nitka, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 179. An act relating to community justice centers.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House proposal of amendment

ALICE W. NITKA
RICHARD W. SEARS
MARGARET K FLORY

Committee on the part of the Senate

ALICE M. EMMONS
CHARLES H. SHAW
CURT D. TAYLOR

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 269.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to blockchain, cryptocurrency, and financial technology.

Was taken up for immediate consideration.

Senator Clarkson, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 269. An act relating to blockchain, cryptocurrency, and financial technology.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Definition of Blockchain Technology * * *

Sec. 1. 12 V.S.A. § 1913 is amended to read:

§ 1913. BLOCKCHAIN ENABLING

(a) As used in this section~~, "blockchain technology"~~:

(1) "Blockchain" means a ~~mathematically~~ cryptographically secured, chronological, and decentralized consensus ledger or consensus database~~, whether~~ maintained via Internet ~~interaction~~, peer-to-peer network, or ~~otherwise~~ other interaction.

(2) "Blockchain technology" means computer software or hardware or collections of computer software or hardware, or both, that utilize or enable a blockchain.

* * *

* * * Personal Information Protection Companies * * *

Sec. 2. 8 V.S.A. chapter 78 is added to read:

CHAPTER 78. PERSONAL INFORMATION PROTECTION COMPANIES

§ 2451. DEFINITIONS

As used in this section:

(1) "Personal information" means data capable of being associated with a particular natural person, including gender identification, birth information, marital status, citizenship and nationality, biometric records, government identification designations, and personal, educational, and financial histories.

(2) "Personal information protection company" means a business that is organized for the primary purpose of providing personal information protection services to individual consumers.

(3) "Personal information protection services" means receiving, holding, and managing the disclosure or use of personal information concerning an individual consumer:

(A) pursuant to a written agreement, in which the person receiving the individual consumer's information agrees to serve as a personal information protection company, and which specifies the types of personal information to be held and the scope of services to be provided on behalf of the consumer; and

(B) in the best interests and for the protection and benefit of the consumer.

§ 2452. PERSONAL INFORMATION AS THE SUBJECT OF A FIDUCIARY RELATIONSHIP

A personal information protection company that accepts personal information pursuant to a written agreement to provide personal information protection services has a fiduciary responsibility to the consumer when providing personal protection services.

§ 2453. QUALIFIED PERSONAL INFORMATION PROTECTION COMPANY

(a) A personal information protection company shall qualify to conduct its business under the terms of this chapter and applicable rules adopted by the Department of Financial Regulation.

(b) A person shall not engage in business as a personal information protection company in this State without first obtaining a certificate of

authority from the Department.

(c) A personal information protection company shall:

(1) be organized or authorized to do business under the laws of this State;

(2) maintain a place of business in this State;

(3) appoint a registered agent to accept service of process and to otherwise act on its behalf in this State, provided that whenever the registered agent cannot with reasonable diligence be found at the Vermont registered office of the company, the Secretary of State shall be an agent of the company upon whom any process, notice, or demand may be served;

(4) annually hold at least one meeting of its governing body in this State, at which meeting one or more members of the body are physically present; and

(5) develop, implement, and maintain a comprehensive information security program that contains administrative, technical, and physical safeguards sufficient to protect personal information, and which may include the use of blockchain technology, as defined in 12 V.S.A. § 1913, in some or all of its business activities.

§ 2454. NAME; OFFICE

A personal information protection company shall file with the Department of Financial Regulation the name it proposes to use in connection with its business, which the Department shall not approve if it determines that the name may be misleading, likely to confuse the public, or deceptively similar to any other business name in use in this State.

§ 2455. CONDUCT OF BUSINESS

(a) A personal information protection company may:

(1) operate through remote interaction with the individuals entrusting personal information to the company, and there shall be no requirement of Vermont residency or other contact for any such individual to establish such a relationship with the company; and

(2) subject to applicable fiduciary duties, the terms of any agreement with the individual involved, and any applicable statutory or regulatory provision:

(A) provide elements of personal information to third parties with which the individual seeks to have a transaction, a service relationship, or other particular purpose interaction;

(B) provide certification or validation concerning personal information;

(C) receive compensation for acting in these capacities.

(b) An authorization to provide personal information may be either particular or general, provided it meets the terms of any agreement with the individual involved and any rules adopted by the Department of Financial Regulation.

§ 2456. FEES; AUTHORITY OF DEPARTMENT

(a)(1) The Department of Financial Regulation shall assess the following fees for a personal information protection company:

(A) an initial registration fee of $1,000.00, which includes a licensing fee of $500.00 and an investigation fee of $500.00;

(B) an annual renewal fee of $500.00;

(C) a change in address fee of $100.00.

(2) The Department shall have the authority to bill a personal information protection company for examination time at its standard rate.

(b) In addition to other powers conferred by this chapter, the Department shall have the authority to review records, conduct examinations, and require annual audits of a personal information protection company.

§ 2457. REPORTS; RULES

(a) The Department of Financial Regulation may prescribe by rule the timing and manner of reports by a personal information protection company to the Department.

(b) The Department may adopt rules to govern other aspects of the business of a personal information protection company, including its protection and safeguarding of personal information and its interaction with third parties with respect to personal information it holds.

Sec. 3. IMPLEMENTATION; REPORTS; RULES

On or before January 15, 2020, the Department of Financial Regulation shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a progress report that addresses:

(1) the implementation of Sec. 2 of this act; and

(2) the status of rulemaking pursuant to its authority under 8 V.S.A. § 2457.

* * * Insurance and Banking Study * * *

Sec. 4. INSURANCE; BANKING; DFR STUDY; REPORT

(a) The Department of Financial Regulation shall review the potential application of blockchain technology to the provision of insurance and banking and consider areas for potential adoption and any necessary regulatory changes in Vermont.

(b) On or before January 15, 2019, the Department shall submit a report of its findings and recommendations to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs.

* * * FinTech Summit; Blockchain Promotion * * *

Sec. 5. FINTECH SUMMIT

The Agency of Commerce and Community Development, in collaboration with the Department of Financial Regulation, the University of Vermont and State Agricultural College, the Vermont State Colleges, Norwich University, Vermont Law School, the Agency of Education, and regional CTE centers, and in consultation with private sector practitioners, may organize and hold a FinTech Summit to:

(1) explore legal and regulatory mechanisms to promote the adoption of financial technology in State government;

(2) explore opportunities to promote financial technology and economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency providers and proponents; and

(3) explore opportunities to integrate financial technology into secondary and postsecondary education in Vermont.

Sec. 6. BLOCKCHAIN AND FINANCIAL TECHNOLOGY PROMOTION

The Agency of Commerce and Community Development shall incorporate into one or more of its economic development marketing and business support programs, events, and activities the following topics:

(1) opportunities to promote blockchain technology and financial technology-related economic development in the private sector, including in the areas of banking, insurance, retail and service businesses, and cryptocurrency;

(2) legal and regulatory mechanisms that enable and promote the adoption of blockchain technology and financial technology in this State; and

(3) educational and workforce training opportunities in blockchain technology, financial technology, and related areas.

* * * Enabling Provisions; Blockchain-Based LLCs * * *

Sec. 7. 11 V.S.A. chapter 25, subchapter 12 is added to read:

Subchapter 12. Blockchain-Based Limited Liability Companies

§ 4171. DEFINITIONS

As used in this section:

(1) "Blockchain technology" has the same meaning as in 12 V.S.A. § 1913.

(2) "Participant" means:

(A) each person that has a partial or complete copy of the decentralized consensus ledger or database utilized by the blockchain technology, or otherwise participates in the validation processes of such ledger or database;

(B) each person in control of any digital asset native to the blockchain technology; and

(C) each person that makes a material contribution to the protocols.

(3) "Protocols" means the designated regulatory model of the software that governs the rules, operations, and communication between nodes on the network utilized by the participants.

(4) "Virtual currency" means a digital representation of value that:

(A) is used as a medium of exchange, unit of account, or store of value; and

(B) is not legal tender, whether or not denominated in legal tender.

§ 4172. ELECTION

A limited liability company organized pursuant to this title for the purpose of operating a business that utilizes blockchain technology for a material portion of its business activities may elect to be a blockchain-based limited liability company (BBLLC) by:

(1) specifying in its articles of organization that it elects to be a BBLLC; and

(2) meeting the requirements in subdivision 4173(2) and subsection 4174(a) of this title.

§ 4173. AUTHORITY; REQUIREMENTS

Notwithstanding any provision of this chapter to the contrary:

(1) A BBLLC may provide for its governance, in whole or in part, through blockchain technology.

(2) The operating agreement for a BBLLC shall:

(A) provide a summary description of the mission or purpose of the BBLLC;

(B) specify whether the decentralized consensus ledger or database utilized or enabled by the BBLLC will be fully decentralized or partially decentralized and whether such ledger or database will be fully or partially public or private, including the extent of participants' access to information and read and write permissions with respect to protocols;

(C) adopt voting procedures, which may include smart contracts carried out on the blockchain technology, to address:

(i) proposals from managers, members, or other groups of participants in the BBLLC for upgrades or modifications to software systems or protocols, or both;

(ii) other proposed changes to the BBLLC operating agreement; or

(iii) any other matter of governance or activities within the purpose of the BBLLC;

(D) adopt protocols to respond to system security breaches or other unauthorized actions that affect the integrity of the blockchain technology utilized by the BBLLC;

(E) provide how a person becomes a member of the BBLLC with an interest, which may be denominated in the form of units, shares of capital stock, or other forms of ownership or profit interests; and

(F) specify the rights and obligations of each group of participants within the BBLLC, including which participants shall be entitled to the rights and obligations of members and managers.

§ 4174. MULTIPLE ROLES OF MEMBERS AND MANAGERS

(a) A member or manager of a BBLLC may interact with the BBLLC in multiple roles, including as a member, manager, developer, node, miner, or other participant in the BBLLC, or as a trader and holder of the currency in its own account and for the account of others, provided such member or manager complies with any applicable fiduciary duties.

(b) The activities of a member or manager who interacts with the BBLLC through multiple roles are not deemed to take place in this State solely because the BBLLC is organized in this State.

§ 4175. CONSENSUS FORMATION ALGORITHMS AND GOVERNANCE PROCESSES

In its governance, a BBLLC may:

(1) adopt any reasonable algorithmic means for accomplishing the consensus process for validating records, as well as requirements, processes, and procedures for conducting operations, or making organizational decisions on the blockchain technology used by the BBLLC; and

(2) in accordance with any procedure specified pursuant to section 4173 of this title, modify the consensus process, requirements, processes, and procedures, or substitute a new consensus process, requirements, processes, or procedures that comply with the requirements of law and the governance provisions of the BBLLC.

§ 4176. SCOPE OF SUBCHAPTER; OTHER LAW

Except as expressly provided otherwise, this subchapter does not exempt a BBLLC from any other judicial, statutory, or regulatory provision of Vermont law or federal law, including State and federal securities laws. Except to the extent inconsistent with the provisions of this subchapter, the provisions of the Vermont Limited Liability Company Act govern.

* * * Blockchain Technology in Public Records * * *

Sec. 8. PUBLIC RECORDS

On or before January 15, 2019, the Vermont State Archives and Records Administration, in collaboration with the Vermont League of Cities and Towns, the Vermont Municipal Clerks' and Treasurers' Association, and the Agency of Digital Services, shall:

(1) evaluate blockchain technology for the systematic and efficient management of public records in accordance with 1 V.S.A. § 317a and 3 V.S.A. § 117;

(2) recommend legislation, including uniform laws, necessary to support the possible use of blockchain technology for the recording of land records pursuant to 24 V.S.A. § 1154 and for other public records; and

(3) submit its findings and recommendations to the House Committee on Commerce and Economic Development; the Senate Committee on Economic Development, Housing and General Affairs; and the House and Senate Committees on Government Operations.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to blockchain business development.

ALISON CLARKSON
DAVID J. SOUCY
REBECCA A. BALINT

Committee on the part of the Senate

JEAN D. O'SULLIVAN
PATRICIA A. MCCOY
SAMUEL R. YOUNG

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; House Proposals of Amendment to Senate Proposal of Amendment Concurred In

H. 901.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to health information technology and health information exchange.

Were taken up for immediate consideration.

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

First: In Sec. 1, health information technology; health information exchange; reports, in subsections (b), (c), and (d), following "on Health Care," by inserting "on Energy and Technology,"

Second: In Sec. 3, 18 V.S.A. § 9352, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a)~~(1)~~ Governance. The Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the

members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise ~~the following:~~

~~(A) one member of the General Assembly, appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, who shall be entitled to the same per diem compensation and expense reimbursement pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the General Assembly;~~

~~(B) one individual appointed by the Governor;~~

~~(C) one representative of the business community;~~

~~(D) one representative of health care consumers;~~

~~(E) one representative of Vermont hospitals;~~

~~(F) one representative of Vermont physicians;~~

~~(G) one practicing clinician licensed to practice medicine in Vermont;~~

~~(H) one representative of a health insurer licensed to do business in Vermont;~~

~~(I) the President of VITL, who shall be an ex officio, nonvoting member;~~

~~(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and~~

~~(K) two at-large members~~

representatives of the business community, of health care consumers, of Vermont hospitals, of Vermont-licensed clinicians, and of health insurers licensed to offer plans in Vermont, as well as individuals familiar with health information technology, including, to the extent practicable, one or more individuals who are or have served as the chief technology officer for a health care facility.

~~(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.~~

Third: In Sec. 8a, 2 V.S.A. chapter 18, in § 614, by striking out subdivision (e)(1) in its entirety and inserting in lieu thereof a new subdivision (e)(1) to read as follows:

(1) The Committee shall elect a chair and vice chair from among its members and shall adopt rules of procedure. The Chair shall rotate biennially between the House and Senate members.

Fourth: In Sec. 8a, 2 V.S.A. chapter 18, in § 614, by striking out subdivision (e)(3) in its entirety and inserting in lieu thereof a new subdivision (e)(3) to read as follows:

(3) The Committee may meet when the General Assembly is not in session or at the call of the Chair.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, were severally decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate; Bill Messaged

S. 273.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to miscellaneous law enforcement amendments.

Was taken up for immediate consideration.

Senator White, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 273. An act relating to miscellaneous law enforcement amendments.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House proposal of amendment and that the House proposal be further amended as follows:

First: By striking out Sec. 7, 20 V.S.A. § 2358 (minimum training standards; definitions), in its entirety and inserting in lieu thereof a new Sec. 7 to read:

Sec. 7. COUNCIL; TRAINING PROGRAMS; TRANSITION FROM LEVEL II TO LEVEL III CERTIFICATION

The Vermont Criminal Justice Training Council shall have a plan, including an implementation schedule, to structure its training programs so that a law enforcement officer with Level II certification may transition to Level III certification without such an officer needing to restart the certification process.

Second: By adding a new section to be Sec. 8a and an accompanying reader assistance heading to read:

* * * Coverage * * *

Sec. 8a. DEPARTMENT OF PUBLIC SAFETY; REPORT ON TOWN CALLS TO THE VERMONT STATE POLICE

(a) The Department of Public Safety shall determine the number of calls from towns the Vermont State Police received in fiscal year 2018 and, in consultation with the Vermont League of Cities and Towns as necessary, determine the number of those calls that came from each town without a police department.

(b) On or before November 15, 2018, the Commissioner of Public Safety shall report to the Senate and House Committees on Judiciary and on Government Operations regarding the Department's findings as set forth in subsection (a) of this section.

Third: In Sec. 11, 20 V.S.A. § 1818 (Law Enforcement Advisory Board), in subsection (a), by striking out subdivision (12) in its entirety and inserting in lieu thereof a new subdivision (12) to read:

(12) a law enforcement officer appointed by the President of the Vermont State Employees' Association.

Fourth: By striking out Sec. 14 (Department of Public Safety; report on existing State costs of providing dispatch services) and its accompanying reader assistance heading and inserting in lieu thereof a new Sec. 14 and accompanying reader assistance heading to read:

* * * Dispatch * * *

Sec. 14. DEPARTMENT OF PUBLIC SAFETY AND THE VERMONT ENHANCED 911 BOARD; PROPOSAL FOR AN EQUITABLE STATEWIDE PUBLIC SAFETY DISPATCH SYSTEM

(a)(1) The Department of Public Safety and the Vermont Enhanced 911 Board shall consult with the Vermont League of Cities and Towns as an equal partner in order to propose a plan that would result in a comprehensive, efficient, and equitably funded public safety dispatch system to dispatch law

enforcement, fire, and emergency medical services statewide. In proposing the plan, consideration shall be given to existing and planned regional dispatch centers.

(2) Included in the proposed plan shall be recommendations regarding:

(A) the manner in which different dispatch services should communicate among each other;

(B) whether there should be different dispatching services used among State agencies and departments;

(C) the role of regional dispatch centers;

(D) the funding source or sources for the proposed plan; and

(E) the timeframe for implementing the proposed plan.

(b) On or before November 1, 2019, the Department and the Board shall jointly submit the proposed plan to:

(1) the Senate Committees on Finance, on Government Operations, on Appropriations, and on Economic Development, Housing and General Affairs;

(2) the House Committees on Commerce and Economic Development, on Government Operations, on Appropriations, and on Ways and Means; and

(3) the Governor.

Fifth: In Sec. 15 (effective dates; implementation), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read:

(2) Sec. 7 (Council; training programs; transition from Level II to Level III certification) shall take effect on July 1, 2019.

JEANETTE K. WHITE
BRIAN P. COLLAMORE
ALISON CLARKSON

Committee on the part of the Senate

JESSICA C. BRUMSTED
JAMES HARRISON
ROBERT B. LACLAIR

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Not Suspended; Bill Not Messaged

Senator Ashe, moved the rules be suspended, and **H. 559** be messaged to the House forthwith; which was disagreed to.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 901, H. 904.

Rules Suspended; Bills Delivered

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 85, S. 179, S. 269, S. 273.

Adjournment

On motion of Senator Ashe, the Senate adjourned until one o'clock and thirty minutes in the afternoon.

Called to Order

The Senate was called to order by the President.

Committee of Conference Appointed; Bill Messaged

S. 272.

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

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mazza
Senator Flory
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Thereupon, on motion of Senator Ashe, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; House Proposals of Amendment to Senate Proposal of Amendment to House Proposal of Amendment Concurred In

S. 285.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposals of amendment to Senate proposal of amendment to House proposal of amendment to Senate bill entitled:

An act relating to universal recycling requirements.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment to House proposal of amendment with the following amendments thereto:

First: In Sec. 4a, 10 V.S.A. § 1530, in subsection (c), by striking out "July 1, 2019" where it appears and inserting in lieu thereof "October 1, 2019" and in subsection (d), by striking out "October 10, 2019" where it appears and inserting in lieu thereof "January 1, 2020" and in subdivision (e)(1), by striking out "October 10, 2019" where it appears and inserting in lieu thereof "January 1, 2020"

Second: By adding Sec. 4b to read as follows:

Sec. 4b. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the "Clean Water Fund" to be administered by the Secretary of Administration. The Fund shall consist of:

(1) revenues ~~dedicated for deposit into the Fund by the General Assembly, including~~ from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a; ~~and~~

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title; and

(4) other revenues dedicated for deposit into the Fund by the General Assembly.

* * *

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment to House proposal of amendment?, were severally decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 289.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to protecting consumers and promoting an open Internet in Vermont.

Was taken up for immediate consideration.

Senator Lyons, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 289. An act relating to protecting consumers and promoting an open Internet in Vermont.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Findings * * *

Sec. 1. FINDINGS

The General Assembly finds and declares that:

(1) Our State has a compelling interest in preserving and promoting an open Internet in Vermont.

(2) As Vermont is a rural state with many geographically remote locations, broadband Internet access service is essential for supporting economic and educational opportunities, strengthening health and public safety networks, and reinforcing freedom of expression and democratic, social, and civic engagement.

(3) The accessibility and quality of communications networks in Vermont, specifically broadband Internet access service, will critically impact our State's future.

(4) Net neutrality is an important topic for many Vermonters. Nearly 50,000 comments attributed to Vermonters were submitted to the FCC during the Notice of Proposed Rulemaking regarding the Restoring Internet Freedom Order, WC Docket No. 17-108, FCC 17-166. Transparency with respect to the network management practices of ISPs doing business in Vermont will continue to be of great interest to many Vermonters.

(5) In 1996, Congress recognized that "[t]he Internet and other interactive computer services offer a forum for a true diversity of political discourse, unique opportunities for cultural development, and myriad avenues for intellectual activity" and "[i]ncreasingly Americans are relying on

interactive media for a variety of political, educational, cultural, and entertainment services." 47 U.S.C. § 230(a)(3) and (5).

(6) Many Vermonters do not have the ability to choose easily between Internet service providers (ISPs). This lack of a thriving competitive market, particularly in isolated locations, disadvantages the ability of consumers and businesses to protect their interests sufficiently.

(7) Without net neutrality, "ISPs will have the power to decide which websites you can access and at what speed each will load. In other words, they'll be able to decide which companies succeed online, which voices are heard – and which are silenced." Tim Berners-Lee, founder of the World Wide Web and Director of the World Wide Web Consortium (W3C), December 13, 2017.

(8) The Federal Communications Commission's (FCC's) recent repeal of the federal net neutrality rules pursuant to its Restoring Internet Freedom Order manifests a fundamental shift in policy.

(9) The FCC anticipates that a "light-touch" regulatory approach under Title I of the Communications Act of 1934, rather than "utility-style" regulation under Title II, will further advance the Congressional goals of promoting broadband deployment and infrastructure investment.

(10) The FCC's regulatory approach is unlikely to achieve the intended results in Vermont. The policy does little, if anything, to overcome the financial challenges of bringing broadband service to hard-to-reach locations with low population density. However, it may result in degraded Internet quality or service. The State has a compelling interest in preserving and protecting consumer access to high quality Internet service.

(11) The economic theory advanced by the FCC in 2010 known as the "virtuous circle of innovation" seems more relevant to the market conditions in Vermont. See In re Preserving the Open Internet, 25 F.C.C.R. 17905, 17910-11 (2010).

(12) As explained in the FCC's 2010 Order, "The Internet's openness . . . enables a virtuous circle of innovation in which new uses of the network – including new content, applications, services, and devices – lead to increased end-user demand for broadband, which drives network improvements, which in turn lead to further innovative network uses. Novel, improved, or lower-cost offerings introduced by content, application, service, and device providers spur end-user demand and encourage broadband providers to expand their networks and invest in new broadband technologies." 25 FCC Rcd. at 17910-11, upheld by Verizon v. FCC, 740 F.3d 623, 644-45 (D.C. Circuit 2014).

(13) As affirmed by the FCC five years later, "[t]he key insight of the virtuous cycle is that broadband providers have both the incentive and the ability to act as gatekeepers standing between edge providers and consumers. As gatekeepers, they can block access altogether; they can target competitors, including competitors in their own video services; and they can extract unfair tolls." Open Internet Order, 30 FCC Rcd at para. 20.

(14) The State may exercise its traditional role in protecting consumers from potentially unfair and anticompetitive business practices. Doing so will provide critical protections for Vermont individuals, entrepreneurs, and small businesses that do not have the financial clout to negotiate effectively with commercial providers, some of whom may provide services and content that directly compete with Vermont companies or companies with whom Vermonters do business.

(15) The FCC's most recent order expressly contemplates a state's exercise of its traditional police powers on behalf of consumers: "we do not disturb or displace the states' traditional role in generally policing such matters as fraud, taxation, and general commercial dealings, so long as the administration of such general state laws does not interfere with federal regulatory objectives." Restoring Internet Freedom Order, WC Docket No. 17-108, FCC 17-166, para. 196.

(16) The benefits of State measures designed to protect the ability of Vermonters to have unfettered access to the Internet far outweigh the benefits of allowing ISPs to manipulate Internet traffic for pecuniary gain.

(17) The most recent order of the FCC contemplates federal and local enforcement agencies preventing harm to consumers: "In the unlikely event that ISPs engage in conduct that harms Internet openness . . . we find that utility-style regulation is unnecessary to address such conduct. Other legal regimes – particularly antitrust law and the FTC's authority under Section 5 of the FTC Act to prohibit unfair and deceptive practices – provide protections to consumers." para. 140. The Attorney General enforces antitrust violations or violations of the Consumer Protection Act in Vermont.

(18) The State has a compelling interest in knowing with certainty what services it receives pursuant to State contracts.

(19) Procurement laws are for the benefit of the State. When acting as a market participant, the government enjoys unrestricted power to contract with whomever it deems appropriate and purchase only those goods or services it desires.

(20) The disclosures required by this act are a reasonable exercise of the State's traditional police powers and will support the State's efforts to monitor consumer protection and economic factors in Vermont, particularly with regard to competition, business practices, and consumer choice, and will also enable consumers to stay apprised of the network management practices of ISPs offering service in Vermont.

(21) The State is in the best position to balance the needs of its constituencies with policies that best serve the public interest. The State has a compelling interest in promoting Internet consumer protection and net neutrality standards. Any incidental burden on interstate commerce resulting from the requirements of this act is far outweighed by the compelling interests the State advances.

* * * Certificate of Net Neutrality Compliance * * *

Sec. 2. 3 V.S.A. § 348 is added to read:

§ 348. INTERNET SERVICE PROVIDERS; NET NEUTRALITY COMPLIANCE

(a) The Secretary of Administration shall develop a process by which an Internet service provider may certify that it is in compliance with the consumer protection and net neutrality standards established in subsection (b) of this section.

(b) A certificate of net neutrality compliance shall be granted to an Internet service provider that demonstrates and the Secretary finds that the Internet service provider, insofar as the provider is engaged in the provision of broadband Internet access service:

(1) Does not engage in any of the following practices in Vermont:

(A) Blocking lawful content, applications, services, or nonharmful devices, subject to reasonable network management.

(B) Impairing or degrading lawful Internet traffic on the basis of Internet content, application, or service or the use of a nonharmful device, subject to reasonable network management.

(C) Engaging in paid prioritization, unless this prohibition is waived pursuant to subsection (c) of this section.

(D) Unreasonably interfering with or unreasonably disadvantaging either a customer's ability to select, access, and use broadband Internet access service or lawful Internet content, applications, services, or devices of the customer's choice or an edge provider's ability to make lawful content, applications, services, or devices available to a customer. Reasonable network management shall not be considered a violation of this prohibition.

(E) Engaging in deceptive or misleading marketing practices that misrepresent the treatment of Internet traffic or content to its customers.

(2) Publicly discloses to consumers accurate information regarding the network management practices, performance, and commercial terms of its broadband Internet access services sufficient for consumers to make informed choices regarding use of such services and for content, application, service, and device providers to develop, market, and maintain Internet offerings.

(c) The Secretary may waive the ban on paid prioritization under subdivision (b)(1)(C) of this section only if the Internet service provider demonstrates and the Secretary finds that the practice would provide some significant public interest benefit and would not harm the open nature of the Internet in Vermont.

(d) As used in this section:

(1) "Broadband Internet access service" means a mass-market retail service by wire or radio in Vermont that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service. The term also encompasses any service in Vermont that the Secretary finds to be providing a functional equivalent of the service described in this subdivision, or that is used to evade the protections established in this chapter.

(2) "Edge provider" means any person in Vermont that provides any content, application, or service over the Internet and any person in Vermont that provides a device used for accessing any content, application, or service over the Internet.

(3) "Internet service provider" or "provider" means a business that provides broadband Internet access service to any person in Vermont.

(4) "Paid prioritization" means the management of an Internet service provider's network to favor directly or indirectly some traffic over other traffic, including through the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either in exchange for consideration, monetary or otherwise, from a third party or to benefit an affiliated entity, or both.

(5) "Reasonable network management" means a practice that has a primarily technical network management justification but does not include other business practices and that is primarily used for and tailored to achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

(e) The terms and definitions of this section shall be interpreted broadly and any exceptions interpreted narrowly, using relevant Federal Communications Commission orders, advisory opinions, rulings, and regulations as persuasive guidance.

* * * Executive, Legislative, Judicial Branches; Contracts for Internet Service; Certification of Net Neutrality Compliance * * *

Sec. 3. 3 V.S.A. § 349 is added to read:

§ 349. STATE CONTRACTING; INTERNET SERVICE

The Secretary of Administration shall include in Administrative Bulletin 3.5 a requirement that State procurement contracts for broadband Internet access service, as defined in subdivision 348(d)(3) of this title, include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in section 348 of this title.

Sec. 4. 22 V.S.A. § 901 is amended to read:

§ 901. ~~DEPARTMENT OF INFORMATION AND INNOVATION~~ AGENCY OF DIGITAL SERVICES

(a) The ~~Department of Information and Innovation~~ Agency of Digital Services, created in 3 V.S.A. § 2283b, shall have all the responsibilities assigned to it by law, including the following:

* * *

(15) To ensure that any State government contract for broadband Internet access service, as defined in 3 V.S.A. § 348(d)(1), contains terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

(b) As used in this section, "State government" means the agencies of the Executive Branch of State government.

Sec. 5. 2 V.S.A. § 754 is added to read:

§ 754. CONTRACTS FOR INTERNET SERVICE

Every contract for broadband Internet access service, as defined in 3 V.S.A. § 348(d)(1), for the Legislative Branch shall include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

Sec. 6. 4 V.S.A. § 27a is added to read:

§ 27a. CONTRACTS FOR INTERNET SERVICE

Every contract to provide broadband Internet access service, as defined in 3 V.S.A. § 348(d)(1), for the Judicial Branch shall include terms and conditions requiring that the Internet service provider certify that it is in compliance with the consumer protection and net neutrality standards established in 3 V.S.A. § 348.

Sec. 7. APPLICATION; GOVERNMENT CONTRACTS

The requirements of Secs. 3–6 of this act shall apply to all government contracts for Internet service entered into or renewed on or after either April 15, 2019 or the date on which the Governor's Executive Order No. 2-18 (Internet neutrality in State procurement) is revoked and rescinded, whichever is earlier.

* * * Consumer Protection; Disclosure; Net Neutrality Compliance * * *

Sec. 8. 9 V.S.A. § 2466c is added to read:

§ 2466c. INTERNET SERVICE; NETWORK MANAGEMENT; ATTORNEY GENERAL REVIEW AND DISCLOSURE

(a) The Attorney General shall review the network management practices of Internet service providers in Vermont and, to the extent possible, make a determination as to whether the provider's broadband Internet access service complies with the open Internet rules contained in the Federal Communications Commission's 2015 Open Internet Order, "Protecting and Promoting the Open Internet," WC Docket No. 14-28, Report and Order on Remand, Declaratory Ruling and Order, 30 FCC Rcd 5601.

(b) The Attorney General shall disclose his or her findings under this section on a publicly available, easily accessible website maintained by his or her office.

* * * Net Neutrality Study; Attorney General * * *

Sec. 9. NET NEUTRALITY STUDY

On or before December 15, 2018, the Attorney General, in consultation with the Commissioner of Public Service and with input from industry and consumer stakeholders, shall submit findings and recommendations in the form of a report or draft legislation to the Senate Committees on Finance and on Economic Development, Housing and General Affairs and the House Committees on Energy and Technology and on Commerce and Economic Development reflecting whether and to what extent the State should enact net neutrality rules applicable to Internet service providers offering broadband

Internet access service in Vermont. Among other things, the Attorney General shall consider:

(1) the scope and status of federal law related to net neutrality and ISP regulation;

(2) the scope and status of net neutrality rules proposed or enacted in state and local jurisdictions;

(3) methods for and recommendations pertaining to the enforcement of net neutrality requirements;

(4) the economic impact of federal or state changes to net neutrality policy, including to the extent practicable methods for and recommendations pertaining to tracking broadband investment and deployment in Vermont and otherwise monitoring market conditions in the State;

(5) the efficacy of requiring all State agency contracts with Internet service providers to include net neutrality protections;

(6) proposed courses of action that balance the benefits to society that the communications industry brings with actual and potential harms the industry may pose to consumers; and

(7) any other factors and considerations the Attorney General deems relevant to making recommendations pursuant to this section.

* * * Connectivity Initiative; Grant Eligibility; H.581 * * *

Sec. 10. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The purpose of the Connectivity Initiative is to provide each service location in Vermont access to Internet service that is capable of speeds of at least 10 Mbps download and 1 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, "unserved" means a location having access to only satellite or dial-up Internet service and "underserved" means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload. Any new services funded in whole or in part by monies from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

(b) The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department's most recent broadband mapping data. The Department annually shall solicit proposals from service providers to deploy broadband to eligible census blocks. Funding shall be available for capital improvements only, not for operating and maintenance expenses. The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations; however, the Department also shall consider:

(1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;

(2) the price to consumers of services;

(3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;

(4) whether the proposal would use the best available technology that is economically feasible;

(5) the availability of service of comparable quality and speed; and

(6) the objectives of the State's Telecommunications Plan.

* * * Effective Date * * *

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

VIRGINIA V. LYONS
BRIAN A. CAMPION
MICHAEL D. SIROTKIN

Committee on the part of the Senate

STEPHEN A. CARR
ROBIN J. CHESNUT-TANGERMAN
LAURA H. SIBILIA

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 913.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to boards and commissions.

Was taken up for immediate consideration.

Senator Ayer, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 913. An act relating to boards and commissions.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its first and third proposals of amendment to the House proposal of amendment to the Senate proposal of amendment (regarding the Joint Information Technology Oversight Committee and its effective date) and that the House accede to the second Senate proposal of amendment to the House proposal of amendment to the Senate proposal of amendment (regarding the Labor Board Review Panel).

CLAIRE D. AYER
ALISON CLARKSON
CHRISTOPHER A. PEARSON

Committee on the part of the Senate

JOHN M. GANNON
ROBERT B. LACLAIR
MARCIA L. GARDNER

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Concurred in With an Amendment

H. 675.

Appearing on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House bill entitled:

An act relating to conditions of release prior to trial.

Was taken up for immediate consideration.

The House concurs in the Senate proposal of amendment with further amendment by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING TO SCHOOL DISCIPLINE PROBLEMS

On or before July 1, 2019, the Agency of Education shall issue guidance to all public school boards and boards of approved independent schools that sets out restorative justice principles for responding to school discipline problems. Each public school board and each board of an approved independent school shall consider this guidance and whether to adopt a policy on the use of restorative justice principles for responding to school discipline problems. The restorative justice principles contained in the Agency guidance shall be designed to:

(1) decrease the use of exclusionary discipline;

(2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual orientation, immigration status, or disability status; and

(3) provide students with the opportunity to make academic progress while suspended or expelled.

Sec. 2. IMPLEMENTATION OF RESTORATIVE JUSTICE PRINCIPLES; GRANT PROGRAM

(a) The Agency of Education shall use funding under 16 V.S.A. § 2969(c) to assist public and approved independent schools with the adoption and implementation of restorative justice principles for responding to school discipline problems. The Agency shall determine the eligibility criteria for receiving a grant and determining the grant amount, and shall monitor the use of grant monies.

(b) On or before December 1, 2018, 2019, and 2020, the Secretary of Education shall submit a written report to the House Committees on Education and on Judiciary and the Senate Committees on Education and on Judiciary describing the eligibility criteria for receiving a grant and for determining the grant amount, identifying the grant recipients and the amounts they received in grant monies, and the use of grant monies by the recipients.

(c) The sum of $250,000.00 is appropriated from the General Fund in fiscal year 2018 to be carried forward for fiscal year 2019 under 16 V.S.A. § 2969(c) for the Agency to administer the grant program in accordance with this section. The Agency is authorized to make a net-neutral appropriation transfer with education funds appropriated to the Agency in fiscal year 2018 to effectuate this one-time increase in grant funding.

Sec. 3. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

* * *

(9) "Law enforcement officer" means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 4. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than $10,000.00, or both.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to restorative justice principles in school discipline and sexual exploitation of a person in the custody of a law enforcement officer"

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment? Senator Sears moved that the Senate concur in the House proposal of amendment with further proposal of amendment as follows:

First: By adding a Sec. 4a to read as follows:

Sec. 4a. 13 V.S.A. § 1702 is amended to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person; and

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

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than $1,000.00, or both.

(c) 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.

(d)(1) A person shall not by words or conduct knowingly:

(A) threaten to use a firearm or an explosive device to harm another person in a school building, on school property, or in an institution of higher education; and

(B) as a result of the threat, place any person in reasonable apprehension of death or serious bodily injury.

(2) A person who violates this subsection shall be imprisoned not more than three years or fined not more than $5,000.00, or both.

~~(d)~~(e) As used in this section:

(1) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(2) "Threat" and "threaten" shall not include constitutionally protected activity.

(3) "Firearm" shall have the same meaning as in section 4016 of this title.

(4) "School property" shall have the same meaning as in section 4004 of this title.

~~(e)~~(f) Any person charged under this section who is under 18 years of age shall be adjudicated as a juvenile delinquent.

~~(f)~~(g) 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.

Second: By striking out Sec. 5 in its entirety and inserting in lieu thereof the following:

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage except Sec. 4a shall take effect on July 1, 2018.

Which was agreed to.

Rules Suspended; Report of Committee of Conference; Consideration Posted by Recess

H. 571.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

Was taken up for immediate consideration.

Senator McCormack, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 571. An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate's proposals of amendment and that the bill be further amended as follows:

First: In Sec. 113, 13 V.S.A. § 2143, by striking out subdivision (B) in its entirety and inserting in lieu thereof a new subdivision (B) to read:

(B)(i) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and a member of that organization may participate in, lotteries, raffles, or other games of chance in which all of the funds raised are awarded as prizes to the members who participated.

(ii) Lotteries, raffles, and other games of chance organized under this subdivision (B) shall be limited as follows:

(I) an individual who is not a member of the nonprofit organization shall not be allowed to participate;

(II) a nonprofit organization shall not offer or award any prize worth more than $500.00.

Second: In Sec. 113, 13 V.S.A. § 2143, after subdivision (d)(4) and prior to the ellipsis, by inserting the following:

(e) Games of chance shall be limited as follows:

(1) ~~All~~ Except as otherwise provided pursuant to subdivision (a)(1)(B) of this section, all proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

Third: In Sec. 115, lottery agent sales practices, in subdivision (a)(1) after the words "purchased by the owner or" by striking out the word "of"

Fourth: In Sec. 115, lottery agent sales practices, by striking out subsection (b) in its entirety and inserting a new subsection (b) to read:

(b) On or before October 1, 2018, the Commissioner shall submit a written report on the findings of the review conducted pursuant to subsection (a) of this section to the Joint Fiscal Committee. The report shall include a recommendation regarding whether a lottery sales agent, the owner or employee of a sales agent, and the members of the immediate household of a sales agent or owner or employee of a sales agent should be prohibited from purchasing lottery tickets from the agent's licensed sales location.

RICHARD J. MCCORMACK
ALISON CLARKSON
TIMOTHY R. ASHE

Committee on the part of the Senate

THOMAS S. STEVENS
TOMMY J. WALZ
DIANA E. GONZALEZ

Committee on the part of the House

Senator Ashe Assumes the Chair

President Resumes the Chair

Thereupon, on motion of Senator Ashe, the Senate recessed until the fall of the gavel.

Called to Order

The Senate was called to order by the President *pro tempore*.

Consideration Resumed; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 23, Nays 5.

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: Ayer, Balint, Baruth, Benning, Bray, Brock, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sirotkin, Soucy, Starr, White.

Those Senators who voted in the negative were: Branagan, Brooks, Campion, MacDonald, Sears.

Those Senators absent or not voting were: Ashe (presiding), Westman.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 917.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

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

Was taken up for immediate consideration.

Senator Mazza, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 917. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

Respectfully reports that it has met and considered the same and recommends that the House recede from its first, second, fourth, and fifth proposals of amendment to the Senate proposal of amendment, that the Senate accede to the House's third proposal of amendment to the Senate proposal of amendment, and that the Senate proposal of amendment be further amended as follows:

First: By striking out Sec. 5 (program development; bike & pedestrian facilities) and the reader assistance thereto in their entireties and by inserting in lieu thereof three sections, Secs. 5, 5a, and 5b, as follows:

* * * Program Development; Bike & Pedestrian Facilities * * *

Sec. 5. PROGRAM DEVELOPMENT—BIKE & PEDESTRIAN FACILITIES PROGRAM

Within the fiscal year 2019 Program Development—Bike & Pedestrian Facilities Program, the sources of funds for the Swanton—St. Johnsbury project (STP LVRT(6)) are amended as follows:

FY19	As Proposed	As Amended	Change
Sources of funds			
State	0	75,000	75,000
Local	427,274	352,274	-75,000
Federal	1,709,098	1,709,098	0
Total	2,136,372	2,136,372	0

* * * Program Development; Paving Program * * *

Sec. 5a. PROGRAM DEVELOPMENT—PAVING PROGRAM

In the fiscal year 2019 Program Development—Paving Program, in addition to the adjustments made pursuant to Sec. 8 of this act, spending authority for the Statewide—State Resurfacing (District Leveling) paving activity is increased by $75,000.00 in transportation funds.

* * * Program Development—Roadway Program * * *

Sec. 5b. PROGRAM DEVELOPMENT—ROADWAY PROGRAM

The following project is added to the development and evaluation (D&E) list of the fiscal year 2019 Program Development—Roadway Program: improvements to the intersection of VT 67A, Matteson Road, Silk Road, and College Drive in the town of Bennington. The Agency shall evaluate alternatives to improve the safety and functionality of the intersection as a result of ongoing safety issues that have been identified at this intersection over the last 10 years.

Second: By striking out Sec. 32 (signs indicating weight limits) and the reader assistance thereto in their entireties and by inserting in lieu thereof the following:

Sec. 32. [Deleted.]

Third: In Sec. 43 (effective dates), in subsection (a), by striking out "PUC investigation" and inserting in lieu thereof "PUC report", and in subsection (b), by striking out "Secs. 30–32 (town highway weight limits; signs)" and inserting in lieu thereof the following: "Secs. 30–31 (town highway weight limits)"

RICHARD T. MAZZA
RICHARD A. WESTMAN
MARGARET K FLORY

Committee on the part of the Senate

PATRICK M. BRENNAN
DAVID E. POTTER
TIMOTHY R. CORCORAN

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 919.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to workforce development.

Was taken up for immediate consideration.

Senator Kitchel, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 919. An act relating to workforce development.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Stakeholder Alignment, Coordination, and Engagement * * *

Sec. 1. FINDINGS AND INTENT

(a) Findings. The General Assembly finds:

(1) A skilled and productive workforce is critical for the economic vitality of Vermont. However, as with all states throughout New England, Vermont currently faces several key labor market challenges:

(A) Employers throughout our State are facing an extremely serious and ongoing skills gap due to the lack of qualified workers to fill a wide range of jobs across multiple sectors, today and into the future.

(B) Vermont has one of the lowest unemployment rates in the country, and there are not enough workers at all skill levels to fill current job vacancies.

(C) Many Vermonters are underemployed and require training to update their skills and find job opportunities that match their interests.

(D) Many Vermonters who are unemployed or underemployed face significant barriers to employment and require more support to overcome these barriers.

(E) Vermont youth currently access postsecondary learning at the lowest rates in New England and with significant inequities of access that are correlated with family income and background. A strategic focus on addressing equity in postsecondary learning opportunities, in alignment with workforce needs, will ensure Vermont maximizes the potential of every Vermonter to participate in the labor market.

(F) Parents, youths, and families are facing a future in which the next generation of workers may not have the same opportunities to prosper as the previous generation.

(G) Vermont has a series of fragmented workforce development programs, but not a unified workforce development system. The recently reconstituted State Workforce Development Board is central to creating such a system.

(2) A major part of the solution to these challenges lies in Vermont's building an effective and efficient State workforce development system that is a diverse public-private partnership among employers, government, and education and training providers designed to ensure that individuals have the skills businesses need.

(b) Intent. In adopting this act, it is the intent of the General Assembly:

(1) to commit to a redesign of Vermont's workforce development and training system through a concerted three-year effort led by the Commissioner of Labor in collaboration with key administration partners, the education and training communities, and other stakeholders from business and government.

(2) to create a framework for this three-year process that will result in a more coherent, efficient, and effective workforce development system within which:

(A) all Vermonters who want to work and all employers who want workers can connect, through education and training, with what they need to thrive; and

(B) stakeholders and programs, both inside and outside State government, are optimally connected and aligned.

Sec. 2. STAKEHOLDER ALIGNMENT, COORDINATION, AND ENGAGEMENT PROCESS; VISION; GOALS

(a) Stakeholder alignment, coordination, and engagement. The State Workforce Development Board, in cooperation with the Department of Labor and the Agencies of Commerce and Community Development, of Education, of Human Services, of Agriculture, Food and Markets, of Natural Resources, and of Transportation shall:

(1) conduct a stakeholder alignment, coordination, and engagement process, consistent with 20 C.F.R. §§ 679.100 and 679.130 and 10 V.S.A. § 541a, to ensure and promote better coordination and agreement around the State's vision and shared goals for meeting Vermont's 21st-century workforce education, training, recruitment, and retention needs;

(2) design the stakeholder alignment, coordination, and engagement process to inform workforce-related aspects of other State strategic plans and reports, including the Workforce Innovation and Opportunity Act State Plan, the State Economic Development Marketing Plan, and the Statewide Comprehensive Economic Development Strategy; and

(3) in the course of the stakeholder alignment, coordination, and engagement process, solicit the perspectives of job seekers, incumbent workers, employers, industry representatives, program administrators, and workforce service delivery providers.

(b) Action plan. In adopting an action plan, the State Workforce Development Board shall:

(1) on or before February 1, 2020, describe the State's collective vision and goals for workforce development, which shall serve as the basis for an action plan to revitalize Vermont's workforce development system;

(2) post online the vision, goals, and any findings or recommendations; and

(3) provide advance notice to the Chair and Vice Chair of the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs if the recommendations may require legislative action during the 2020 legislative session.

(c) Regional delivery systems. The State Workforce Development Board shall review how functions performed by local workforce investment boards, career technical education regional advisory boards, regional planning commissions, regional development corporations, and other regional economic development and workforce-related boards could be more equitably executed from region to region and recommend structures that would foster better regional collaboration, alignment, and employer participation.

(d) Information sharing. The Department of Labor, with assistance from the State Workforce Development Board, shall facilitate the sharing of information among workforce development and training-delivery organizations during and following the stakeholder alignment, coordination, and engagement process so they may stay current with initiatives and plans related to building an effective workforce development system.

(e) Board authority; permissive activities. The State Workforce Development Board may:

(1) create a workforce development social network map of workforce service delivery providers, employers, workforce program administrators, and industry representatives to:

(A) develop baseline data in conformance with the Workforce Innovation and Opportunity Act about how individuals, including new Americans, and organizations, both within and outside State government, are involved with workforce development and training around the State;

(B) analyze the relative level of connectivity of people and programs managed inside and outside State government; and

(C) identify opportunities to strengthen connectivity to achieve greater program alignment toward, and realize the Board's vision for, the State's workforce development and training system;

(2) identify the resources necessary to maintain the workforce development social network map over time and track changes in levels of connectivity and alignment across the stakeholder community;

(3) in compliance with employment and confidentiality regulations, and after reviewing currently available data and resources, collect information from:

(A) "front line" service delivery providers to understand how the current system is and is not serving the needs of job seekers and employers;

(B) employers and employees to understand the effectiveness of existing workforce programs; and

(C) past and present participants of training programs to understand whether the program met their expectations and led to a job in their field of interest or training;

(4) initiate activities to improve stakeholders' understanding concerning:

(A) the workforce development system;

(B) the Workforce Investment and Opportunity Act (Act);

(C) the role of the Board; and

(D) how the Act governs workforce development funding and policies implemented by the State;

(5) recommend strategies to improve:

(A) how employer-outreach positions in each of the State-funded field offices might be shared;

(B) what type of coordination is needed between the State-level employer-outreach staff and local workforce organizations, including staff of the regional development corporations and regional planning commissions, to better serve employers;

(C) whether establishing a One-Stop American Job Center in each region to provide comprehensive customer-driven services for employers and job seekers could better serve businesses, improve responsiveness to the needs of emerging sectors, and increase access to qualified, available workers through direct outreach and recruitment;

(D) scaling or expanding pilot projects that link experts who have career and industry knowledge directly with middle schools or high schools, or both, to foster career readiness and exploration;

(E) ways to share data and information collected from employers among parties who implement workforce development programs; and

(F) what knowledge and education employers may require better to respond to their employees as workers and as members of a family; and

(6) following the stakeholder alignment, coordination, and engagement process outlined in subsection (a) of this section, make recommendations to align relevant funding sources to promote:

(A) employer-driven workforce education and training opportunities;

(B) results-based outcomes;

(C) innovative and effective initiatives, pilots, or demonstration programs that can be scaled to the rest of the State;

(D) access to federal resources that enable more innovative programs and initiatives in Vermont;

(E) equitable access to employment and training opportunities for women and underrepresented populations in Vermont; and

(F) best practices aligned with a two-generation approach to eliminating poverty, as identified by the Vermont Work Group on Whole Family Approach to Jobs.

Sec. 3. 10 V.S.A. § 541a is amended to read:

§ 541a. STATE WORKFORCE DEVELOPMENT BOARD

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 3111, the Governor shall establish ~~a~~ the State Workforce Development Board to assist the Governor in the execution of his or her duties under the Workforce Innovation and Opportunity Act of 2014 and to assist the Commissioner of Labor as specified in section 540 of this title.

(b) Additional duties; planning; process.

(1) ~~In order to~~ To inform its ~~decision-making~~ decision making and to provide effective assistance under subsection (a) of this section, the Board shall:

~~(1)~~(A) conduct an ongoing public engagement process throughout the State that brings together employers and potential employees, including students, the unemployed, and incumbent employees seeking further training, to provide feedback and information concerning their workforce education and training needs; and

~~(2)~~(B) maintain familiarity and promote alignment with the federal, State, and regional Comprehensive Economic Development ~~Strategy (CEDS)~~ Strategies and other economic development planning processes~~,~~ and coordinate workforce and education activities in the State, including the development and implementation of the State plan required under the Workforce Innovation and Opportunity Act of 2014, with economic development planning processes occurring in the State, as appropriate.

(2) To ensure that State-funded and federally funded workforce development and training efforts are of the highest quality and aligned with the State's workforce and economic goals, the Board shall regularly:

(A) review and approve State-endorsed Career Pathways that reflect a shared vision across multiple sectors and agencies for improving

employment outcomes, meeting employers' and workers' needs, and leveraging available State and federal funding; and

(B) publicize the State-endorsed Career Pathways, including on websites managed by the Agency of Education, Department of Labor, and Department of Economic Development.

(3) The Board shall have the authority to approve State-endorsed and industry-recognized credentials and certificates, excluding high school diplomas and postsecondary academic degrees, that are aligned with the Career Pathways.

* * *

Sec. 4. RESERVATION OF FUNDS; IMPLEMENTATION

In fiscal year 2019, the Department of Labor shall reserve the amount of $40,000.00 from the Workforce Development Council Fund and the amount of $40,000.00 of federal Workforce Innovation and Opportunity Act funds reserved by the Governor for statewide workforce investment activities, subject to permissible use, to assist the State Workforce Development Board in performing the duties specified in this act.

* * * CTE and Adult Technical Education; Career Pathways * * *

Sec. 5. CAREER PATHWAYS

(a) Definition. As used in this section, "Career Pathways" means a combination of rigorous and high-quality educational, training, and other experiences and services, beginning not later than seventh grade, that:

(1) at the secondary level, integrates the academic and technical skills required for postsecondary success;

(2) is developed in partnership with business and industry and aligns with the skill needs of industries in the local, regional, and State economies;

(3) prepares an individual to transition seamlessly from secondary to postsecondary or adult technical education experiences and be successful in any of a full range of secondary, postsecondary, or adult technical education options, including registered apprenticeships;

(4) includes career counseling and work-based learning experiences to support an individual in achieving the individual's educational and career goals;

(5) includes, as appropriate, education offered concurrently with, and in the same context as, workforce preparation activities and training for a specific occupation or occupational cluster;

(6) organizes educational, training, and other experiences and services, with multiple entry and exit points along a training progression, to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(7) enables an individual to gain a secondary-school diploma or its recognized equivalent and allow postsecondary credit and industry certifications to be earned in high school; and

(8) prepares an individual to enter, or to advance within, a specific occupation or occupational cluster.

(b) Development of Career Pathways. The Agency of Education, in collaboration with the State Workforce Development Board, shall implement a process for developing Career Pathways that considers:

(1) State and local labor market demands;

(2) the recommendations of regional career technical education advisory boards or other employer-based boards;

(3) alignment with postsecondary education and training opportunities; and

(4) students' ability to gain credentials of value, dual enrollment credits, postsecondary credentials or degrees, and employment.

(c) Reporting. The Agency of Education shall report its progress in developing Career Pathways to the Board on at least an annual basis.

(d) The Board may identify opportunities to leverage Workforce Innovation and Opportunity Act funds, Carl D. Perkins Act postsecondary funds, Next Generation funds, Vermont Training Program funds, and other relevant funding to develop community-based Career Pathways that respond to local occupational demands.

Sec. 6. CAREER READINESS; CTE PILOTS

(a) Collaboration. The Agency of Education, in collaboration with the State Workforce Development Board, shall promote collaboration among middle schools and regional career technical education (CTE) centers to engage in activities including:

(1) developing and delivering introductory CTE courses or lessons to middle school students that are part of broader career education, exploration, and development programs and that are connected to Career Pathways and CTE programs, as appropriate;

(2) increasing student exposure to local career opportunities through activities such as business tours, guest lectures, career fairs, and career-awareness days; and

(3) increasing student exposure to CTE programs through activities such as tours of regional CTE centers, virtual field trips, and CTE guest visits.

(b) Pilot projects. The Agency of Education shall approve up to four pilot projects in a variety of CTE settings. These pilot projects shall propose novel ways of integrating funding for CTE and general education and new governance structures for regional CTE centers, including unified governance structures between regional CTE centers and high schools, or both. Pilot projects shall require both high school and regional CTE center involvement, and shall be designed to enhance the delivery of educational experiences to both high school students and CTE students while addressing the current competitive nature of funding CTE programs.

(1) A pilot project shall extend not longer than two years.

(2) The Agency shall establish guidelines, proposal submission requirements, and a review process to approve pilot projects.

(3) On or before January 15, 2020, the Agency shall report on the outcomes of the pilot projects to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs.

(c) Recommendation on CTE pre-tech programs. On or before January 15, 2020, the Agency of Education, in collaboration with the State Workforce Development Board, shall recommend to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development flexible and student-centered policies that support equitable access and opportunity to participate in CTE pre-tech foundation and exploratory programs for students in grades 9 and 10. This recommendation shall include building such activities into students' personalized learning plans when appropriate, so that students are exposed to a wide variety of career choices in their areas of interest. In making its recommendation, the Agency shall consider:

(1) the existing practices of regional CTE centers currently offering CTE pre-tech foundation and exploratory programs for students in grades 9 and 10;

(2) the results of the collaborative efforts made between regional CTE centers and middle schools as required under subsection (a) of this section; and

(3) the results of the pilot projects under subsection (b) of this section.

(d) Technical assistance.

(1) The Agency of Education shall provide technical assistance to schools to help them develop career education, exploration, and development, beginning in middle school, and introduce opportunities available through the regional CTE centers.

(2) The Agency of Education shall offer technical assistance so that regional CTE centers provide rigorous programs of study to students that are aligned with approved Career Pathways. Such programs of study may be combined with a registered apprenticeship program when the registered apprenticeship program is included in a student's personalized learning plan.

(3) The Agency of Education shall offer technical assistance to local education agencies to ensure that each high school student has the opportunity to experience meaningful work-based learning when included in the student's personalized learning plan, and that high schools coordinate effectively with regional CTE centers to avoid unnecessary duplication of programs of student placements and study already provided by the centers.

(e) Definition. As used in this section, "Career Pathways" shall have the same meaning as in Sec. 4 of this act.

Sec. 7. ADULT TRAINING PROGRAMS

(a) Effective use of State investments. The Department of Labor shall ensure that the State's investments in adult training programs are part of a system that is responsive to labor-market demands, provides equitable access to a broad variety of training opportunities, and provides to those jobseekers with barriers to employment the accommodations or services they need to be successful.

(b) Delivery of training programs. Training programs delivered by regional CTE centers, nonprofit and private entities, and institutions of higher education shall be included in the system.

(c) Technical assistance. The Agency of Education shall provide technical and programmatic guidance and assistance, as appropriate, to the Department of Labor to ensure alignment between secondary and postsecondary programs, policies, funding, and institutions.

Sec. 8. ADULT CAREER TECHNICAL EDUCATION

(a) Regional career technical education (CTE) centers. Vermont's regional CTE centers shall offer adult CTE programs that:

(1) develop technical courses for adults, aligned with a career pathway when possible, that support the occupational training needs of Vermonters seeking to up-skill, re-skill, and obtain credentials leading to employment;

(2) ensure that new and existing training responds to local or Statewide labor market demands;

(3) coordinate with State and regional partners, including other CTE centers, high schools, postsecondary educational institutions, and private training providers, to ensure quality, consistency, efficiency, and efficacy of State and federally funded training opportunities;

(4) support expansion of adult work-based learning experiences, such as registered apprenticeships, by providing related instruction, as appropriate; and

(5) maximize use of federal and State funds by aligning with the State's goals, priorities, and strategies outlined in Vermont's Workforce Innovation and Opportunity Act Unified plan.

(b) Evaluation of technical and occupational training. The State Workforce Development Board shall review how technical and occupational training is delivered to adults throughout the State and consider how adult CTE programs, delivered through the regional CTE centers, contribute to this system. The Board shall make recommendations on:

(1) staffing levels and structures that best support a strong adult technical education system;

(2) optimal hours of operation and facility availability for adult programs; and

(3) any other issues it finds relevant to enhancing support for adult technical education.

(c) Reporting. On or before January 15, 2019, the Board shall report its findings and recommendations to the House Committee on Commerce and Economic Development, the Senate Committees on Economic Development, Housing and General Affairs, and the House and Senate Committees on Education.

(d) Partnering with employers. Nothing in this section shall prevent an adult CTE program or regional CTE center from partnering directly with employers to design and deliver programs meeting specific needs of employers or provide additional courses that meet a State or community need.

(e) Definition. As used in this section, "Career Pathways" shall have the same meaning as in Sec. 4 of this act.

* * * Workforce Training * * *

Sec. 9. STRENGTHENING AND ALIGNING WORKFORCE TRAINING PROGRAMS

The State Workforce Development Board shall:

(1) promote the creation of registered apprenticeship programs, pre-apprenticeship programs, paid internships, occupational trainings, and other work-based and on-the-job learning opportunities that lead to industry-recognized certificates and credentials;

(2) consider ways to meet employers' immediate and long-term employment needs in a variety of ways that can include:

(A) expanding the number and diversity of employer-sponsored registered apprenticeships;

(B) promoting the development of and access to preapprenticeship programs in high schools and career and technical education centers;

(C) engaging Vermont's colleges and universities in delivering the related instructional components of registered apprenticeship programs;

(D) expanding the number of internships and returnships available in current and new sectors;

(E) developing partnerships and alignment between training programs offered in correctional facilities and those offered in business or community settings; and

(F) developing registered apprenticeship programs that guarantee offers of continued employment or consideration for future employment upon completion of the program;

(3) create a process for identifying, monitoring, and evaluating occupational trainings and industry-recognized credentials, which may include a mechanism for endorsing programs that offer credentials or certificates in order to facilitate targeted investments in programs that meet industry needs, ensuring that:

(A) business and industry are participants and are engaged early in the process;

(B) the credential review process involves relevant stakeholders;

(C) credentials are differentiated based on rigor and industry demand; and

(D) systems are designed to be responsive to the changing needs of industry;

(4) create and periodically review publicly available documents that list:

(A) current industry-recognized, State-recognized, and federally recognized credentials;

(B) the requirements to obtain these credentials;

(C) training programs that lead to these credentials; and

(D) the cost of training and educational programs required to obtain the credential; and

(5) work with the Office of Professional Regulation:

(A) to increase recognition of professional skills and credentialing across states; and

(B) to support professional paths that involve more than one industry-recognized, State-recognized, or federally recognized credential and rules adopted by the Office.

Sec. 10. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

* * *

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce Development Board, shall develop award criteria and may grant awards to the following:

* * *

(2) Vermont ~~Strong~~ Internship Program. Funding for eligible internship programs and activities under the Vermont ~~Strong~~ Internship Program established in section 544 of this title.

(3) Vermont Returnship Program. Funding for eligible returnship programs and activities under the Vermont Returnship Program established in section 545 of this title.

(4) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

~~(4)~~(5) Career Focus and Planning programs. In collaboration with the Agency of Education, funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

(g) Career Pathways. Programs that are funded under this section resulting in a credit, certificate, or credential shall demonstrate alignment with a Career Pathway.

(h) Expanding offerings. A regional career and technical education center that develops an adult technical education program of study using funding under this section shall:

(1) make the program materials available to other regional career and technical education centers and adult technical education programs;

(2) to the extent possible, align the program with subsequent programs offered through the Vermont State College System, the University of Vermont and State Agricultural College, or an accredited independent college located in Vermont; and

(3) respond to current or projected occupational demands.

* * * Growing the Workforce and Increasing Workforce Participation * * *

Sec. 11. 10 V.S.A. § 544 is amended to read:

§ 544. VERMONT ~~STRONG~~ INTERNSHIP PROGRAM

(a)(1) The Department of Labor, in consultation with the Agency of Education, shall develop, and the Department shall implement, a statewide Vermont ~~Strong~~ Internship Program for students who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont ~~Strong~~ Internship Program may be used to build and administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that:

(A) do not replace or supplant existing positions;

(B) expose students to the workplace or create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate participants through work-based learning opportunities with Vermont employers;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; or

(F) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) As used in this section, "internship" means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, State-funded postsecondary educational institutions, the State Workforce Development Board, and other State agencies and departments that have workforce education and training and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont ~~Strong~~ Internship Program;

(2) collect data and establish program goals and performance measures that demonstrate program results for internship programs funded through the Vermont ~~Strong~~ Internship Program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the State in the Internship Program to expand internship opportunities with State government and with entities awarded State contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the State.

Sec. 12. 10 V.S.A. § 545 is added to read:

§ 545. VERMONT RETURNSHIP PROGRAM

(a) As used in this section, "returnship" means an on-the-job learning experience working with an employer where an individual may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these for an individual who is returning to the workforce after an extended absence or are seeking a limited-duration on-the-job work experience in a different occupation or occupational setting.

(b)(1) The Department of Labor shall develop and implement the statewide Vermont Returnship Program.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for returnship programs and opportunities that match experienced workers with Vermont employers.

(3) Funding awarded through the Program may be used to build and administer coordinated and cohesive programs and to provide participants with a stipend during the returnship, based on need. Funds may be made available only to programs or projects that:

(A) do not replace or supplant existing positions;

(B) expose individuals to real and meaningful workplace experiences;

(C) provide a process that measures progress toward mastery of hard and soft professional skills and other factors that indicate a likelihood of success in the workplace;

(D) are designed to motivate and educate participants through work-based learning opportunities with Vermont employers; or

(E) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for individuals to continue to work and live in Vermont.

(c) The Department of Labor shall:

(1) identify new and existing funding sources that may be allocated to the Program;

(2) collect data and establish program goals and performance measures that demonstrate program results for returnship programs funded through the Program;

(3) engage appropriate agencies and departments of the State in the Program to expand returnship opportunities within State government and with entities awarded State contracts; and

(4) work with other public and private entities to develop and enhance returnship programs, opportunities, and activities throughout the State.

Sec. 13. VERMONT RETURNSHIP PROGRAM; APPROPRIATION

The amount of $100,000.00 is appropriated from the General Fund in fiscal year 2018 to the Department of Labor, to be carried forward for fiscal year 2019 and used for the Vermont Returnship Program created in 10 V.S.A. § 545.

Sec. 14. GROWING THE SIZE AND QUALITY OF THE WORKFORCE

(a) Increasing participation. The Department of Labor and the Agencies of Commerce and Community Development, of Education, and of Human Services, in partnership with the State Workforce Development Board, shall:

(1) increase Vermonters' labor force participation by creating multitiered engagement, training, and support activities that help working-age Vermonters who are able to participate or to participate to a greater degree in the workforce;

(2) recruit and relocate new workers and employers to Vermont; and

(3) assist businesses in locating and retaining qualified workers.

(b) Methods. The Department of Labor and the Agencies of Commerce and Community Development, of Education, and of Human Services shall:

(1) engage regional and statewide stakeholders, including regional CTE centers, regional development corporations, and regional planning commissions, to identify needs and strategies, and define success;

(2) identify targets and methods of recruitment, relocation, retraining, and retention;

(3) leverage resources available in current State and federal programs to support more workers from within and outside Vermont entering and staying in the Vermont workforce;

(4) create metrics for tracking the success of outreach efforts and economic impact; and

(5) develop policies and identify tools that support a two-generation approach to successful employment, addressing the needs of children in the lives of working adults.

(c) Board authority; identifying potential incentives. The State Workforce Development Board may identify incentives to enable and encourage targeted populations to participate in the labor force, including unemployment insurance waivers, income tax reductions, exemption of State tax on Social Security, housing and transportation vouchers, greater access to mental health and addiction treatment, and tuition and training reimbursements. The Board shall notify the House Committees on Commerce and Economic Development and on Human Services of any findings or recommendations, as appropriate.

Sec. 15. 10 V.S.A. § 540 is amended to read:

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State~~,~~ and shall have the authority and responsibility for the

coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Development Board:

* * *

(G) design and implement criteria and performance measures for workforce education and training activities; ~~and~~

(H) establish goals for the integrated workforce education and training system; and

(I) with the assistance of the Secretaries of Commerce and Community Development, of Human Services, of Education, of Agriculture, Food and Markets, and of Transportation and of the Commissioner of Public Safety, develop and implement a coordinated system to recruit, relocate, and train workers to ensure the labor force needs of Vermont's businesses are met.

* * *

(8) Coordinate intentional outreach and connections between students graduating from Vermont's colleges and universities and employment opportunities in Vermont.

* * *

Sec. 16. VERMONT TALENT PIPELINE MANAGEMENT PROJECT

(a)(1) The Vermont Talent Pipeline Management Project (VTPM) is a statewide public and private partnership among the Agency of Commerce and Community Development, Brattleboro Development Credit Corporation, Franklin/Grand Isle Workforce Investment Board, Lake Champlain Regional Chamber of Commerce, and Vermont Business Roundtable that is also informed by resource partners, including the Agency of Education, Department of Labor, Greater Burlington Industrial Corporation, State Workforce Development Board, Vermont Chamber of Commerce, and Vermont Student Assistance Corporation.

(2) The Project is an employer-oriented strategy that expands the role of employers as end customers of the education and workforce systems. The Project seeks to improve the employability of Vermonters and the alignment of employers' needs with education and workforce development and training programs.

(b) The Agency of Education, Department of Labor, State Workforce Development Board, and Vermont Talent Pipeline Management Project may collaborate to support the development, scale-up, funding, and roll out of

Career Pathways across appropriate sectors, businesses of various size, and regions of the State.

* * * Accountability; Data Collection and Monitoring; Reporting * * *

Sec. 17. RESULTS-BASED MONITORING AND DATA COLLECTION

(a)(1) The Department of Labor, with the assistance of the Government Accountability Committee and the State Workforce Development Board, shall develop a framework to evaluate workforce education, training, and support programs and services.

(2) The Department shall apply the framework to the State's workforce system inventory and shall distinguish programs and services based on method of delivery, customer, program administrator, goal, or other appropriate category.

(3) The framework shall:

(A) establish population-level indicators based on desired outcomes for the workforce development delivery system;

(B) along with workforce development social network mapping work that the Board may pursue, support program and service alignment of State-grant-funded projects with the State Workforce Innovation and Opportunity Act Plan;

(C) align with the Board's vision;

(D) note performance measures that already exist in the workforce system and identify where State-specific measures would help monitor progress in achieving the State's goals; and

(E) identify gaps in service delivery and areas of duplication in services.

(b) The State Workforce Development Board shall:

(1) consider whether the information and data currently collected and reported throughout the workforce development system are useful;

(2) identify what information and data are not available or not readily accessible;

(3) make its findings publicly available; and

(4) recommend a process to improve the collection and reporting of data.

(c) The State Workforce Development Board may:

(1) create a process and a timeline to collect program-level data for the purposes of updating the State's workforce system inventory and use a data-driven process to evaluate the current workforce service delivery system;

(2) develop tools for program and service delivery providers that support continuous improvement using data-driven decision making, common information-sharing systems, and a customer-focused service delivery system; and

(3) review methods of engaging employers and evaluate data-related and other tools available to employers to facilitate their access to and retention of workers.

Sec. 18. REPORTING

(a) On or before January 15, 2019, the State Workforce Development Board shall submit to the House Committee on Commerce and Economic Development, the Senate Committee on Economic Development, Housing and General Affairs, and the House and Senate Committees on Education a report that specifically addresses the implementation of each section of this act.

(b) On or before January 15, 2019, the Department of Labor, in collaboration with the Agency of Education and the State Workforce Development Board, shall report to the House Committee on Commerce and Economic Development, the Senate Committee on Economic Development, Housing and General Affairs, and the House and Senate Committees on Education concerning:

(1) how to encourage more businesses to offer apprenticeships;

(2) how to encourage more labor force participation in apprenticeships; and

(3) of the myriad federal and private apprenticeship opportunities available, what additional opportunities in what industry sectors should be offered or enhanced in Vermont.

* * * WIOA Youth Funds * * *

Sec. 19. PROCESS FOR AWARDING WIOA YOUTH FUNDS

(a) On or before December 1, 2018, the Department of Labor shall review the current delivery of youth workforce investment activities funded by WIOA Youth Funds and consider whether more youth might be better served through awards or grants to youth service providers, consistent with section 123 of the federal Workforce Innovation and Opportunity Act.

(b)(1) If the Department decides not to provide directly some or all of the youth workforce investment activities, the State Workforce Development

Board shall award grants or contracts for specific elements or activities on a competitive basis, consistent with 20 C.F.R. § 681.400.

(2) The providers of youth services shall meet criteria established in the State Plan and be able to meet performance accountability measures for the federally established primary indicators of performance for youth programs.

* * * Workforce Development in Particular Sectors;
Television and Film Production * * *

Sec. 20. WORKFORCE DEVELOPMENT; FILM AND TELEVISION TRADES

(a) The Vermont Department of Labor, in partnership with the Vermont Film Institute, Vermont Technical College, and local institutes of higher education shall explore and pursue opportunities to access current federal ApprenticeshipUSA funds to develop and offer registered apprenticeships in the film and television production trades industry, including electrical work, lighting, set building, and art direction.

(b) Related instruction that is developed and administered as part of a registered apprenticeship program shall also provide the registered apprentice with college credit that is recognized by an accredited post-secondary institution in Vermont.

(c) The Department of Labor, in partnership with the Agency of Education, Agency of Commerce and Community Development, and the regional CTE centers shall:

(1) promote other work-based learning experiences, including internships, job shadowing, returnships, and on-the-job training, in the film and television production trades industry;

(2) build connections with and among industry professionals; and

(3) conduct outreach to middle school, high school, and postsecondary students.

* * * Workforce Development in Particular Sectors;
Green Energy and Technology * * *

Sec. 21. WORKFORCE DEVELOPMENT; GREEN ENERGY AND TECHNOLOGY

The Department of Labor, in partnership with the Agency of Education, the Agency of Commerce and Community Development, the Agency of Natural Resources, and interested stakeholders, shall:

(1) develop Career Pathways, beginning in middle school, that lead to employment in the green energy sector;

(2) work with employers in the green energy sector to explore opportunities to create registered apprenticeships,

(3) identify certifications and credentials that support workforce expansion in the green energy sector; and

(4) collaborate, to the extent possible, to create, fund, and offer instruction that leads to industry recognized credentials in the green energy sector.

* * * Effective Date * * *

Sec. 23. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

M. JANE KITCHEL
ALISON CLARKSON
ALICE W. NITKA

Committee on the part of the Senate

WILLIAM G. F. BOTZOW
MICHAEL J. MARCOTTE
JANET ANCEL

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 593.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to miscellaneous consumer protection provisions.

Was taken up for immediate consideration.

Senator Sirotkin, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 593. An act relating to miscellaneous consumer protection provisions.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment to the Senate proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Automatic Renewal Provisions in Consumer Contracts * * *

Sec. 1. 9 V.S.A. § 2454a is added to read:

§ 2454a. CONSUMER CONTRACTS; AUTOMATIC RENEWAL

(a) A contract between a consumer and a seller or a lessor with an initial term of one year or longer that renews for a subsequent term that is longer than one month shall not renew automatically unless:

(1) the contract states clearly and conspicuously the terms of the automatic renewal provision in plain, unambiguous language in bold-face type;

(2) in addition to accepting the contract, the consumer takes an affirmative action to opt in to the automatic renewal provision; and

(3) if the consumer opts in to the automatic renewal provision, the seller or lessor provides a written or electronic notice to the consumer:

(A) not less than 30 days and not more than 60 days before the earliest of:

(i) the automatic renewal date;

(ii) the termination date; or

(iii) the date by which the consumer must provide notice to cancel the contract; and

(B) that includes:

(i) the date the contract will terminate and a clear statement that the contract will renew automatically unless the consumer cancels the contract on or before the termination date;

(ii) the length and any additional terms of the renewal period;

(iii) one or more methods by which the consumer can cancel the contract; and

(iv) contact information for the seller or lessor.

(b) A person who violates a provision of subsection (a) of this section commits an unfair and deceptive act in commerce in violation of section 2453 of this title.

(c) The provisions of this section do not apply to:

(1) a contract between a consumer and a financial institution, as defined in 8 V.S.A. § 11101, or between a consumer and a credit union, as defined in 8 V.S.A. § 30101; or

(2) a contract for insurance, as defined in 8 V.S.A. § 3301a.

Sec. 2. AUTOMATIC RENEWAL OF CONTRACTS; APPLICABILITY TO EXISTING CONTRACTS

(a) A contract between a consumer and a seller or lessor in effect on July 1, 2019 with an initial term of one year or longer that renews for a subsequent term that is longer than one month shall not renew automatically unless the seller or lessor sends written or electronic notice to the consumer with the information required in 9 V.S.A. § 2454a(a)(3)(B):

(1) not less than 30 days and not more than 60 days before the earliest of:

(A) the automatic renewal date;

(B) the termination date; or

(C) the date by which the consumer must provide notice to cancel the contract; or

(2) if the contract will automatically renew on or before July 31, 2019, then as soon as is commercially reasonable after this section takes effect.

(b) The Attorney General shall have the same authority to enforce this section as set forth in 9 V.S.A. § 2454a.

(c) The provisions of this section do not apply to:

(1) a contract between a consumer and a financial institution, as defined in 8 V.S.A. § 11101, or between a consumer and a credit union, as defined in 8 V.S.A. § 30101; or

(2) a contract for insurance, as defined in 8 V.S.A. § 3301a.

* * * Retainage of Payment for Construction Materials * * *

Sec. 3. 9 V.S.A. § 4005 is amended to read:

§ 4005. RETAINAGE

(a) If payments under a construction contract are subject to retainage, any amounts ~~which~~ that have been retained during the performance of the contract

and ~~which~~ that are due to be released to the contractor upon final completion shall be paid within 30 days after final acceptance of the work.

(b) If an owner is not withholding retainage, a contractor or subcontractor may withhold retainage from its subcontractor in accordance with their agreement. The retainage shall be paid within 30 days after final acceptance of the work.

(c) Notwithstanding any contrary agreement, a contractor shall pay to its subcontractors, and each subcontractor shall in turn pay to its subcontractors, within seven days after receipt of the retainage, the full amount due to each such subcontractor.

(d) If an owner, contractor, or subcontractor unreasonably withholds acceptance of the work or fails to pay retainage as required by this section, the owner, contractor, or subcontractor shall be subject to the interest, penalty, and attorney's fees provisions of sections 4002, 4003, and 4007 of this title.

(e) Notwithstanding any provision of this section or an agreement to the contrary, except in the case of a contractor or subcontractor who is both a materialman who delivers materials and is contracted to perform work using those materials, a contractor or subcontractor shall not hold retainage for contracted materials that:

(1) have been delivered by a materialman and accepted by the contractor at the site or off site; and

(2) are covered by a manufacturer's warranty or graded to meet industry standards, or both.

* * * Credit Protection for Vulnerable Persons * * *

Sec. 4. 9 V.S.A. § 2480a is amended to read:

§ 2480a. DEFINITIONS

~~For purposes of~~ As used in this subchapter and subchapter 9 of this chapter:

(1) "Consumer" means a natural person ~~residing in this State~~ other than a protected consumer.

(2) "Consumer who is subject to a protected consumer security freeze" means a natural person:

(A) for whom a credit reporting agency placed a security freeze under section 2480h of this title; and

(B) who, on the day on which a request for the removal of the security freeze is submitted under section 2480h of this title, is not a protected consumer.

~~(2)~~(3) "Credit report" means ~~any written, oral, or other communication of any information by a credit reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, including an investigative credit report. The term does not include:~~

~~(A) a report containing information solely as to transactions or experiences between the consumer and the person making the report; or~~

~~(B) an authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device~~ a consumer report, as defined in 15 U.S.C. § 1681a, that is used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit for personal, family, or household purposes.

~~(3)~~(4) "Credit reporting agency" or "agency" means ~~any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of reporting to third parties on the credit rating or creditworthiness of any consumer~~ a person who, for fees, dues, or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating information concerning a consumer's credit or other information for the purpose of furnishing a credit report to another person.

(5) "File" shall have the same meaning as in 15 U.S.C. § 1681a.

~~(4)~~(6) "Identity theft" means the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property.

(7) "Incapacitated person" shall have the same meaning as in 14 V.S.A. § 3152.

~~(5)~~(8) "Investigative credit report" means a report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom the consumer is acquainted or who may have knowledge concerning any such items of information. The term does not include reports of specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a credit reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(9)(A) "Personal information" means personally identifiable financial information:

(i) provided by a consumer to another person;

(ii) resulting from any transaction with the consumer or any service performed for the consumer; or

(iii) otherwise obtained by another person.

(B) "Personal information" does not include:

(i) publicly available information, as that term is defined by the regulations prescribed under 15 U.S.C. § 6804; or

(ii) any list, description, or other grouping of consumers and publicly available information pertaining to the consumers that is derived without using any nonpublic personal information.

(C) Notwithstanding subdivision (B) of this subdivision (11), "personal information" includes any list, description, or other grouping of consumers and publicly available information pertaining to the consumers that is derived using any nonpublic personal information other than publicly available information.

(10) "Proper authority" means:

(A) in the case that it is required of a protected consumer's representative:

(i) sufficient proof of identification of the protected consumer;

(ii) sufficient proof of identification of the protected consumer's representative; and

(iii) sufficient proof of authority to act on behalf of the protected consumer; and

(B) in the case that it is required of a consumer who is subject to a protected consumer security freeze:

(i) sufficient proof of identification of the consumer who is subject to a protected consumer security freeze; and

(ii) proof that the consumer who is subject to a protected consumer security freeze is not a protected consumer.

~~(6)~~(11) "Proper identification~~,~~" ~~as used in this subchapter, means that information generally deemed sufficient to identify a person~~ shall have the same meaning as in 15 U.S.C. § 1681h(a)(1), and includes:

(A) the consumer's full name, including first, last, and middle names and any suffix;

(B) any name the consumer previously used;

(C) the consumer's current and recent full addresses, including street address, any apartment number, city, state, and zip code;

(D) the consumer's Social Security number; and

(E) the consumer's date of birth.

(12) "Protected consumer" means a natural person who, at the time a request for a security freeze is made, is:

(A) under 16 years of age;

(B) an incapacitated person; or

(C) a protected person.

(13) "Protected consumer security freeze" means:

(A) if a consumer reporting agency does not have a file that pertains to a protected consumer, a restriction that:

(i) is placed on the protected consumer's record in accordance with this subchapter; and

(ii) except as otherwise provided in this subchapter, prohibits the consumer reporting agency from releasing the protected consumer's record; or

(B) if a consumer reporting agency has a file that pertains to the protected consumer, a restriction that:

(i) is placed on the protected consumer's credit report in accordance with this subchapter; and

(ii) except as otherwise provided in this subchapter, prohibits the consumer reporting agency from releasing the protected consumer's credit report or any information derived from the protected consumer's credit report.

(14) "Protected person" shall have the same meaning as in 14 V.S.A. § 3152.

(15) "Record" means a compilation of information that:

(A) identifies a protected consumer;

(B) is created by a consumer reporting agency solely for the purpose of complying with this section; and

(C) may not be created or used to consider the protected consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(16) "Representative" means a person who provides to a consumer reporting agency sufficient proof of authority to act on behalf of a protected consumer.

~~(7)~~(17) "Security freeze" means a notice placed in a credit report, at the request of the consumer, pursuant to section 2480h of this title.

(18) "Sufficient proof of authority" means documentation that shows that a person has authority to act on behalf of a protected consumer, including:

(A) a birth certificate;

(B) a court order;

(C) a lawfully executed power of attorney; or

(D) a written, notarized statement signed by the person that expressly describes the person's authority to act on behalf of the protected consumer.

(19) "Sufficient proof of identification" means information or documentation that identifies a protected consumer or a representative, including:

(A) a Social Security number or a copy of a Social Security card issued by the U.S. Social Security Administration;

(B) a certified or official copy of a birth certificate; or

(C) a copy of a government-issued driver's license or identification card.

Sec. 5. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Credit Protection for Minors

§ 2483. APPLICABILITY

This subchapter does not apply to the use of a protected consumer's credit report or record by:

(1) a person administering a credit file monitoring subscription service to which:

(A) the protected consumer has subscribed; or

(B) the protected consumer's representative has subscribed on the protected consumer's behalf;

(2) a person who, upon request from the protected consumer or the protected consumer's representative, provides the protected consumer or the protected consumer's representative with a copy of the protected consumer's credit report;

(3) a check services or fraud prevention services company that issues:

(A) reports on incidents of fraud; or

(B) authorization for the purpose of approving or processing negotiable instruments, electronic funds transfers, or similar payment methods;

(4) a deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar information regarding an individual to inquiring banks or other financial institutions for use only in reviewing an individual's request for a deposit account at the inquiring bank or financial institution;

(5) an insurance company for the purpose of conducting the insurance company's ordinary business;

(6) a consumer reporting agency that:

(A) only resells credit information by assembling and merging information contained in a database of another consumer reporting agency or multiple consumer reporting agencies; and

(B) does not maintain a permanent database of credit information from which new credit reports are produced; or

(7) a consumer reporting agency's database or file that consists of information that:

(A) concerns and is used for:

(i) criminal record information;

(ii) fraud prevention or detection;

(iii) personal loss history information; or

(iv) employment, tenant, or individual background screening; and

(B) is not used for credit granting purposes.

§ 2483a. SECURITY FREEZE FOR PROTECTED CONSUMER; TIME IN EFFECT

(a) A consumer reporting agency shall place a security freeze for a protected consumer if the protected consumer's representative submits a request, including proper authority, to the address and in the manner specified by the consumer reporting agency.

(b) If a consumer reporting agency does not have a file that pertains to a protected consumer when the consumer reporting agency receives a request described in subsection (a) of this section, the consumer reporting agency shall create a record for the protected consumer.

(c) The credit reporting agency shall:

(1) place a security freeze not later than 30 days after the date the agency receives a request pursuant to subsection (a) of this section; and

(2) not later than 10 business days after placing the freeze:

(A) send a written confirmation of the security freeze to the protected consumer or the protected consumer's representative; and

(B) provide a unique personal identification number or password, other than a Social Security number, or another method of authentication that is equally or more secure than a PIN or password, to be used to authorize the release of the protected consumer's credit for a specific party, parties, or period of time.

(d)(1) A credit reporting agency shall lift temporarily a protected consumer security freeze to allow access by a specific party or parties or for a specific period of time, upon a request from the protected consumer's representative.

(2) The protected consumer's representative shall submit the request to the address and in the manner specified by the consumer reporting agency.

(3) The request shall include:

(A) proper authority; and

(B) the unique personal identification number, password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section.

(e) A credit reporting agency may develop procedures involving the use of telephone, fax, the Internet, or other electronic media to receive and process a request to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section in an expedited manner.

(f) A credit reporting agency that receives a request to lift temporarily a freeze on a credit report pursuant to subsection (d) of this section shall comply with the request not later than three business days after receiving the request.

(g) A credit reporting agency shall remove or lift temporarily a freeze placed on a protected consumer's credit report only in the following cases:

(1) Upon request, pursuant to subsection (d) or (j) of this section.

(2) If the protected consumer's credit report was frozen due to a material misrepresentation of fact by the protected consumer or by his or her representative. If a credit reporting agency intends to remove a freeze upon a protected consumer's credit report pursuant to this subdivision, the credit reporting agency shall notify the protected consumer and his or her representative in writing prior to removing the freeze on the consumer's credit report.

(h) If a third party requests access to a credit report on which a protected consumer security freeze is in effect and this request is in connection with an application for credit or any other use and neither the consumer subject to the protected consumer security freeze nor the protected consumer's representative allows the credit report to be accessed for that specific party or period of time, the third party may treat the application as incomplete.

(i) A credit reporting agency that receives a request to place a protected consumer security freeze pursuant to this section shall disclose to the protected consumer and his or her representative the process of placing and lifting temporarily a security freeze and the process for allowing access to information from the protected consumer's credit report for a specific party, parties, or period of time while the protected consumer security freeze is in place.

(j)(1) A protected consumer security freeze shall remain in place until the credit reporting agency receives a request to remove the freeze from:

(A) the protected consumer's representative; or

(B) the consumer who is subject to the protected consumer security freeze.

(2) A credit reporting agency shall remove a protected consumer security freeze within three business days after receiving a proper request for removal.

(3) The party requesting the removal of a protected consumer security freeze pursuant to subdivision (1) of this subsection shall submit the request to the address and in the manner specified by the consumer reporting agency.

(4) The request shall include:

(A) proper authority; and

(B) the unique personal identification number, password, or other method of authentication provided by the credit reporting agency pursuant to subsection (c) of this section.

(k) A credit reporting agency shall require proper identification of the person making a request to place or remove a protected consumer security freeze.

(l) The provisions of this section, including the protected consumer security freeze, do not apply to the use of a consumer report by the following:

(1) A person, or the person's subsidiary, affiliate, agent, or assignee with which the protected consumer has or, prior to assignment, had an account, contract, or debtor-creditor relationship for the purposes of reviewing the

account or collecting the financial obligation owing for the account, contract, or debt, or extending credit to a consumer with a prior or existing account, contract, or debtor-creditor relationship, subject to the requirements of section 2480e of this title. As used in this subdivision, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements.

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom access has been granted under subsection (d) of this section for purposes of facilitating the extension of credit or other permissible use.

(3) Any person acting pursuant to a court order, warrant, or subpoena.

(4) The Office of Child Support when investigating a child support case pursuant to Title IV-D of the Social Security Act (42 U.S.C. §§ 651–669b) and 33 V.S.A. § 4102.

(5) The Economic Services Division of the Department for Children and Families or the Department of Vermont Health Access or its agents or assignees acting to investigate welfare or Medicaid fraud.

(6) The Department of Taxes, municipal taxing authorities, or the Department of Motor Vehicles or any of their agents or assignees acting to investigate or collect delinquent taxes or assessments, including interest and penalties or unpaid court orders, or to fulfill any of their other statutory or charter responsibilities.

(7) A person's use of credit information for the purposes of prescreening as provided by the federal Fair Credit Reporting Act.

(8) Any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed.

(9) A credit reporting agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer's request.

(10) Any property and casualty insurance company for use in setting or adjusting a rate or underwriting for property and casualty insurance purposes.

§ 2483b. FEES

A consumer reporting agency shall not charge a fee for any service performed under this subchapter.

* * * Use of Credit Information for Personal Insurance * * *

Sec. 6. 8 V.S.A. § 4727 is added to read:

§ 4727. PERSONAL INSURANCE; USE OF CREDIT INFORMATION

(a) Purpose. The purpose of this section is to regulate the use of credit information for personal insurance so that consumers are afforded certain

protections with respect to the use of such information.

(b) Scope. This section applies to personal insurance and not to commercial insurance. As used in this section, "personal insurance" means private passenger automobile, homeowners, motorcycle, mobile home owners, and noncommercial dwelling fire insurance policies. Such policies must be underwritten for personal, family, or household use. No other types of insurance shall be included as personal insurance for the purpose of this section.

(c) Definitions. As used in this section:

(1) "Adverse action" means a denial or cancellation of, an increase in any charge for, or a reduction or other adverse or unfavorable change in the terms of coverage or amount of, any insurance, existing or applied for, in connection with the underwriting of personal insurance.

(2) "Affiliate" means any company that controls, is controlled by, or is under common control with another company.

(3) "Applicant" means an individual who has applied to be covered by a personal insurance policy with an insurer.

(4) "Consumer" means an insured whose credit information is used or whose insurance score is calculated in the underwriting or rating of a personal insurance policy or an applicant for such a policy.

(5) "Consumer reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

(6) "Credit information" means any credit-related information derived from a credit report, found on a credit report itself, or provided on an application for personal insurance. Information that is not credit-related shall not be considered "credit information," regardless of whether it is contained in a credit report or in an application or is used to calculate an insurance score.

(7) "Credit report" means any written, oral, or other communication of information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, or credit capacity that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor to determine personal insurance premiums, eligibility for coverage, or tier placement.

(8) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole

or in part on credit information for the purposes of predicting the future insurance loss exposure of an individual applicant or insured.

(d) Use of credit information. An insurer authorized to do business in this State that uses credit information to underwrite or rate risks shall not:

(1) Use an insurance score that is calculated using income, gender, address, zip code, ethnic group, religion, marital status, or nationality of the consumer as a factor.

(2) Deny, cancel, or nonrenew a policy of personal insurance solely on the basis of credit information without consideration of any other applicable underwriting factor independent of credit information and not expressly prohibited by subdivision (1) of this subsection.

(3) Base an insured's renewal rates for personal insurance solely upon credit information without consideration of any other applicable factor independent of credit information.

(4) Take an adverse action against a consumer solely because he or she does not have a credit card account without consideration of any other applicable factor independent of credit information.

(5) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance unless the insurer does one of the following:

(A) treats the consumer as otherwise approved by the Commissioner if the insurer presents information that such an absence or inability relates to the risk for the insurer;

(B) treats the consumer as if the applicant or insured had neutral credit information, as defined by the insurer; or

(C) excludes the use of credit information as a factor and uses only other underwriting criteria.

(6) Take an adverse action against a consumer based on credit information unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the policy is first written or renewal is issued.

(7) Use credit information unless not later than every 36 months following the last time that the insurer obtained current credit information for the insured, the insurer recalculates the insurance score or obtains an updated credit report. Regardless of the requirements of this subsection:

(A) At annual renewal, upon the request of a consumer or the consumer's agent, the insurer shall reunderwrite and rerate the policy based

upon a current credit report or insurance score. An insurer need not recalculate the insurance score or obtain the updated credit report of a consumer more frequently than once in a 12-month period.

(B) The insurer shall have the discretion to obtain current credit information upon any renewal before the 36 months if consistent with its underwriting guidelines.

(C) No insurer need obtain current credit information for an insured, despite the requirements of subdivision (A) of this subdivision (7), if one of the following applies:

(i) The insurer is treating the consumer as otherwise approved by the Commissioner.

(ii) The insured is in the most favorably priced tier of the insurer within a group of affiliated insurers. However, the insurer shall have the discretion to order such report if consistent with its underwriting guidelines.

(iii) Credit was not used for underwriting or rating such insured when the policy was initially written. However, the insurer shall have the discretion to use credit for underwriting or rating such insured upon renewal if consistent with its underwriting guidelines.

(iv) The insurer reevaluates the insured beginning not later than 36 months after inception and thereafter based upon other underwriting or rating factors, excluding credit information.

(8) Use the following as a negative factor in any insurance scoring methodology or in reviewing credit information for the purpose of underwriting or rating a policy of personal insurance:

(A) credit inquiries not initiated by the consumer or inquiries requested by the consumer for his or her own credit information;

(B) inquiries relating to insurance coverage, if so identified on a consumer's credit report;

(C) collection accounts with a medical industry code, if so identified on the consumer's credit report;

(D) multiple lender inquiries if coded by the consumer reporting agency on the consumer's credit report as being from the home mortgage industry and made within 30 days of one another unless only one inquiry is considered; and

(E) multiple lender inquiries if coded by the consumer reporting agency on the consumer's credit report as being from the automobile lending industry and made within 30 days of one another unless only one inquiry is considered.

(e)(1) Extraordinary life circumstances. Notwithstanding any other law or rule to the contrary, an insurer that uses credit information shall, on written request from an applicant for insurance coverage or an insured, provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines for a consumer who has experienced and whose credit information has been directly influenced by any of the following events:

(A) a catastrophic event, as declared by the federal or State government;

(B) a serious illness or injury or a serious illness or injury to an immediate family member;

(C) the death of a spouse, child, or parent;

(D) divorce or involuntary interruption of legally owed alimony or support payments;

(E) identity theft;

(F) the temporary loss of employment for a period of three months or more if it results from involuntary termination;

(G) military deployment overseas; or

(H) other events as determined by the insurer.

(2) If an applicant or insured submits a request for an exception as set forth in subdivision (1) of this subsection, an insurer may, in its sole discretion, but is not mandated to:

(A) require the consumer to provide reasonable written and independently verifiable documentation of the event;

(B) require the consumer to demonstrate that the event had direct and meaningful impact on the consumer's credit information;

(C) require such request be made not more than 60 days from the date of the application for insurance or the policy renewal;

(D) grant an exception despite the consumer not providing the initial request for an exception in writing; or

(E) grant an exception where the consumer asks for consideration of repeated events or the insurer has considered this event previously.

(3) An insurer is not out of compliance with any law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

(4) The insurer shall provide notice to consumers that reasonable exceptions are available and information about how the consumer may inquire further.

(5) Within 30 days following the insurer's receipt of sufficient documentation of an event described in subdivision (1) of this subsection, the insurer shall inform the consumer of the outcome of the request for a reasonable exception. Such communication shall be in writing or provided to an applicant in the same medium as the request.

(f) Dispute resolution and error correction. If it is determined through the dispute resolution process set forth in the federal Fair Credit Reporting Act, 15 U.S.C. § 1681i(a)(5), that the credit information of a current insured was incorrect or incomplete and if the insurer receives notice of such determination from either the consumer reporting agency or from the insured, the insurer shall reunderwrite and rerate the consumer within 30 days following receiving the notice. After reunderwriting or rerating the insured, the insurer shall make any adjustments necessary, consistent with its underwriting and rating guidelines. If an insurer determines that the insured has overpaid the premium, the insurer shall refund to the insured the amount of overpayment calculated back to the shorter of either the last 12 months of coverage or the actual policy period.

(g)(1) Initial notification. If an insurer writing personal insurance uses credit information in underwriting or rating a consumer, the insurer or its agent shall disclose, either on the insurance application or at the time the insurance application is taken, that it may obtain credit information in connection with such application. Such disclosure shall be either written or provided to an applicant in the same medium as the application for insurance. The insurer need not provide the disclosure statement required under this section to any insured on a renewal policy if such consumer has previously been provided a disclosure statement.

(2) Use of the following example disclosure statement constitutes compliance with this section: "In connection with this application for insurance, we may review your credit report or obtain or use a credit-based insurance score based on the information contained in that credit report. We may use a third party in connection with the development of your insurance score."

(h) Adverse action notification. If an insurer takes an adverse action based upon credit information, the insurer must meet the notice requirements of this subsection. Such insurer shall:

(1) Provide notification to the consumer that an adverse action has been taken, in accordance with the requirements of the federal Fair Credit Reporting Act, 15 U.S.C. § 1681m(a).

(2) Provide notification to the consumer explaining the reason for the adverse action. The reasons must be provided in sufficiently clear and specific language so that a person can identify the basis for the insurer's decision to take an adverse action. Such notification shall include a description of up to four factors that were the primary influences of the adverse action. The use of generalized terms such as "poor credit history," "poor credit rating," or "poor insurance score" does not meet the explanation requirements of this subsection. Standardized credit explanations provided by consumer reporting agencies or other third-party vendors are deemed to comply with this section.

(i) Plain language. In any written communication or notification to a consumer pursuant to this section, an insurer shall use clear and plain language that is understandable to the average consumer.

(j) Filing. Insurers that use insurance scores to underwrite and rate risks must file their scoring models, or other scoring processes, with the Department of Financial Regulation. A third party may file scoring models on behalf of insurers. A filing that includes insurance scoring may include loss experience justifying the use of credit information. Any filing relating to credit information is considered a trade secret and is not subject to disclosure under Vermont's Public Records Act.

(k) Indemnification. An insurer shall indemnify, defend, and hold agents harmless from and against all liability, fees, and costs arising out of or relating to the actions, errors, or omissions of a producer who obtains or uses credit information or insurance scores, or both, for an insurer, provided the producer follows the instructions of or procedures established by the insurer and complies with any applicable law or rule. Nothing in this section shall be construed to provide a consumer or other insured with a cause of action that does not exist in the absence of this section.

(l) Sale of policy term information by consumer reporting agency. A consumer reporting agency shall not provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Such information includes the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer's insurance may expire and the terms and conditions of the consumer's insurance coverage. The restrictions provided in this subsection do not apply to data or lists the consumer reporting agency supplies to the insurance producer from whom information was received, the

insurer on whose behalf such producer acted, or such insurer's affiliates or holding companies. Nothing in this section shall be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Sec. 6 (credit information for personal insurance) shall take effect on passage and apply to personal insurance policies that either are written to be effective or are renewed on or after nine months after the date of passage.

(c) Secs. 4–5 (credit protection for vulnerable persons) shall take effect on January 1, 2019.

(d) Sec. 3 (retainage for construction materials) shall take effect on July 1, 2018.

(e) Secs. 1–2 (automatic renewal provisions) shall take effect on July 1, 2019.

TIMOTHY R. ASHE
REBECCA A. BALINT
MICHAEL D. SIROTKIN

Committee on the part of the Senate

MICHAEL J. MARCOTTE
WILLIAM G. F. BOTZOW
CHARLES "CHIP" W. CONQUEST

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 696.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to establishing a State individual mandate.

Was taken up for immediate consideration.

Senator Lyons, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 696. An act relating to establishing a State individual mandate

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 32 V.S.A. chapter 244 is added to read:

CHAPTER 244. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE

§ 10451. DEFINITIONS

As used in this chapter:

(1) "Applicable individual" means, with respect to any month, an individual other than the following:

(A) an individual with a religious conscience exemption;

(B) an individual not lawfully present in the United States; or

(C) an individual for any month if for the month the individual is incarcerated, other than incarceration pending the disposition of charges.

(2) "Eligible employer-sponsored plan" shall have the same meaning as in 26 U.S.C. § 5000A, as amended, and as in effect on December 31, 2017, and any related regulations.

(3) "Minimum essential coverage" shall have the same meaning as in 26 U.S.C. § 5000A, as amended, and as in effect on December 31, 2017, and any related regulations.

§ 10452. REQUIREMENT TO MAINTAIN MINIMUM ESSENTIAL COVERAGE

An applicable individual shall ensure that the individual and any dependent of the individual who is also an applicable individual is covered at all times under minimum essential coverage.

Sec. 2. PENALTY FOR FAILURE TO MAINTAIN MINIMUM ESSENTIAL COVERAGE; LEGISLATIVE INTENT

It is the intent of the General Assembly that the individual mandate to maintain minimum essential coverage established by this act should be enforced by means of a financial penalty or other enforcement mechanism and that the enforcement mechanism or mechanisms should be enacted during the 2019 legislative session in order to provide notice of the penalty to all Vermont residents prior to the open enrollment period for coverage for the 2020 plan year.

Sec. 3. INDIVIDUAL MANDATE WORKING GROUP; REPORT

(a) Creation. There is created the Individual Mandate Working Group to develop recommendations regarding administration and enforcement of the individual mandate to maintain minimum essential coverage.

(b) Membership. The Working Group shall be composed of the following members:

(1) the Secretary of Human Services or designee;

(2) the Commissioner of Financial Regulation or designee;

(3) the Commissioner of Taxes or designee;

(4) the Chair of the Green Mountain Care Board or designee;

(5) the Chief Health Care Advocate or designee; and

(6) one representative of each health insurer offering qualified health benefit plans through the Vermont Health Benefit Exchange.

(c) Powers and duties. The Working Group shall develop recommendations regarding administration and enforcement of the individual mandate to maintain minimum essential coverage, including:

(1) enforcement mechanisms, such as financial penalties for failure to maintain minimum essential coverage;

(2) additional forms of coverage that should or should not be considered minimum essential coverage;

(3) exemptions from compliance with the individual mandate, including exemptions related to religion, affordability, hardship, and short gaps in coverage; and

(4) procedures for administration of the individual mandate and for collection of any financial penalties by the Department of Taxes.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Green Mountain Care Board, the Department of Vermont Health Access, the Department of Financial Regulation, and the Department of Taxes.

(e) Report. On or before November 1, 2018, the Working Group shall provide its recommendations for administration and enforcement of the individual mandate to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, the Joint Fiscal Committee, and the Health Reform Oversight Committee.

(f) Meetings.

(1) The Chair of the Green Mountain Care Board or designee shall call the first meeting of the Working Group to occur on or before July 1, 2018.

(2) The Working Group shall cease to exist on November 1, 2018.

Sec. 4. PLAN YEARS 2019 AND 2020 HEALTH COVERAGE OUTREACH EFFORTS

(a) Before and during the open enrollment period for 2019 health benefit plans, the Department of Vermont Health Access, in consultation with the Office of the Health Care Advocate and other interested stakeholders, shall engage in coordinated outreach efforts to educate Vermont residents about the importance of health insurance coverage and shall assist Vermont residents with identifying the coverage options for which they are eligible and with selecting and enrolling in coverage.

(b) Before and during the open enrollment period for 2020 health benefit plans, the Department of Vermont Health Access and the Department of Taxes, in consultation with the Office of the Health Care Advocate and other interested stakeholders, shall engage in coordinated outreach efforts to educate Vermont residents about their responsibilities beginning on January 1, 2020 under Vermont's individual mandate to maintain minimum essential coverage and about the penalties for failure to maintain such coverage.

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 (32 V.S.A. chapter 244) shall take effect on January 1, 2020.

(b) The remaining sections shall take effect on passage.

VIRGINIA V. LYONS
MARK A. MACDONALD
MICHAEL D. SIROTKIN

Committee on the part of the Senate

TIMOTHY C. BRIGLIN
ANNE B. DONAHUE
BENJAMIN R. JICKLING

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 27.

Pending entry on the Calendar for notice, on motion of Senator Sears, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to eliminating the statute of limitations on prosecutions for sexual assault.

Was taken up for immediate consideration.

Senator Sears, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 27. An act relating to eliminating the statute of limitations on prosecutions for sexual assault.

Respectfully reports that it has considered the same and recommends that the House accede to the Senate Proposal of Amendment and that the bill be further amended as follows:

First: In Sec. 1, amending 13 V.S.A. § 1386, by striking out in its entirety the phrase "or responsible licensing entities" and inserting in lieu thereof "and responsible licensing entities"

Second: In Sec. 2, amending 16 V.S.A. § 253, in subsection (c), in the first sentence, by striking out in its entirety the phrase "or responsible licensing entities" and inserting in lieu thereof "and responsible licensing entities"

Third: In Sec. 2, amending 16 V.S.A. § 253, in subsection (c), by striking out the fourth sentence in its entirety and inserting in lieu thereof the following: "Notwithstanding any provision of law to the contrary, a person shall not be subject to civil or criminal liability for disclosing information that is required by this section to be disclosed if the person was acting in good

faith. This immunity from liability shall not apply when the information supplied by a person is knowingly false or rendered with a malicious purpose."

Fourth: By striking out in its entirety Sec. 3, Committee for Protecting Students from Sexual Exploitation, and inserting in lieu thereof the following:

Sec. 3. COMMITTEE FOR PROTECTING STUDENTS FROM SEXUAL EXPLOITATION

(a) Creation. There is created the Committee for Protecting Students from Sexual Exploitation.

(b) Membership. The Committee shall be composed of the following 12 members:

(1) the Attorney General or designee;

(2) the Secretary of Education or designee;

(3) the Executive Director of the Vermont School Boards Association or designee;

(4) the Executive Director of the Vermont Independent Schools Association or designee;

(5) the Executive Director of Vermont-National Educators Association or designee;

(6) the Executive Director of Child Abuse Vermont or designee;

(7) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(8) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;

(9) the Defender General or designee;

(10) the Commissioner for Children and Families or designee;

(11) the Executive Director of the Vermont Superintendents Association or designee; and

(12) a member appointed by the Northwest Unit of the Special Investigation Units with experience in investigating grooming behaviors.

(c) Powers and duties. The Committee, in consultation with school personnel, shall recommend whether behaviors by an employee of, or contractor for, a public school or recognized or approved independent school designed to establish a romantic or sexual relationship with a child or a student, so-called "grooming behaviors," should be unlawful under Vermont law, and, if the Committee recommends that grooming behaviors should be unlawful, shall include in its recommendation:

(1) how grooming behaviors should be defined;

(2) whether all students or children in a school environment should be covered;

(3) whether the behavior should result in a misdemeanor or a felony, and the related punishment; and

(4) the statute of limitations for bringing a related action.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of the Attorney General.

(e) Report. On or before October 15, 2019, the Committee shall submit a written report to the House and Senate Committees on Education and on Judiciary with its findings and any recommendations.

(f) Meetings.

(1) The Office of the Attorney General or designee shall call the first meeting of the Committee to occur on or before July 15, 2018.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Committee shall cease to exist on October 16, 2019.

Fifth: In Sec. 4, amending 21 V.S.A. § 306, by striking out in its entirety the phrase "or responsible licensing entities" and inserting in lieu thereof "and responsible licensing entities"

Sixth: By adding a new section, to be Sec. 5, to read:

Sec. 5. MODEL POLICY ON ELECTRONIC COMMUNICATIONS

On or before July 1, 2019, the Agency of Education, in collaboration with the Vermont School Boards' Association and the Council of Independent Schools, shall develop a model policy on electronic communications between school employees and students designed to prevent exploitation of children. This policy shall be adopted by public schools and recognized and approved independent schools, as defined in 16 V.S.A. § 11, for the 2019-2020 school year and shall be maintained for future school years.

And by renumbering the remaining section to be numerically correct.

TIMOTHY R. ASHE
RICHARD W. SEARS
DEBORAH J. INGRAM

Committee on the part of the Senate

KATHRYN L. WEBB
BEN W. JOSEPH
CHRISTOPHER P. MATTOS

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence

H. 716.

Pending entry on the Calendar for notice, on motion of Senator White, the rules were suspended and House bill entitled:

An act relating to approval of the adoption of the charter of the Edward Farrar Utility District and the merger of the Village of Waterbury into the District.

Was taken up for immediate consideration.

Senator White, for the Committee on Government Operations, to which the bill was referred, 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.

Thereupon, on motion of Senator White, the rules were suspended and the bill was placed on all remaining stages of its passage forthwith.

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

Rules Suspended; Bills Delivered

On motion of Senator Balint, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 285, S. 289.

Rules Not Suspended; Bill Not Messaged

Senator Balint, moved the rules be suspended, and **H. 559** be messaged to the House forthwith which was disagreed to on a roll call, Yeas 17, Nays 11 (the necessary 3/4ths not having been attained).

Senator Rodgers 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, Baruth, Bray, Campion, Clarkson, Cummings, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Pearson, Pollina, Sirotkin, White.

Those Senators who voted in the negative were: Benning, Branagan, Brock, Brooks, Collamore, Flory, Nitka, Rodgers, Sears, Soucy, Starr.

Those Senators absent or not voting were: Ashe (presiding), Westman.

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:

The nomination of

Heald, Francis of Rutland - Member, Travel Information Council - May 4, 2018 to February 29, 2020.

Was confirmed by the Senate.

The nomination of

Kennett, Elizabeth of Rochester - Member, Travel Information Council - May 4, 2018 to February 29, 2020.

Was confirmed by the Senate.

The nomination of

LaBarge, John of Grand Isle - Member, Travel Information Council - May 4, 2018 to February 29, 2020.

Was confirmed by the Senate.

The nomination of

Lang, Lisa of Waitsfield - Member, Travel Information Council - May 4, 2018 to February 28, 2019.

Was confirmed by the Senate.

The nomination of

Sheahan, Nancy of South Burlington - Member, State Police Advisory Commission - May 4, 2018 to February 28, 2022.

Was confirmed by the Senate.

The nomination of

Benoit, John of Barre - Member, Electricians' Licensing Board - August 5, 2017 to June 30, 2020.

Was confirmed by the Senate.

The nomination of

Gentile, Betsy of Brattleboro - Member, Vermont Economic Progress Council - June 26, 2017 to March 21, 2021.

Was confirmed by the Senate.

The nomination of

Horn, Patricia of Windsor - Member, Vermont Economic Progress Council - June 6, 2017 to March 31, 2021.

Was confirmed by the Senate.

The nomination of

Keane, Michael of Bennington - Member, Vermont Economic Progress Council - June 26, 2017 to March 31, 2021.

Was confirmed by the Senate.

The nomination of

Mock, Casey of Burlington - Executive Director, Vermont Economic Progress Council - November 27, 2017 to March 31, 2019.

Was confirmed by the Senate.

The nomination of

Smith, Rachel of St. Albans - Member, Vermont Economic Progress Council - June 26, 2017 to March 31, 2021.

Was confirmed by the Senate.

The nomination of

Voigt, Steven of Norwich - Member, Vermont Economic Development Authority - January 12, 2018 to June 30, 2020.

Was confirmed by the Senate.

The nomination of

Jagielski, Tom of Grand Isle - Member, Occupational Safety and Health Review Board - July 12, 2017 to February 28, 2023.

Was confirmed by the Senate.

The nomination of

Metz, Janet of Jericho - Member, Employment Security Board - August 5, 2017 to February 28, 2023.

Was confirmed by the Senate.

The nomination of

Nesbitt, Thomas of Waterbury Center - Member, Plumbers' Examining Board - October 2, 2017 to February 28, 2021.

Was confirmed by the Senate.

The nomination of

Troiano, Jo Ann of Montpelier - Member, Vermont State Housing Authority - December 5, 2017 to February 28, 2022.

Was confirmed by the Senate.

The nomination of

Thomas, Brian of Shrewsbury - Member, Plumbers' Examining Board - August 5, 2017 to February 29, 2020.

Was confirmed by the Senate.

The nomination of

Fischer, Robert of Barre - Member, VT Citizens' Advisory Council on Lake Champlain's Future - April 15, 2018 to February 28, 2021.

Was confirmed by the Senate.

The nomination of

Naud, Mark of South Hero - Member, VT Citizens' Advisory Council on Lake Champlain's Future - April 15, 2018 to April 28, 2021.

Was confirmed by the Senate.

Appointment Not Confirmed

The following Gubernatorial appointment was not confirmed by the Senate, upon full report given by the Committee to which it was referred:

The nomination of

O'Neill, Karen of Hinesburg - Member, State Labor Relations Board - February 26, 2018 to June 30, 2021.

Was not confirmed by the Senate.

Recess

The Chair declared a recess until the fall of the gavel.

Called to Order

The Senate was called to order by the President.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 911.

Appearing on the Calendar for notice, on motion of Senator Balint, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to changes in Vermont's personal income tax and education financing system.

Was taken up for immediate consideration.

Senator Cummings, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 911. An act relating to changes in Vermont's personal income tax and education financing system.

Respectfully reports that it has met and considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Personal Income Tax Changes * * *
* * * Taxable Income * * *

Sec. 1. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

* * *

(21) "Taxable income" means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first $5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(C) Decreased by the following exemptions and deductions:

(i) ~~the amount of personal exemptions taken at the federal level~~ a personal exemption of $4,150.00 per person for the taxpayer, for the spouse or the deceased spouse of the taxpayer whose filing status under section 5822 of this chapter is married filing a joint return or surviving spouse, and for each individual qualifying as a dependent of the taxpayer under 26 U.S.C. § 152, provided that no exemption may be claimed for an individual who is a dependent of another taxpayer;

(ii) ~~for taxpayers who do not itemize at the federal level, the amount of the~~ a standard deduction ~~taken at the federal level~~ determined as follows:

(I) for taxpayers whose filing status under section 5822 of this chapter is unmarried (other than surviving spouses or heads of households) or married filing separate returns, $6,000.00;

(II) for taxpayers whose filing status under section 5822 of this chapter is head of household, $9,000.00;

(III) for taxpayers whose filing status under section 5822 of this chapter is married filing joint return or surviving spouse, $12,000.00; ~~and~~

(iii) ~~for taxpayers who itemize at the federal level:~~

~~(I) the amount of federally itemized deductions for medical and dental expenses and charitable contributions;~~

~~(II) the total amount of federally itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, and charitable contributions, deducted from federal adjusted gross income for the taxable year, but in no event shall the amount under this subdivision exceed two and one-half times the federal standard deduction allowable to the taxpayer; and~~

~~(III) in no event shall the total amount of deductions allowed under subdivisions (I) and (II) of this subdivision (21)(C)(iii) reduce the total amount of itemized deductions below the federal standard deduction allowable to the taxpayer~~ an additional deduction of $1,000.00 for each federal deduction for which the taxpayer qualified and received under 26 U.S.C. § 63(f); and

(iv) the dollar amounts of the personal exemption allowed under subdivision (i) of this subdivision (21)(C), the standard deduction allowed under subdivision (ii) of this subdivision (21)(C), and the additional deduction allowed under subdivision (iii) of this subdivision (21)(C) shall be adjusted annually for inflation by the Commissioner of Taxes beginning with taxable year 2018 by using the Consumer Price Index and the same methodology as used for adjustments under 26 U.S.C. § 1(f)(3); provided however, that as used in this subdivision "consumer price index" means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

* * *

* * * Personal Income Tax Rates * * *

Sec. 2. PERSONAL INCOME TAX RATES

(a) 2009 Spec. Sess. Acts and Resolves No. 2, Sec. 20 is repealed.

(b) For taxable year 2018 and after, income tax rates under 32 V.S.A. § 5822(a)(1)-(5), after taking into consideration any inflation adjustments to taxable income as required by 32 V.S.A. § 5822(b)(2), shall be as follows:

(1) taxable income that without the passage of this act would have been subject to a rate of 3.55 percent shall be taxed at the rate of 3.35 percent instead;

(2) taxable income that without the passage of this act would have been subject to a rate of 6.80 percent shall be taxed at the rate of 6.60 percent instead;

(3) taxable income that without the passage of this act would have been subject to a rate of 7.80 percent shall be taxed at the rate of 7.60 percent instead;

(4) taxable income that without the passage of this act would have been subject to a rate of 8.80 percent or 8.95 percent shall be taxed at the rate of 8.75 percent instead; the tax brackets for taxable income taxed at 8.80 percent and 8.95 percent in taxable year 2017 shall be combined to be taxed at a rate of 8.75 percent for taxable year 2018 and after.

(c) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall revise the tables in 32 V.S.A. § 5822(a)(1)-(5) to reflect the changes to the tax rates and tax brackets made in this section.

* * * Charitable Credit; Earned Income Tax Credit; Social Security Income; Other Adjustments * * *

Sec. 3. 32 V.S.A. § 5822 is amended to read:

§ 5822. TAX ON INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS

(a) A tax is imposed for each taxable year upon the taxable income earned or received in that year by every individual, estate, and trust, subject to income taxation under the laws of the United States, in an amount determined by the following tables, and adjusted as required under this section:

* * *

(b) As used in this section:

(1) "Married individuals," "surviving spouse," "head of household," "unmarried individual," "estate," and "trust" have the same meaning as under the Internal Revenue Code.

(2) The amounts of taxable income shown in the tables in this section shall be adjusted annually for inflation by the Commissioner of Taxes~~,~~ using the Consumer Price Index adjustment percentage, in the manner prescribed for inflation adjustment of federal income tax tables for the taxable year by the Commissioner of Internal Revenue, beginning with taxable year 2003; provided, however, notwithstanding 26 U.S.C. § 1(f)(3), as used in this subdivision, "consumer price index" means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

* * *

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer's federal income tax for the taxable year as follows: credit for people who are elderly or permanently totally disabled, investment tax credit

attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

* * *

(3) Individuals shall receive a nonrefundable charitable contribution credit against the tax imposed under this section for the taxable year. The credit shall be five percent of the first $20,000.00 in charitable contributions made during the taxable year that are allowable under 26 U.S.C. § 170. This credit shall be available irrespective of a taxpayer's election not to itemize at the federal level.

* * *

Sec. 4. 32 V.S.A. § 5828b(a) is amended to read:

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be ~~32~~ 36 percent of the earned income tax credit granted to the individual under the laws of the United States, multiplied by the percentage ~~which~~ that the individual's earned income that is earned or received during the period of the individual's residency in this State bears to the individual's total earned income.

Sec. 5. 32 V.S.A. § 5830e is added to read:

§ 5830e. SOCIAL SECURITY INCOME

The portion of federally taxable Social Security benefits excluded from taxable income under subdivision 5811(21)(B)(iv) of this chapter shall be as follows:

(1) For taxpayers whose filing status is single, married filing separately, head of household, or qualifying widow or widower:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to $45,000.00, all federally taxable benefits received under the federal Social Security Act shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than $45,000.00 but less than $55,000.00, the percentage of federally taxable benefits received under the Social Security Act to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over $45,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from $55,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by $10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the federally taxable benefits received under the Social Security Act.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than $55,000.00, no amount of the federally taxable benefits received under the Social Security Act shall be excluded under this section.

(2) For taxpayers whose filing status is married filing jointly:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to $60,000.00, all federally taxable benefits received under the Social Security Act shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than $60,000.00 but less than $70,000.00, the percentage of federally taxable benefits received under the Social Security Act to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over $60,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from $70,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by $10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the federally taxable benefits received under the Social Security Act.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than $70,000.00, no amount of the federally taxable benefits received under the Social Security Act shall be excluded under this section.

Sec. 6. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

* * *

(w) The statutory purpose of the partial exemption of federally taxable benefits under the Social Security Act in section 5830e of this title is to lessen the tax burden on Vermonters with low to moderate income who derive part of their income from Social Security payments.

(x) The statutory purpose of the charitable contribution credit in subdivision 5822(d)(3) of this title is to reduce the tax liability for Vemonters who contribute to charitable causes.

Sec. 7. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect ~~for taxable year 2016~~ on December 31, 2017, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under subchapter 2 of this chapter. For purposes of computing the tax liability for any taxable year under subchapter 3 of this chapter, the statutes of the United States relating to the federal income tax in effect for that taxable year, whether enacted before or after this chapter, are hereby adopted, unless otherwise provided.

* * * Allocation of Education Funds * * *

Sec. 8. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) The Education Fund is established to comprise the following:

(1) ~~All~~ all revenue paid to the State from the statewide education tax on nonresidential and homestead property under 32 V.S.A. chapter 135~~.~~;

(2) ~~For each fiscal year, the amount of the general funds appropriated and transferred to the Education Fund shall be $305,900,000.00, to be increased annually beginning for fiscal year 2018 by the consensus Joint Fiscal Office and Administration determination of the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent.~~ [Repealed.]

(3) ~~Revenues~~ revenues from State lotteries under 31 V.S.A. chapter 14~~,~~ and from any multijurisdictional lottery game authorized under that chapter~~.~~;

(4) 25 percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225;

(5) ~~One-third~~ one-third of the revenues raised from the purchase and use tax imposed by 32 V.S.A. chapter 219, notwithstanding 19 V.S.A. § 11(1)~~.~~;

(6) ~~Thirty-six percent of the~~ revenues raised from the sales and use tax imposed by 32 V.S.A. chapter 233~~.~~;

(7) Medicaid reimbursement funds pursuant to subsection 2959a(f) of this title.

(b) Monies in the Education Fund shall be used for the following:

(1) To make payments to school districts and supervisory unions for the support of education in accordance with the provisions of section 4028 of this title, other provisions of this chapter, and the provisions of 32 V.S.A. chapter 135~~, to make payments to carry out programs of adult education in accordance with section 945 of this title, and to provide funding for the community high school of Vermont~~; the Flexible Pathways Initiative established by 16 V.S.A. § 941, but excluding adult education and literacy programs under 16 V.S.A. § 945.

* * *

(3) To make payments required under 32 V.S.A. § 6066(a)(1) ~~and (2)~~ and only that portion attributable to education taxes, as determined by the Commissioner of Taxes, of payments required under 32 V.S.A. § 6066(a)(3) and (4) ~~and 6066(b)~~. The State Treasurer shall withdraw funds from the Education Fund upon warrants issued by the Commissioner of Finance and Management based on information supplied by the Commissioner of Taxes. The Commissioner of Finance and Management may draw warrants for disbursements from the Fund in anticipation of receipts. All balances in the Fund at the end of any fiscal year shall be carried forward and remain a part of the Fund. Interest accruing from the Fund shall remain in the Fund.

* * *

(c) ~~An equalization and reappraisal account is established within the Education Fund. Monies from this account are to be used by the Division of Property Valuation and Review to assist towns with maintenance or reappraisal on a case-by-case basis; and for reappraisal and grand list maintenance assistance payments pursuant to 32 V.S.A. §§ 4041a and 5405(f).~~ [Repealed.]

Sec. 9. 32 V.S.A. § 435(b) is amended to read:

(b) The General Fund shall be composed of revenues from the following sources:

* * *

(7) ~~Meals~~ 75 percent of the meals and rooms taxes levied pursuant to chapter 225 of this title;

* * *

(11) ~~64 percent of the revenue from sales and use taxes levied pursuant to chapter 233 of this title;~~ [Repealed.]

* * *

Sec. 9a. REPORT

On or before January 1, 2024, the Joint Fiscal Office shall report to the House Committees on Appropriations and on Ways and Means and the Senate Committees on Appropriations and on Finance on the impact of the changes in Secs. 8 and 9 of this act reallocating the revenues generated for the General Fund and Education Fund.

* * * Yield and Nonresidential Rate for Fiscal Year 2019 * * *

Sec. 10. PROPERTY DOLLAR EQUIVALENT YIELD, INCOME DOLLAR EQUIVALENT YIELD AND NONRESIDENTIAL RATE FOR FISCAL YEAR 2019

(a) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the property dollar equivalent yield shall be $10,032.00.

(b) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the income dollar equivalent yield shall be $12,135.00.

(c) The nonresidential rate for fiscal year 2019 shall be the statutory default rate of $1.59 per $100.00 of equalized education property value under 32 V.S.A. § 5402(a)(2).

Sec. 11. 32 V.S.A. § 5402b(a)(4) is amended to read:

(4) the percentage change in the ~~median~~ average education tax bill applied to nonresidential property~~,~~ and the percentage change in the ~~median~~ average education tax bill of homestead property, and the percentage change in the ~~median~~ average education tax bill for taxpayers who claim an adjustment under subsection 6066(a) of this title are equal.

* * * Statewide Education Property Tax Bills * * *

Sec. 12. 32 V.S.A. § 5402(b) is amended to read:

(b) The statewide education tax shall be calculated as follows:

* * *

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property; provided, however, that the tax levied under this chapter shall be billed to each taxpayer by the municipality in a manner that clearly indicates the tax is separate from any other tax assessed and collected under chapter 133, including an itemization of the separate taxes due. The bill may be on a single sheet of paper with the statewide education tax and other taxes presented separately and side by side.

* * *

Sec. 13. 32 V.S.A. § 6066a(f) is amended to read:

(f) Property tax bills.

(1) For taxpayers and amounts stated in the notice to towns on July 1, municipalities shall create and send to taxpayers a homestead property tax bill, instead of the bill required under subdivision 5402(b)(1) of this title, providing the total amount allocated to payment of homestead education property tax liabilities and notice of the balance due. Nothing in this subdivision, however, shall be interpreted as altering the requirement under subdivision 5402(b)(1) of this title that the statewide education homestead tax be billed in a manner that is stated clearly and separately from any other tax. Municipalities shall apply the amount allocated under this chapter to current-year property taxes in equal amounts to each of the taxpayers' property tax installments that include education taxes. Notwithstanding section 4772 of this title, if a town issues a corrected bill as a result of the November 1 notice sent by the Commissioner under subsection (a) of this section, issuance of ~~such~~ the corrected new bill does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. If the corrected bill is less than the original bill, and there are also no unpaid ~~current year~~ current-year taxes, interest, or penalties and no ~~past year~~ past-year delinquent taxes or penalties and interest charges, any overpayment shall be reflected on the corrected tax bill and refunded to the taxpayer.

* * *

* * * Property Tax Adjustments * * *

Sec. 14. 32 V.S.A. § 6066 is amended to read:

§ 6066. COMPUTATION OF ADJUSTMENT

(a) An eligible claimant who owned the homestead on April 1 of the year in which the claim is filed shall be entitled to an adjustment amount determined as follows:

(1)(A) For a claimant with household income of $90,000.00 or more:

(i) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year;

(ii) minus (if less) the sum of:

(I) the income percentage of household income for the taxable year; plus

(II) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of ~~$250,000.00~~$200,000.00.

(B) For a claimant with household income of less than $90,000.00 but more than $47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus (if less) the sum of:

(i) the income percentage of household income for the taxable year; plus

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of ~~$500,000.00~~ $400,000.00.

(C) For a claimant whose household income does not exceed $47,000.00, the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year, minus the lesser of:

(i) the sum of the income percentage of household income for the taxable year plus the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year in excess of ~~$500,000.00~~ $400,000.00; or

(ii) the statewide education tax rate, multiplied by the equalized value of the housesite in the taxable year reduced by $15,000.00.

* * *

(3) A claimant whose household income does not exceed $47,000.00 shall also be entitled to an additional adjustment amount from the claimant's municipal taxes for the upcoming fiscal year that is equal to the amount by which the municipal property taxes for the municipal fiscal year ~~which~~ that began in the taxable year upon the claimant's housesite~~, reduced by the adjustment amount determined under subdivisions (1) and (2) of this subsection,~~ exceeds a percentage of the claimant's household income for the taxable year as follows:

If household income (rounded to the nearest dollar) is:	then the taxpayer is entitled to credit for the reduced property tax in excess of this percent of that income:
$0.00 - 9,999.00	~~2.0~~ 1.50
~~$10,000.00 - 24,999.00~~	~~4.5~~
~~$25,000.00 - 47,000.00~~	~~5.0~~
$10,000.00 - 47,000.00	3.00

(4) A claimant whose household income does not exceed $47,000.00 shall also be entitled to an additional adjustment amount from the claimant's statewide education tax for the upcoming fiscal year that is equal to the amount by which the education property tax for the municipal fiscal year that began in the taxable year upon the claimant's housesite, reduced by the adjustment amount determined under subdivisions (1) and (2) of this subsection, exceeds a percentage of the claimant's household income for the taxable year as follows:

If household income (rounded to the nearest dollar) is:	then the taxpayer is entitled to credit for the reduced property tax in excess of this percent of that income:
$0.00 - 9,999.00	0.5
$10,000.00 - 24,999.00	1.5
$25,000.00 - 47,000.00	2.0

~~(4)~~(5) In no event shall the credit provided for in subdivision (3) or (4) of this subsection exceed the amount of the reduced property tax. The adjustments under subdivisions (3) and (4) of this subsection shall be calculated considering only the tax due on the first $400,000.00 in equalized housesite value.

* * *

Sec. 14a. 32 V.S.A. § 6067 is amended to read:

§ 6067. CREDIT LIMITATIONS

Only one individual per household per taxable year shall be entitled to a benefit under this chapter. An individual who received a homestead exemption or adjustment with respect to property taxes assessed by another state for the taxable year shall not be entitled to receive an adjustment under this chapter. No taxpayer shall receive an adjustment under subsection 6066(b) of this title in excess of $3,000.00. No taxpayer shall receive ~~total adjustments under this chapter in excess of $8,000.00 related to any one property tax year~~ an adjustment under 6066(a)(3) of this title greater than $2,400.00 or cumulative adjustment under 6066(a)(1)-(2) and (4) of this title greater than $5,600.00.

* * * Vermont Tax Structure Commission * * *

Sec. 15. VERMONT TAX STRUCTURE COMMISSION

(a) There is hereby established the Vermont Tax Structure Commission composed of three to five members to be selected as follows:

(1) the Speaker of the House, the President Pro Tempore of the Senate, and the Governor shall each appoint one member; and

(2) the three members appointed pursuant to subdivision (1) of this subsection may select one or two additional members, based on a majority vote.

(b) The Commission shall be appointed as soon as possible after the effective date of this act. The Commission shall elect a chair and a vice chair from among its members.

(c) The Commission shall prepare a structural analysis of the State's revenue system and offer recommendations for improvements and modernization and provide a long-term vision for the tax structure. The Commission's analysis shall include a review of Vermont's income taxes, consumption-based taxes, the education financing system, tax expenditures, and property and asset-based taxes. The Commission shall have as its goal a tax system that provides sustainability, appropriateness, and equity. For guidance, the Commission may use the Principles of a High-Quality State Revenue System as prepared by the National Conference of State Legislatures. A high-quality revenue system:

(1) Comprises elements that are complementary, including the finances of both state and local governments.

(2) Produces revenue in a reliable manner. Reliability involves stability, certainty, and sufficiency.

(3) Relies on a balanced variety of revenue sources.

(4) Treats individuals equitably. Minimum requirements of an equitable system are that it imposes similar tax burdens on people in similar circumstances, it minimizes regressivity, and it minimizes taxes on individuals with low income.

(5) Facilitates taxpayer compliance. It is easy to understand and minimizes compliance costs.

(6) Promotes fair, efficient, and effective administration. It is as simple as possible to administer, raises revenue efficiently, is administered professionally, and is applied uniformly.

(7) Is responsive to interstate and international economic competition.

(8) Minimizes its involvement in spending decisions and makes any such involvement explicit.

(9) Is accountable to taxpayers.

(d) It is the intent of the General Assembly that the work of the Commission not supplant or delay the normal Legislative and Executive Branch review and alteration of tax and revenue issues under State law.

(e) The Commission shall begin its work by:

(1) updating and incorporating the relevant work of the Blue Ribbon Tax Structure Commission created by the 2009 S.S. Acts and Resolves, No. 1;

(2) updating and incorporating work from the existing studies of Vermont's education finance system since the enactment of the 1998 Acts and Resolves, No. 60 and 2004 Acts and Resolves, No. 68;

(f) The Commission shall submit a two-year work plan and budget to the Joint Fiscal Committee, the Senate Committee on Finance, and the House Committee on Ways and Means by February 15, 2019. The work plan shall outline the work the Commission intends to complete in its review of Vermont's income taxes, consumption-based taxes, education financing system, tax expenditures, and property and asset-based taxes. The final report of the Commission shall be made to the General Assembly on or before January 15, 2021.

(g) The Commission shall receive technical support from the Department of Taxes, the legislative Joint Fiscal Office, and consultants.

(h) The Joint Fiscal Office with the assistance of the Legislative Council and the Department of Taxes may contract with one or more consultants or hire a limited service position to provide assistance with achieving the goals for the Commission. The consultants shall have extensive experience with state tax systems and shall have participated in at least one other study of a state tax system.

(i) Members of the Commission shall be entitled to compensation as provided under 32 V.S.A. § 1010.

* * * JFO Report * * *

Sec. 16. 24 V.S.A. § 1892(g) is amended to read:

(g) Beginning in ~~2019 and annually~~ 2021 and every four years thereafter, on or before January 15 ~~of each year~~, the Joint Fiscal Office, with the assistance of the consulting Legislative Economist, the Department of Taxes, and the Agency of Commerce and Community Development in consultation with the Vermont Economic Progress Council, shall examine the recommendations and conclusions of the tax increment financing capacity study and report created pursuant to subsection (e) of this section, and shall submit to the Emergency Board and to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate

Committees on Economic Development, Housing and General Affairs and on Finance an updated summary report that includes:

* * *

* * * Staff-to-Student Ratios Task Force * * *

Sec. 17. STAFF-TO-STUDENT RATIOS TASK FORCE

(a) Creation. There is created the Staff-to-Student Ratios Task Force, a collaborative effort among government, nonprofit organizations, research experts, and other education stakeholders, that will strive best to ensure education quality while simultaneously ensuring fiscal efficiency in the context of the State's declining student population. Specifically, the Task Force is charged with:

(1) reviewing current staff-to-student count ratios for specific categories of schools and school district configurations, and establishing optimal target ratios for different school district configurations;

(2) identifying barriers that hamper staffing flexibility at the local level, including whether aspects of the regulatory environment, including mandatory staffing requirements and collective bargaining or other contractual obligations, contribute to lower staff-to-student ratios;

(3) aligning to the greatest extent possible the work of the Task Force with existing research findings and reports, based on studies conducted either nationally or in New England, concerning optimal classroom practices and resources, and class and school sizes for successful learning outcomes, and the impact of population decline on rural schools;

(4) attending to compliance with federal rules and regulations, so as to avoid jeopardizing the State's federal funding;

(5) determining a mechanism or mechanisms that account for the effects of familial and community level poverty and human services need, including student experiences of trauma and familial or community level addiction, on staffing ratios;

(6) considering the impact on staff-to-student ratios due to students' enrollment with independent schools; and

(7) developing recommended strategies for districts to help them meet targets.

(b) Membership. The Task Force shall be composed of the following members:

(1) the Secretary of Education or designee;

(2) the Executive Director of the Vermont Superintendents Association or designee;

(3) the Executive Director of the Vermont School Boards Association or designee;

(4) the Executive Director of the Vermont Principals' Association or designee;

(5) the Executive Director of the Vermont-National Education Association or designee;

(6) one member selected by the Vermont Association of School Business Officials;

(7) two to four members from Vermont postsecondary institutions, selected by the Task Force, who have expertise in areas among the following: multi-age classrooms and teaching strategies, interdisciplinary instruction, school realignment and reconfiguration, and the impact of community poverty, trauma, or addiction on education staffing; and

(8) a national expert in rural education, selected by the Task Force.

(c) The Task Force shall have technical assistance from the Agency of Education.

(d) Report. On or before December 15, 2018, the Task Force shall present to the House and Senate Committees on Education its findings concerning optimum staff-to-student ratios, including optimum ratios for a variety of school and school district sizes and configurations. The Task Force shall include in its report a recommendation as to whether staff-to-student target ratios should be included in statute for fiscal year 2021.

(e) Meetings.

(1) The Secretary of Education or designee shall call the first meeting of the Task Force to occur on or before July 1, 2018.

(2) The Task Force shall select a chair from among its members at the first meeting.

(3) The Task Force shall cease to exist on December 31, 2018.

(f) Compensation and reimbursement. 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 not more than ten meetings. These payments shall be made from monies appropriated to the Agency of Education.

(g) Appropriation. The sum of $7,320.00 is appropriated from the General Fund to the Agency of Education to provide funding for the purposes set forth in this section.

* * * Effective Dates; Transition * * *

Sec. 18. EFFECTIVE DATES AND TRANSITION

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Secs. 1–6 (income tax changes) shall take effect retroactively on January 1, 2018 and apply to taxable year 2018 and after.

(2) Notwithstanding 1 V.S.A. § 214, Sec. 7 (income tax link to the federal tax statutes) shall take effect retroactively on January 1, 2018 and apply to taxable years beginning on January 1, 2017 and after.

(3) Sec. 8–9 (General Fund and Education Fund revenues) shall take effect July 2, 2018, and apply to fiscal year 2019 and after. It is the intent of the General Assembly that the changes in Secs. 8 and 9 of this Act shall take effect notwithstanding any provisions passed in H.924 to the contrary.

(4) Secs. 10 (yields for fiscal year 2019) and 12–13 (property tax bill requirements) shall take effect on July 1, 2018 and apply to fiscal year 2019.

(5) Notwithstanding 1 V.S.A. § 214, Sec. 14 (calculation of property tax adjustments) shall take effect retroactively to the taxable year starting January 1, 2017 and apply to property tax adjustment claims filed for fiscal year 2019 (claim year 2018) and after.

ANN E. CUMMINGS
MARK A. MACDONALD
RANDOLPH D. BROCK

Committee on the part of the Senate

JANET ANCEL
DAVID D. SHARPE
SCOTT L. BECK

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

H. 924.

Pending entry on the Calendar for notice, on motion of Senator Balint, the rules were suspended and the report of the Committee of Conference on House bill entitled:

An act relating to making appropriations for the support of government.

Was taken up for immediate consideration.

Senator Kitchel, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House bill entitled:

H. 924. An act relating to making appropriations for the support of government.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. A.100 SHORT TITLE

(a) This bill may be referred to as the BIG BILL – Fiscal Year 2019 Appropriations Act.

Sec. A.101 PURPOSE

(a) The purpose of this act is to provide appropriations for the operations of State government during fiscal year 2019. It is the express intent of the General Assembly that activities of the various agencies, departments, divisions, boards, and commissions be limited to those which can be supported by funds appropriated in this act or other acts passed prior to June 30, 2018. Agency and department heads are directed to implement staffing and service levels at the beginning of fiscal year 2019 so as to meet this condition unless otherwise directed by specific language in this act or other acts of the General Assembly.

Sec. A.102 APPROPRIATIONS

(a) It is the intent of the General Assembly that this act serves as the primary source and reference for appropriations for fiscal year 2019.

(b) The sums herein stated are appropriated for the purposes specified in the following sections of this act. When no time is expressly stated during which any of the appropriations are to continue, the appropriations are single-year appropriations and only for the purpose indicated and shall be paid from funds shown as the source of funds. If in this act there is an error in either addition or subtraction, the totals shall be adjusted accordingly. Apparent errors in referring to section numbers of statutory titles within this act may be disregarded by the Commissioner of Finance and Management.

(c) Unless codified or otherwise specified, all narrative portions of this act apply only to the fiscal year ending on June 30, 2019.

Sec. A.103 DEFINITIONS

(a) As used in this act:

(1) "Encumbrances" means a portion of an appropriation reserved for the subsequent payment of existing purchase orders or contracts. The Commissioner of Finance and Management shall make final decisions on the appropriateness of encumbrances.

(2) "Grants" means subsidies, aid, or payments to local governments, to community and quasi-public agencies for providing local services, and to persons who are not wards of the State for services or supplies and means cash or other direct assistance, including pension contributions.

(3) "Operating expenses" means property management, repair and maintenance, rental expenses, insurance, postage, travel, energy and utilities, office and other supplies, equipment, including motor vehicles, highway materials, and construction, expenditures for the purchase of land and construction of new buildings and permanent improvements, and similar items.

(4) "Personal services" means wages and salaries, fringe benefits, per diems, contracted third-party services, and similar items.

Sec. A.104 RELATIONSHIP TO EXISTING LAWS

(a) Except as specifically provided, this act shall not be construed in any way to negate or impair the full force and effect of existing laws.

Sec. A.105 OFFSETTING APPROPRIATIONS

(a) In the absence of specific provisions to the contrary in this act, when total appropriations are offset by estimated receipts, the State appropriations shall control, notwithstanding receipts being greater or less than anticipated.

Sec. A.106 FEDERAL FUNDS

(a) In fiscal year 2019, the Governor, with the approval of the Legislature or the Joint Fiscal Committee if the Legislature is not in session, may accept federal funds available to the State of Vermont, including block grants in lieu of or in addition to funds herein designated as federal. The Governor, with the approval of the Legislature or the Joint Fiscal Committee if the Legislature is not in session, may allocate all or any portion of such federal funds for any purpose consistent with the purposes for which the basic appropriations in this act have been made.

(b) If, during fiscal year 2019, federal funds available to the State of Vermont and designated as federal in this and other acts of the 2018 session of the Vermont General Assembly are converted into block grants or are abolished under their current title in federal law and reestablished under a new title in federal law, the Governor may continue to accept such federal funds for any purpose consistent with the purposes for which the federal funds were appropriated. The Governor may spend such funds for such purposes for no more than 45 days prior to Legislative or Joint Fiscal Committee approval. Notice shall be given to the Joint Fiscal Committee without delay if the Governor intends to use the authority granted by this section, and the Joint Fiscal Committee shall meet in an expedited manner to review the Governor's request for approval.

Sec. A.107 NEW POSITIONS

(a) Notwithstanding any other provision of law, the total number of authorized State positions, both classified and exempt, excluding temporary positions as defined in 3 V.S.A. § 311(11), shall not be increased during fiscal year 2019 except for new positions authorized by the 2018 session. Limited service positions approved pursuant to 32 V.S.A. § 5 shall not be subject to this restriction, nor shall positions created pursuant to the Position Pilot Program authorized in 2014 Acts and Resolves No. 179, Sec. E.100(d), as amended by 2015 Acts and Resolves No. 4, Sec. 74, by 2016 Acts and Resolves No. 172, Sec. E.100.2, and by 2017 Acts and Resolves No. 85, Sec. E.100.1, and as further amended by Sec. E.100.1 of this act.

Sec. A.108 LEGEND

(a) The bill is organized by functions of government. The sections between B.100 and B.9999 contain appropriations of funds for the upcoming budget year. The sections between E.100 and E.9999 contain language that relates to specific appropriations or government functions, or both. The function areas by section numbers are as follows:

B.100–B.199 and E.100–E.199	General Government
B.200–B.299 and E.200–E.299	Protection to Persons and Property
B.300–B.399 and E.300–E.399	Human Services
B.400–B.499 and E.400–E.499	Labor
B.500–B.599 and E.500–E.599	General Education
B.600–B.699 and E.600–E.699	Higher Education
B.700–B.799 and E.700–E.799	Natural Resources
B.800–B.899 and E.800–E.899	Commerce and Community Development
B.900–B.999 and E.900–E.999	Transportation
B.1000–B.1099 and E.1000–E.1099	Debt Service
B.1100–B.1199 and E.1100–E.1199	One-time and other appropriation actions

(b) The C sections contain any amendments to the current fiscal year, the D sections contain fund transfers and reserve allocations for the upcoming budget year, and the F sections contain miscellaneous and technical statutory corrections.

Sec. B.100 Secretary of administration - secretary's office

Personal services	783,191
Operating expenses	203,429
Total	986,620
Source of funds	
General fund	886,620
Special funds	100,000
Total	986,620

Sec. B.101 Secretary of administration - finance

Personal services	1,144,274
Operating expenses	135,457
Total	1,279,731
Source of funds	
Interdepartmental transfers	1,279,731
Total	1,279,731

Sec. B.102 Secretary of administration - workers' compensation insurance

Personal services	537,944
Operating expenses	238,973

Total	776,917
Source of funds	
Internal service funds	776,917
Total	776,917

Sec. B.103 Secretary of administration - general liability insurance

Personal services	573,575
Operating expenses	73,548
Total	647,123
Source of funds	
Internal service funds	647,123
Total	647,123

Sec. B.104 Secretary of administration - all other insurance

Personal services	22,982
Operating expenses	16,066
Total	39,048
Source of funds	
Internal service funds	39,048
Total	39,048

Sec. B.105 Agency of digital services - communications and information technology

Personal services	47,776,877
Operating expenses	21,008,573
Total	68,785,450
Source of funds	
General fund	177,615
Special funds	383,700
Internal service funds	67,963,553
Interdepartmental transfers	260,582
Total	68,785,450

Sec. B.106 Finance and management - budget and management

Personal services	1,404,712
Operating expenses	202,070
Total	1,606,782
Source of funds	
General fund	1,258,956
Internal service funds	347,826
Total	1,606,782

Sec. B.107 Finance and management - financial operations

Personal services	2,156,558
Operating expenses	654,972
Total	2,811,530
Source of funds	
Internal service funds	2,811,530
Total	2,811,530

Sec. B.108 Human resources - operations

Personal services	7,996,814
Operating expenses	964,845
Total	8,961,659
Source of funds	
General fund	1,940,451
Special funds	277,462
Internal service funds	6,206,438
Interdepartmental transfers	537,308
Total	8,961,659

Sec. B.108.1 Human resources - VTHR operations

Personal services	1,742,267
Operating expenses	826,247
Total	2,568,514
Source of funds	
Internal service funds	2,568,514
Total	2,568,514

Sec. B.109 Human resources - employee benefits & wellness

Personal services	1,086,810
Operating expenses	588,021
Total	1,674,831
Source of funds	
Internal service funds	1,674,831
Total	1,674,831

Sec. B.110 Libraries

Personal services	1,896,316
Operating expenses	1,141,410
Grants	246,453
Total	3,284,179
Source of funds	
General fund	2,025,918

Special funds	97,571
Federal funds	1,064,162
Interdepartmental transfers	96,528
Total	3,284,179

Sec. B.111 Tax - administration/collection

Personal services	13,739,129
Operating expenses	6,661,305
Total	20,400,434
Source of funds	
General fund	18,686,980
Special funds	1,570,888
Interdepartmental transfers	142,566
Total	20,400,434

Sec. B.112 Buildings and general services - administration

Personal services	658,069
Operating expenses	98,172
Total	756,241
Source of funds	
Interdepartmental transfers	756,241
Total	756,241

Sec. B.113 Buildings and general services - engineering

Personal services	2,580,949
Operating expenses	851,576
Total	3,432,525
Source of funds	
Interdepartmental transfers	3,432,525
Total	3,432,525

Sec. B.114 Buildings and general services - information centers

Personal services	3,360,294
Operating expenses	1,566,365
Grants	35,750
Total	4,962,409
Source of funds	
General fund	642,885
Transportation fund	3,868,566
Special funds	450,958
Total	4,962,409

Sec. B.115 Buildings and general services - purchasing

Personal services	1,035,471
Operating expenses	194,860
Total	1,230,331
Source of funds	
General fund	1,230,331
Total	1,230,331

Sec. B.116 Buildings and general services - postal services

Personal services	744,615
Operating expenses	116,495
Total	861,110
Source of funds	
General fund	85,063
Internal service funds	776,047
Total	861,110

Sec. B.117 Buildings and general services - copy center

Personal services	744,283
Operating expenses	127,416
Total	871,699
Source of funds	
Internal service funds	871,699
Total	871,699

Sec. B.118 Buildings and general services - fleet management services

Personal services	698,806
Operating expenses	234,969
Total	933,775
Source of funds	
Internal service funds	933,775
Total	933,775

Sec. B.119 Buildings and general services - federal surplus property

Personal services	20,052
Operating expenses	6,239
Total	26,291
Source of funds	
Enterprise funds	26,291
Total	26,291

Sec. B.120 Buildings and general services - state surplus property

Personal services	160,360
Operating expenses	110,630
Total	270,990
Source of funds	
Internal service funds	270,990
Total	270,990

Sec. B.121 Buildings and general services - property management

Personal services	1,197,164
Operating expenses	457,316
Total	1,654,480
Source of funds	
Internal service funds	1,654,480
Total	1,654,480

Sec. B.122 Buildings and general services - fee for space

Personal services	16,277,217
Operating expenses	13,710,792
Total	29,988,009
Source of funds	
Internal service funds	29,988,009
Total	29,988,009

Sec. B.124 Executive office - governor's office

Personal services	1,384,251
Operating expenses	460,831
Total	1,845,082
Source of funds	
General fund	1,658,582
Interdepartmental transfers	186,500
Total	1,845,082

Sec. B.125 Legislative council

Personal services	4,063,930
Operating expenses	827,857
Total	4,891,787
Source of funds	
General fund	4,891,787
Total	4,891,787

Sec. B.126 Legislature	
Personal services	4,091,578
Operating expenses	3,809,338
Total	7,900,916
Source of funds	
General fund	7,900,916
Total	7,900,916
Sec. B.127 Joint fiscal committee	
Personal services	1,696,568
Operating expenses	159,358
Total	1,855,926
Source of funds	
General fund	1,855,926
Total	1,855,926
Sec. B.128 Sergeant at arms	
Personal services	737,216
Operating expenses	68,612
Total	805,828
Source of funds	
General fund	805,828
Total	805,828
Sec. B.129 Lieutenant governor	
Personal services	223,583
Operating expenses	30,968
Total	254,551
Source of funds	
General fund	254,551
Total	254,551
Sec. B.130 Auditor of accounts	
Personal services	3,343,827
Operating expenses	158,619
Total	3,502,446
Source of funds	
General fund	390,871
Special funds	53,145
Internal service funds	3,058,430
Total	3,502,446

Sec. B.131 State treasurer	
Personal services	3,653,014
Operating expenses	211,031
Total	3,864,045
Source of funds	
General fund	969,366
Special funds	2,781,017
Interdepartmental transfers	113,662
Total	3,864,045
Sec. B.132 State treasurer - unclaimed property	
Personal services	821,158
Operating expenses	304,543
Total	1,125,701
Source of funds	
Private purpose trust funds	1,125,701
Total	1,125,701
Sec. B.133 Vermont state retirement system	
Personal services	6,111,601
Operating expenses	1,365,073
Total	7,476,674
Source of funds	
Pension trust funds	7,476,674
Total	7,476,674
Sec. B.134 Municipal employees' retirement system	
Personal services	2,215,683
Operating expenses	789,980
Total	3,005,663
Source of funds	
Pension trust funds	3,005,663
Total	3,005,663
Sec. B.135 State labor relations board	
Personal services	212,663
Operating expenses	48,378
Total	261,041
Source of funds	
General fund	251,465
Special funds	6,788

Interdepartmental transfers	2,788
Total	261,041

Sec. B.136 VOSHA review board

Personal services	75,650
Operating expenses	13,016
Total	88,666
Source of funds	
General fund	44,333
Interdepartmental transfers	44,333
Total	88,666

Sec. B.136.1 Ethics Commission

Personal services	106,862
Operating expenses	13,981
Total	120,843
Source of funds	
Internal service funds	120,843
Total	120,843

Sec. B.137 Homeowner rebate

Grants	16,600,000
Total	16,600,000
Source of funds	
General fund	16,600,000
Total	16,600,000

Sec. B.138 Renter rebate

Grants	10,500,000
Total	10,500,000
Source of funds	
General fund	10,500,000
Education fund	0
Total	10,500,000

Sec. B.139 Tax department - reappraisal and listing payments

Grants	3,295,021
Total	3,295,021
Source of funds	
General fund	3,295,021
Education fund	0
Total	3,295,021

Sec. B.140 Municipal current use	
Grants	15,981,672
Total	15,981,672
Source of funds	
General fund	15,981,672
Total	15,981,672
Sec. B.141 Lottery commission	
Personal services	1,881,368
Operating expenses	1,427,706
Grants	100,000
Total	3,409,074
Source of funds	
Enterprise funds	3,409,074
Total	3,409,074
Sec. B.142 Payments in lieu of taxes	
Grants	8,036,000
Total	8,036,000
Source of funds	
Special funds	8,036,000
Total	8,036,000
Sec. B.143 Payments in lieu of taxes - Montpelier	
Grants	184,000
Total	184,000
Source of funds	
Special funds	184,000
Total	184,000
Sec. B.144 Payments in lieu of taxes - correctional facilities	
Grants	40,000
Total	40,000
Source of funds	
Special funds	40,000
Total	40,000
Sec. B.145 Total general government	
Source of funds	
General fund	92,335,137
Transportation fund	3,868,566
Special funds	13,981,529

Education fund	0
Federal funds	1,064,162
Internal service funds	120,710,053
Interdepartmental transfers	6,852,764
Enterprise funds	3,435,365
Pension trust funds	10,482,337
Private purpose trust funds	1,125,701
Total	253,855,614

Sec. B.200 Attorney general

Personal services	10,228,901
Operating expenses	1,423,414
Grants	26,894
Total	11,679,209
Source of funds	
General fund	5,206,635
Special funds	1,960,836
Tobacco fund	348,000
Federal funds	1,220,634
Interdepartmental transfers	2,943,104
Total	11,679,209

Sec. B.201 Vermont court diversion

Personal services	874,000
Grants	1,996,483
Total	2,870,483
Source of funds	
General fund	2,270,486
Special funds	599,997
Total	2,870,483

Sec. B.202 Defender general - public defense

Personal services	11,613,891
Operating expenses	1,082,613
Total	12,696,504
Source of funds	
General fund	12,106,851
Special funds	589,653
Total	12,696,504

Sec. B.203 Defender general - assigned counsel

Personal services	5,679,410
Operating expenses	49,819

Total	5,729,229
Source of funds	
General fund	5,729,229
Total	5,729,229

Sec. B.204 Judiciary

Personal services	40,424,989
Operating expenses	9,550,786
Grants	76,030
Total	50,051,805
Source of funds	
General fund	43,911,694
Special funds	3,174,315
Federal funds	640,524
Interdepartmental transfers	2,325,272
Total	50,051,805

Sec. B.205 State's attorneys

Personal services	13,277,576
Operating expenses	1,834,103
Total	15,111,679
Source of funds	
General fund	12,291,761
Special funds	106,471
Federal funds	31,000
Interdepartmental transfers	2,682,447
Total	15,111,679

Sec. B.206 Special investigative unit

Personal services	85,000
Operating expenses	1,100
Grants	1,913,000
Total	1,999,100
Source of funds	
General fund	1,999,100
Total	1,999,100

Sec. B.207 Sheriffs

Personal services	4,111,739
Operating expenses	395,623
Total	4,507,362
Source of funds	

General fund	4,507,362
Total	4,507,362

Sec. B.208 Public safety - administration

Personal services	2,686,370
Operating expenses	2,992,157
Total	5,678,527
Source of funds	
General fund	2,671,645
Special funds	5,000
Federal funds	263,124
Interdepartmental transfers	2,738,758
Total	5,678,527

Sec. B.209 Public safety - state police

Personal services	54,187,733
Operating expenses	10,167,293
Grants	1,356,805
Total	65,711,831
Source of funds	
General fund	36,604,914
Transportation fund	20,250,000
Special funds	2,984,667
Federal funds	3,798,422
Interdepartmental transfers	2,073,828
Total	65,711,831

Sec. B.210 Public safety - criminal justice services

Personal services	4,541,909
Operating expenses	3,505,387
Grants	120,000
Total	8,167,296
Source of funds	
General fund	4,302,246
Special funds	1,930,061
Federal funds	1,754,848
Interdepartmental transfers	180,141
Total	8,167,296

Sec. B.211 Public safety - emergency management

Personal services	2,943,888
Operating expenses	1,351,913
Grants	9,555,611

Total	13,851,412
Source of funds	
General fund	421,265
Special funds	230,000
Federal funds	13,002,034
Interdepartmental transfers	198,113
Total	13,851,412

Sec. B.212 Public safety - fire safety

Personal services	6,507,997
Operating expenses	3,372,767
Grants	107,000
Total	9,987,764
Source of funds	
General fund	399,264
Special funds	8,667,177
Federal funds	876,323
Interdepartmental transfers	45,000
Total	9,987,764

Sec. B.213 Public safety - Forensic Laboratory

Personal services	2,979,721
Operating expenses	1,345,832
Total	4,325,553
Source of funds	
General fund	3,032,024
Special funds	94,238
Federal funds	414,702
Interdepartmental transfers	784,589
Total	4,325,553

Sec. B.215 Military - administration

Personal services	780,557
Operating expenses	364,404
Grants	324,000
Total	1,468,961
Source of funds	
General fund	1,468,961
Total	1,468,961

Sec. B.216 Military - air service contract

Personal services	5,849,570
Operating expenses	892,643

Total	6,742,213
Source of funds	
General fund	575,144
Federal funds	6,167,069
Total	6,742,213

Sec. B.217 Military - army service contract

Personal services	7,823,655
Operating expenses	6,155,064
Total	13,978,719
Source of funds	
Federal funds	13,978,719
Total	13,978,719

Sec. B.218 Military - building maintenance

Personal services	752,009
Operating expenses	745,028
Total	1,497,037
Source of funds	
General fund	1,437,037
Special funds	60,000
Total	1,497,037

Sec. B.219 Military - veterans' affairs

Personal services	784,278
Operating expenses	169,972
Grants	85,484
Total	1,039,734
Source of funds	
General fund	799,724
Special funds	140,010
Federal funds	100,000
Total	1,039,734

Sec. B.220 Center for crime victim services

Personal services	1,908,428
Operating expenses	345,834
Grants	10,632,103
Total	12,886,365
Source of funds	
General fund	1,264,158
Special funds	5,341,178

Federal funds	6,281,029
Total	12,886,365

Sec. B.221 Criminal justice training council

Personal services	1,193,040
Operating expenses	1,283,697
Total	2,476,737
Source of funds	
General fund	2,355,582
Interdepartmental transfers	121,155
Total	2,476,737

Sec. B.222 Agriculture, food and markets - administration

Personal services	1,419,565
Operating expenses	499,463
Grants	272,972
Total	2,192,000
Source of funds	
General fund	969,921
Special funds	809,473
Federal funds	412,606
Total	2,192,000

Sec. B.223 Agriculture, food and markets - food safety and consumer protection

Personal services	4,228,755
Operating expenses	866,590
Grants	2,750,000
Total	7,845,345
Source of funds	
General fund	2,829,250
Special funds	3,743,410
Federal funds	1,265,685
Interdepartmental transfers	7,000
Total	7,845,345

Sec. B.224 Agriculture, food and markets - agricultural development

Personal services	1,478,216
Operating expenses	1,045,214
Grants	1,240,875
Total	3,764,305
Source of funds	
General fund	1,920,068

Special funds	666,160
Federal funds	1,136,040
Interdepartmental transfers	42,037
Total	3,764,305

Sec. B.225 Agriculture, food and markets - agricultural resource management and environmental stewardship

Personal services	2,047,494
Operating expenses	488,054
Grants	140,000
Total	2,675,548
Source of funds	
General fund	662,248
Special funds	1,515,661
Federal funds	397,224
Interdepartmental transfers	100,415
Total	2,675,548

Sec. B.225.1 Agriculture, food and markets - Vermont Agriculture and Environmental Lab

Personal services	1,422,582
Operating expenses	2,350,767
Total	3,773,349
Source of funds	
General fund	857,420
Special funds	2,505,055
Federal funds	350,000
Interdepartmental transfers	60,874
Total	3,773,349

Sec. B.225.2 Agriculture, Food and Markets - Clean Water

Personal services	2,460,376
Operating expenses	415,019
Grants	1,707,000
Total	4,582,395
Source of funds	
General fund	1,149,854
Special funds	3,145,906
Federal funds	48,812
Interdepartmental transfers	237,823
Total	4,582,395

Sec. B.226 Financial regulation - administration

Personal services	1,848,070
Operating expenses	394,685
Total	2,242,755
Source of funds	
Special funds	2,242,755
Total	2,242,755

Sec. B.227 Financial regulation - banking

Personal services	1,723,226
Operating expenses	400,714
Total	2,123,940
Source of funds	
Special funds	2,123,940
Total	2,123,940

Sec. B.228 Financial regulation - insurance

Personal services	3,982,567
Operating expenses	579,112
Total	4,561,679
Source of funds	
Special funds	4,561,679
Total	4,561,679

Sec. B.229 Financial regulation - captive insurance

Personal services	4,528,647
Operating expenses	568,615
Total	5,097,262
Source of funds	
Special funds	5,097,262
Total	5,097,262

Sec. B.230 Financial regulation - securities

Personal services	884,305
Operating expenses	191,805
Total	1,076,110
Source of funds	
Special funds	1,076,110
Total	1,076,110

Sec. B.232 Secretary of state

Personal services	9,247,500

Operating expenses	2,501,529
Total	11,749,029
Source of funds	
Special funds	10,453,613
Federal funds	1,220,416
Interdepartmental transfers	75,000
Total	11,749,029

Sec. B.233 Public service - regulation and energy

Personal services	10,977,385
Operating expenses	1,818,966
Grants	3,768,878
Total	16,565,229
Source of funds	
Special funds	14,296,660
Federal funds	1,182,983
ARRA funds	1,010,000
Interdepartmental transfers	50,000
Enterprise funds	25,586
Total	16,565,229

Sec. B.234 Public utility commission

Personal services	3,238,861
Operating expenses	461,954
Total	3,700,815
Source of funds	
Special funds	3,700,815
Total	3,700,815

Sec. B.235 Enhanced 9-1-1 Board

Personal services	3,715,294
Operating expenses	395,889
Grants	720,000
Total	4,831,183
Source of funds	
Special funds	4,831,183
Total	4,831,183

Sec. B.236 Human rights commission

Personal services	497,679
Operating expenses	70,557
Total	568,236
Source of funds	

General fund	492,122
Federal funds	76,114
Total	568,236

Sec. B.237 Liquor control - administration

Personal services	5,751,696
Operating expenses	970,391
Total	6,722,087
Source of funds	
Enterprise funds	6,722,087
Total	6,722,087

Sec. B.238 Liquor control - enforcement and licensing

Personal services	2,152,769
Operating expenses	554,933
Total	2,707,702
Source of funds	
Special funds	20,000
Tobacco fund	213,843
Federal funds	312,503
Interdepartmental transfers	16,300
Enterprise funds	2,145,056
Total	2,707,702

Sec. B.239 Liquor control - warehousing and distribution

Personal services	1,020,365
Operating expenses	495,462
Total	1,515,827
Source of funds	
Enterprise funds	1,515,827
Total	1,515,827

Sec. B.240 Total protection to persons and property

Source of funds	
General fund	152,235,965
Transportation fund	20,250,000
Special funds	86,673,285
Tobacco fund	561,843
Federal funds	54,930,811
ARRA funds	1,010,000
Interdepartmental transfers	14,681,856
Enterprise funds	10,408,556
Total	340,752,316

Sec. B.300 Human services - agency of human services - secretary's office

Personal services	8,771,938
Operating expenses	11,443,486
Grants	4,983,315
Total	25,198,739
Source of funds	
General fund	7,387,754
Special funds	91,017
Federal funds	16,056,135
Global Commitment fund	453,000
Interdepartmental transfers	1,210,833
Total	25,198,739

Sec. B.301 Secretary's office - global commitment

Operating expenses	3,156,749
Grants	1,585,123,038
Total	1,588,279,787
Source of funds	
General fund	283,423,430
Special funds	27,902,465
Tobacco fund	20,299,373
State health care resources fund	284,480,725
Federal funds	955,341,512
Interdepartmental transfers	16,832,282
Total	1,588,279,787

Sec. B.302 Rate setting

Personal services	916,668
Operating expenses	96,744
Total	1,013,412
Source of funds	
General fund	506,706
Federal funds	506,706
Total	1,013,412

Sec. B.303 Developmental disabilities council

Personal services	402,333
Operating expenses	71,003
Grants	150,000
Total	623,336
Source of funds	

Federal funds	623,336
Total	623,336

Sec. B.304 Human services board

Personal services	703,725
Operating expenses	83,296
Total	787,021
Source of funds	
General fund	425,466
Federal funds	319,974
Interdepartmental transfers	41,581
Total	787,021

Sec. B.305 AHS - administrative fund

Personal services	350,000
Operating expenses	10,150,000
Total	10,500,000
Source of funds	
Interdepartmental transfers	10,500,000
Total	10,500,000

Sec. B.306 Department of Vermont health access - administration

Personal services	150,000,858
Operating expenses	5,878,419
Grants	7,314,742
Total	163,194,019
Source of funds	
General fund	26,674,061
Special funds	3,522,585
Federal funds	118,955,295
Global Commitment fund	6,795,089
Interdepartmental transfers	7,246,989
Total	163,194,019

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	730,388,202
Total	730,388,202
Source of funds	
Global Commitment fund	730,388,202
Total	730,388,202

Sec. B.308 Department of Vermont health access - Medicaid program - long term care waiver

Grants	204,515,915
Total	204,515,915
Source of funds	
Global Commitment fund	204,515,915
Total	204,515,915

Sec. B.309 Department of Vermont health access - Medicaid program - state only

Grants	47,955,940
Total	47,955,940
Source of funds	
General fund	39,074,163
Global Commitment fund	8,881,777
Total	47,955,940

Sec. B.310 Department of Vermont health access - Medicaid non-waiver matched

Grants	31,345,248
Total	31,345,248
Source of funds	
General fund	11,400,406
Federal funds	19,944,842
Total	31,345,248

Sec. B.311 Health - administration and support

Personal services	5,369,099
Operating expenses	5,125,954
Grants	4,065,000
Total	14,560,053
Source of funds	
General fund	2,756,570
Special funds	1,737,815
Federal funds	6,577,531
Global Commitment fund	3,443,137
Interdepartmental transfers	45,000
Total	14,560,053

Sec. B.312 Health - public health

Personal services	42,670,151
Operating expenses	8,262,008

Grants	36,443,759
Total	87,375,918
Source of funds	
General fund	9,483,976
Special funds	17,368,655
Tobacco fund	1,088,918
Federal funds	45,853,114
Global Commitment fund	12,436,255
Interdepartmental transfers	1,120,000
Permanent trust funds	25,000
Total	87,375,918

Sec. B.313 Health - alcohol and drug abuse programs

Personal services	4,228,751
Operating expenses	255,634
Grants	49,572,962
Total	54,057,347
Source of funds	
General fund	2,468,452
Special funds	1,163,962
Tobacco fund	949,917
Federal funds	14,495,543
Global Commitment fund	34,979,473
Total	54,057,347

Sec. B.314 Mental health - mental health

Personal services	30,983,975
Operating expenses	3,754,146
Grants	208,515,176
Total	243,253,297
Source of funds	
General fund	6,131,693
Special funds	434,904
Federal funds	8,782,053
Global Commitment fund	227,884,647
Interdepartmental transfers	20,000
Total	243,253,297

Sec. B.316 Department for children and families - administration & support services

Personal services	39,883,238
Operating expenses	11,312,882

Grants	3,019,141
Total	54,215,261
Source of funds	
General fund	26,574,313
Special funds	2,591,557
Federal funds	22,956,549
Global Commitment fund	1,875,508
Interdepartmental transfers	217,334
Total	54,215,261

Sec. B.317 Department for children and families - family services

Personal services	33,519,525
Operating expenses	4,951,233
Grants	75,193,282
Total	113,664,040
Source of funds	
General fund	36,682,377
Special funds	967,587
Federal funds	27,125,458
Global Commitment fund	48,754,229
Interdepartmental transfers	134,389
Total	113,664,040

Sec. B.318 Department for children and families - child development

Personal services	4,373,097
Operating expenses	666,405
Grants	78,641,229
Total	83,680,731
Source of funds	
General fund	33,309,452
Special funds	1,820,000
Federal funds	37,067,384
Global Commitment fund	11,483,895
Total	83,680,731

Sec. B.319 Department for children and families - office of child support

Personal services	10,358,904
Operating expenses	3,664,980
Total	14,023,884
Source of funds	
General fund	3,811,164
Special funds	455,719

Federal funds	9,369,401
Interdepartmental transfers	387,600
Total	14,023,884

Sec. B.320 Department for children and families - aid to aged, blind and disabled

Personal services	2,252,206
Grants	11,298,023
Total	13,550,229
Source of funds	
General fund	9,649,899
Global Commitment fund	3,900,330
Total	13,550,229

Sec. B.321 Department for children and families - general assistance

Personal services	15,000
Grants	6,912,360
Total	6,927,360
Source of funds	
General fund	6,530,025
Federal funds	111,320
Global Commitment fund	286,015
Total	6,927,360

Sec. B.322 Department for children and families - 3SquaresVT

Grants	29,827,906
Total	29,827,906
Source of funds	
Federal funds	29,827,906
Total	29,827,906

Sec. B.323 Department for children and families - reach up

Operating expenses	51,519
Grants	32,420,849
Total	32,472,368
Source of funds	
General fund	6,423,546
Special funds	21,024,984
Federal funds	2,342,220
Global Commitment fund	2,681,618
Total	32,472,368

Sec. B.324 Department for children and families - home heating fuel assistance/LIHEAP

Grants	15,019,953
Total	15,019,953
Source of funds	
Special funds	1,434,217
Federal funds	13,585,736
Total	15,019,953

Sec. B.325 Department for children and families - office of economic opportunity

Personal services	496,450
Operating expenses	43,133
Grants	9,610,253
Total	10,149,836
Source of funds	
General fund	4,767,340
Special funds	57,990
Federal funds	4,494,818
Global Commitment fund	829,688
Total	10,149,836

Sec. B.326 Department for children and families - OEO - weatherization assistance

Personal services	321,661
Operating expenses	43,448
Grants	10,554,220
Total	10,919,329
Source of funds	
Special funds	6,325,418
Federal funds	4,593,911
Total	10,919,329

Sec. B.327 Department for children and families - Woodside rehabilitation center

Personal services	5,478,901
Operating expenses	717,907
Total	6,196,808
Source of funds	
General fund	1,134,164
Global Commitment fund	4,965,644

Interdepartmental transfers	97,000
Total	6,196,808

Sec. B.328 Department for children and families - disability determination services

Personal services	5,978,035
Operating expenses	411,111
Total	6,389,146
Source of funds	
General fund	103,081
Federal funds	6,286,065
Total	6,389,146

Sec. B.329 Disabilities, aging, and independent living - administration & support

Personal services	31,585,910
Operating expenses	5,477,387
Total	37,063,297
Source of funds	
General fund	16,304,973
Special funds	1,390,457
Federal funds	18,301,583
Interdepartmental transfers	1,066,284
Total	37,063,297

Sec. B.330 Disabilities, aging, and independent living - advocacy and independent living grants

Grants	20,067,904
Total	20,067,904
Source of funds	
General fund	7,553,375
Federal funds	7,148,466
Global Commitment fund	5,366,063
Total	20,067,904

Sec. B.331 Disabilities, aging, and independent living - blind and visually impaired

Grants	1,451,457
Total	1,451,457
Source of funds	
General fund	389,154
Special funds	223,450
Federal funds	593,853

Global Commitment fund	245,000
Total	1,451,457

Sec. B.332 Disabilities, aging, and independent living - vocational rehabilitation

Grants	7,174,368
Total	7,174,368
Source of funds	
General fund	1,371,845
Federal funds	4,552,523
Interdepartmental transfers	1,250,000
Total	7,174,368

Sec. B.333 Disabilities, aging, and independent living - developmental services

Grants	221,097,985
Total	221,097,985
Source of funds	
General fund	155,125
Special funds	15,463
Federal funds	359,857
Global Commitment fund	220,522,540
Interdepartmental transfers	45,000
Total	221,097,985

Sec. B.334 Disabilities, aging, and independent living - TBI home and community based waiver

Grants	6,005,225
Total	6,005,225
Source of funds	
Global Commitment fund	6,005,225
Total	6,005,225

Sec. B.335 Corrections - administration

Personal services	2,947,820
Operating expenses	238,644
Total	3,186,464
Source of funds	
General fund	3,186,464
Total	3,186,464

Sec. B.336 Corrections - parole board

Personal services	300,845
Operating expenses	81,081

Total	381,926
Source of funds	
General fund	381,926
Total	381,926

Sec. B.337 Corrections - correctional education

Personal services	3,172,318
Operating expenses	244,932
Total	3,417,250
Source of funds	
General fund	3,268,466
Education fund	0
Interdepartmental transfers	148,784
Total	3,417,250

Sec. B.338 Corrections - correctional services

Personal services	109,065,960
Operating expenses	21,128,473
Grants	9,163,138
Total	139,357,571
Source of funds	
General fund	132,472,462
Special funds	629,963
Federal funds	470,962
Global Commitment fund	5,387,869
Interdepartmental transfers	396,315
Total	139,357,571

Sec. B.339 Corrections - Correctional services-out of state beds

Personal services	7,351,324
Total	7,351,324
Source of funds	
General fund	7,351,324
Total	7,351,324

Sec. B.340 Corrections - correctional facilities - recreation

Personal services	406,528
Operating expenses	455,845
Total	862,373
Source of funds	
Special funds	862,373
Total	862,373

Sec. B.341 Corrections - Vermont offender work program

Personal services	1,447,800
Operating expenses	525,784
Total	1,973,584
Source of funds	
Internal service funds	1,973,584
Total	1,973,584

Sec. B.342 Vermont veterans' home - care and support services

Personal services	18,756,245
Operating expenses	4,949,905
Total	23,706,150
Source of funds	
General fund	3,998,789
Special funds	11,281,346
Federal funds	8,426,015
Total	23,706,150

Sec. B.343 Commission on women

Personal services	316,110
Operating expenses	67,352
Total	383,462
Source of funds	
General fund	380,962
Special funds	2,500
Total	383,462

Sec. B.344 Retired senior volunteer program

Grants	151,096
Total	151,096
Source of funds	
General fund	151,096
Total	151,096

Sec. B.345 Green Mountain Care Board

Personal services	7,702,068
Operating expenses	342,708
Total	8,044,776
Source of funds	
General fund	2,032,469
Special funds	3,446,789
Federal funds	70,000

Global Commitment fund	2,495,518
Total	8,044,776

Sec. B.346 Total human services

Source of funds	
General fund	697,716,468
Special funds	104,751,216
Tobacco fund	22,338,208
State health care resources fund	284,480,725
Education fund	0
Federal funds	1,385,140,068
Global Commitment fund	1,544,576,637
Internal service funds	1,973,584
Interdepartmental transfers	40,759,391
Permanent trust funds	25,000
Total	4,081,761,297

Sec. B.400 Labor - programs

Personal services	29,773,882
Operating expenses	9,518,580
Grants	1,876,867
Total	41,169,329
Source of funds	
General fund	2,980,386
Special funds	3,616,477
Federal funds	33,222,466
Interdepartmental transfers	1,350,000
Total	41,169,329

Sec. B.401 Total labor

Source of funds	
General fund	2,980,386
Special funds	3,616,477
Federal funds	33,222,466
Interdepartmental transfers	1,350,000
Total	41,169,329

Sec. B.500 Education - finance and administration

Personal services	7,569,932
Operating expenses	3,575,080
Grants	15,540,935
Total	26,685,947
Source of funds	

General fund	3,795,807
Special funds	16,280,409
Education fund	995,597
Federal funds	2,396,087
Global Commitment fund	260,000
Interdepartmental transfers	2,958,047
Total	26,685,947

Sec. B.501 Education - education services

Personal services	18,451,314
Operating expenses	1,473,983
Grants	126,074,411
Total	145,999,708
Source of funds	
General fund	5,681,029
Special funds	3,202,682
Tobacco fund	750,388
Federal funds	135,118,942
Interdepartmental transfers	1,246,667
Total	145,999,708

Sec. B.502 Education - special education: formula grants

Grants	198,471,642
Total	198,471,642
Source of funds	
Education fund	198,471,642
Total	198,471,642

Sec. B.503 Education - state-placed students

Grants	15,700,000
Total	15,700,000
Source of funds	
Education fund	15,700,000
Total	15,700,000

Sec. B.504 Education - adult education and literacy

Grants	4,371,050
Total	4,371,050
Source of funds	
General fund	3,605,000
Education fund	0
Federal funds	766,050
Total	4,371,050

Sec. B.504.1 Education - Flexible Pathways

Grants	7,346,000
Total	7,346,000
Source of funds	
Education fund	7,346,000
Total	7,346,000

Sec. B.505 Education - adjusted education payment

Grants	1,371,075,706
Total	1,371,075,706
Source of funds	
Education fund	1,371,075,706
Total	1,371,075,706

Sec. B.506 Education - transportation

Grants	19,226,000
Total	19,226,000
Source of funds	
Education fund	19,226,000
Total	19,226,000

Sec. B.507 Education - small school grants

Grants	7,600,000
Total	7,600,000
Source of funds	
Education fund	7,600,000
Total	7,600,000

Sec. B.510 Education - essential early education grant

Grants	6,617,213
Total	6,617,213
Source of funds	
Education fund	6,617,213
Total	6,617,213

Sec. B.511 Education - technical education

Grants	13,932,162
Total	13,932,162
Source of funds	
Education fund	13,932,162
Total	13,932,162

Sec. B.514 State teachers' retirement system

Grants	99,940,777
Total	99,940,777
Source of funds	
General fund	92,241,519
Education fund	7,699,258
Total	99,940,777

Sec. B.514.1 State teachers' retirement system administration

Personal services	6,217,105
Operating expenses	1,564,274
Total	7,781,379
Source of funds	
Pension trust funds	7,781,379
Total	7,781,379

Sec. B.515 Retired teachers' health care and medical benefits

Grants	31,639,205
Total	31,639,205
Source of funds	
General fund	31,639,205
Total	31,639,205

Sec. B.516 Total general education

Source of funds	
General fund	136,962,560
Special funds	19,483,091
Tobacco fund	750,388
Education fund	1,648,663,578
Federal funds	138,281,079
Global Commitment fund	260,000
Interdepartmental transfers	4,204,714
Pension trust funds	7,781,379
Total	1,956,386,789

Sec. B.600 University of Vermont

Grants	42,509,093
Total	42,509,093
Source of funds	
General fund	39,129,876
Global Commitment fund	3,379,217
Total	42,509,093

Sec. B.601 Vermont Public Broadcast System

Grants	1
Total	1
Source of funds	
General fund	1
Total	1

Sec. B.602 Vermont state colleges

Grants	27,300,464
Total	27,300,464
Source of funds	
General fund	27,300,464
Total	27,300,464

Sec. B.602.1 Vermont state colleges - Supplemental Aid

Grants	700,000
Total	700,000
Source of funds	
General fund	700,000
Total	700,000

Sec. B.603 Vermont state colleges - allied health

Grants	1,157,775
Total	1,157,775
Source of funds	
General fund	748,314
Global Commitment fund	409,461
Total	1,157,775

Sec. B.605 Vermont student assistance corporation

Grants	19,414,588
Total	19,414,588
Source of funds	
General fund	19,414,588
Total	19,414,588

Sec. B.606 New England higher education compact

Grants	84,000
Total	84,000
Source of funds	
General fund	84,000
Total	84,000

Sec. B.607 University of Vermont - Morgan Horse Farm

Grants	1
Total	1
Source of funds	
General fund	1
Total	1

Sec. B.608 Total higher education

Source of funds	
General fund	87,377,244
Global Commitment fund	3,788,678
Total	91,165,922

Sec. B.700 Natural resources - agency of natural resources - administration

Personal services	2,179,464
Operating expenses	1,105,224
Grants	34,960
Total	3,319,648
Source of funds	
General fund	2,670,382
Special funds	554,112
Interdepartmental transfers	95,154
Total	3,319,648

Sec. B.701 Natural resources - state land local property tax assessment

Operating expenses	2,532,755
Total	2,532,755
Source of funds	
General fund	2,111,255
Interdepartmental transfers	421,500
Total	2,532,755

Sec. B.702 Fish and wildlife - support and field services

Personal services	17,559,395
Operating expenses	5,511,383
Grants	1,078,000
Total	24,148,778
Source of funds	
General fund	5,652,621
Special funds	196,212
Fish and wildlife fund	9,505,629
Federal funds	8,691,203

Interdepartmental transfers	93,102
Permanent trust funds	10,011
Total	24,148,778

Sec. B.703 Forests, parks and recreation - administration

Personal services	889,376
Operating expenses	940,315
Total	1,829,691
Source of funds	
General fund	1,829,691
Total	1,829,691

Sec. B.704 Forests, parks and recreation - forestry

Personal services	5,587,322
Operating expenses	761,503
Grants	500,000
Total	6,848,825
Source of funds	
General fund	4,610,156
Special funds	412,999
Federal funds	1,487,097
Interdepartmental transfers	338,573
Total	6,848,825

Sec. B.705 Forests, parks and recreation - state parks

Personal services	8,403,655
Operating expenses	2,621,163
Total	11,024,818
Source of funds	
General fund	434,313
Special funds	10,590,505
Permanent trust funds	0
Total	11,024,818

Sec. B.706 Forests, parks and recreation - lands administration and recreation

Personal services	1,269,132
Operating expenses	1,378,483
Grants	2,506,787
Total	5,154,402
Source of funds	
General fund	673,966
Special funds	2,020,151
Federal funds	2,336,535

Interdepartmental transfers	123,750
Total	5,154,402

Sec. B.708 Forests, parks and recreation - forest and parks access roads

Personal services	65,425
Operating expenses	114,500
Total	179,925
Source of funds	
General fund	179,925
Total	179,925

Sec. B.709 Environmental conservation - management and support services

Personal services	6,288,392
Operating expenses	3,391,844
Grants	150,000
Total	9,830,236
Source of funds	
General fund	1,074,364
Special funds	457,591
Federal funds	744,676
Interdepartmental transfers	7,553,605
Total	9,830,236

Sec. B.710 Environmental conservation - air and waste management

Personal services	12,383,436
Operating expenses	8,691,215
Grants	5,076,000
Total	26,150,651
Source of funds	
General fund	425,825
Special funds	21,875,082
Federal funds	3,655,939
Interdepartmental transfers	193,805
Total	26,150,651

Sec. B.711 Environmental conservation - office of water programs

Personal services	18,292,585
Operating expenses	6,676,548
Grants	23,754,400
Total	48,723,533
Source of funds	
General fund	7,815,563
Special funds	10,333,268

Federal funds	29,486,364
Interdepartmental transfers	1,088,338
Total	48,723,533

Sec. B.713 Natural resources board

Personal services	2,643,689
Operating expenses	495,779
Total	3,139,468
Source of funds	
General fund	608,163
Special funds	2,531,305
Total	3,139,468

Sec. B.714 Total natural resources

Source of funds	
General fund	28,086,224
Special funds	48,971,225
Fish and wildlife fund	9,505,629
Federal funds	46,401,814
Interdepartmental transfers	9,907,827
Permanent trust funds	10,011
Total	142,882,730

Sec. B.800 Commerce and community development - agency of commerce and community development - administration

Personal services	1,717,913
Operating expenses	1,373,839
Grants	452,627
Total	3,544,379
Source of funds	
General fund	3,524,379
Special funds	0
Interdepartmental transfers	20,000
Total	3,544,379

Sec. B.801 Economic development

Personal services	3,512,700
Operating expenses	903,397
Grants	5,554,735
Total	9,970,832
Source of funds	
General fund	4,563,197
Special funds	2,625,350

Federal funds	2,782,285
Total	9,970,832
Sec. B.802 Housing & community development	
Personal services	3,677,757
Operating expenses	745,690
Grants	11,167,128
Total	15,590,575
Source of funds	
General fund	2,760,297
Special funds	4,991,756
Federal funds	7,747,771
Interdepartmental transfers	90,751
Total	15,590,575
Sec. B.806 Tourism and marketing	
Personal services	1,151,255
Operating expenses	1,743,242
Grants	121,880
Total	3,016,377
Source of funds	
General fund	3,016,377
Total	3,016,377
Sec. B.807 Vermont life	
Personal services	604,497
Operating expenses	46,108
Total	650,605
Source of funds	
Enterprise funds	650,605
Total	650,605
Sec. B.808 Vermont council on the arts	
Grants	717,735
Total	717,735
Source of funds	
General fund	717,735
Total	717,735
Sec. B.809 Vermont symphony orchestra	
Grants	141,214
Total	141,214
Source of funds	

General fund	141,214
Total	141,214

Sec. B.810 Vermont historical society

Grants	961,426
Total	961,426
Source of funds	
General fund	961,426
Total	961,426

Sec. B.811 Vermont housing and conservation board

Grants	26,361,035
Total	26,361,035
Source of funds	
Special funds	10,940,222
Federal funds	15,420,813
Total	26,361,035

Sec. B.812 Vermont humanities council

Grants	217,959
Total	217,959
Source of funds	
General fund	217,959
Total	217,959

Sec. B.813 Total commerce and community development

Source of funds	
General fund	15,902,584
Special funds	18,557,328
Federal funds	25,950,869
Interdepartmental transfers	110,751
Enterprise funds	650,605
Total	61,172,137

Sec. B.900 Transportation - finance and administration

Personal services	11,841,671
Operating expenses	2,759,243
Grants	55,000
Total	14,655,914
Source of funds	
Transportation fund	13,637,714
Federal funds	1,018,200
Total	14,655,914

Sec. B.901 Transportation - aviation	
Personal services	5,163,838
Operating expenses	8,404,249
Grants	231,676
Total	13,799,763
Source of funds	
Transportation fund	4,628,763
Federal funds	9,171,000
Total	13,799,763
Sec. B.902 Transportation - buildings	
Operating expenses	1,578,050
Total	1,578,050
Source of funds	
Transportation fund	1,578,050
Total	1,578,050
Sec. B.903 Transportation - program development	
Personal services	50,457,603
Operating expenses	216,263,480
Grants	34,168,390
Total	300,889,473
Source of funds	
Transportation fund	42,549,882
TIB fund	11,894,706
Federal funds	244,766,072
Interdepartmental transfers	239,345
Local match	1,439,468
Total	300,889,473
Sec. B.904 Transportation - rest areas construction	
Personal services	43,000
Operating expenses	701,802
Total	744,802
Source of funds	
Transportation fund	76,242
Federal funds	668,560
Total	744,802
Sec. B.905 Transportation - maintenance state system	
Personal services	43,007,903
Operating expenses	44,516,596

Grants	371,780
Total	87,896,279
Source of funds	
Transportation fund	85,018,492
Federal funds	2,777,787
Interdepartmental transfers	100,000
Total	87,896,279

Sec. B.906 Transportation - policy and planning

Personal services	4,258,996
Operating expenses	923,797
Grants	5,903,691
Total	11,086,484
Source of funds	
Transportation fund	2,822,771
Federal funds	8,171,508
Interdepartmental transfers	92,205
Total	11,086,484

Sec. B.907 Transportation - rail

Personal services	5,511,324
Operating expenses	24,087,727
Total	29,599,051
Source of funds	
Transportation fund	18,675,520
TIB fund	760,000
Federal funds	10,163,531
Total	29,599,051

Sec. B.908 Transportation - public transit

Personal services	1,226,680
Operating expenses	244,440
Grants	27,549,109
Total	29,020,229
Source of funds	
Transportation fund	7,795,281
Federal funds	21,224,948
Total	29,020,229

Sec. B.909 Transportation - central garage

Personal services	4,283,427
Operating expenses	16,401,097
Total	20,684,524

Source of funds	
Internal service funds	20,684,524
Total	20,684,524

Sec. B.910 Department of motor vehicles

Personal services	19,894,921
Operating expenses	11,465,811
Total	31,360,732
Source of funds	
Transportation fund	29,760,414
Federal funds	1,458,768
Interdepartmental transfers	141,550
Total	31,360,732

Sec. B.911 Transportation - town highway structures

Grants	6,333,500
Total	6,333,500
Source of funds	
Transportation fund	6,333,500
Total	6,333,500

Sec. B.912 Transportation - town highway local technical assistance program

Personal services	363,490
Operating expenses	40,224
Total	403,714
Source of funds	
Transportation fund	103,714
Federal funds	300,000
Total	403,714

Sec. B.913 Transportation - town highway class 2 roadway

Grants	7,648,750
Total	7,648,750
Source of funds	
Transportation fund	7,648,750
Total	7,648,750

Sec. B.914 Transportation - town highway bridges

Personal services	3,181,488
Operating expenses	8,683,506
Grants	1,460,000
Total	13,324,994
Source of funds	

Transportation fund	1,490,612
TIB fund	547,631
Federal funds	10,594,419
Local match	692,332
Total	13,324,994

Sec. B.915 Transportation - town highway aid program

Grants	25,982,744
Total	25,982,744
Source of funds	
Transportation fund	25,982,744
Total	25,982,744

Sec. B.916 Transportation - town highway class 1 supplemental grants

Grants	128,750
Total	128,750
Source of funds	
Transportation fund	128,750
Total	128,750

Sec. B.917 Transportation - town highway: state aid for nonfederal disasters

Grants	1,150,000
Total	1,150,000
Source of funds	
Transportation fund	1,150,000
Total	1,150,000

Sec. B.918 Transportation - town highway: state aid for federal disasters

Grants	180,000
Total	180,000
Source of funds	
Transportation fund	20,000
Federal funds	160,000
Total	180,000

Sec. B.919 Transportation - municipal mitigation assistance program

Operating expenses	200,000
Grants	8,882,342
Total	9,082,342
Source of funds	
Transportation fund	1,240,000
Special funds	2,400,000

Federal funds	5,442,342
Total	9,082,342
Sec. B.920 Transportation - public assistance grant program	
Operating expenses	640,000
Grants	4,419,457
Total	5,059,457
Source of funds	
Transportation fund	160,000
Special funds	1,419,457
Federal funds	3,000,000
Interdepartmental transfers	480,000
Total	5,059,457
Sec. B.921 Transportation board	
Personal services	235,619
Operating expenses	35,924
Total	271,543
Source of funds	
Transportation fund	271,543
Total	271,543
Sec. B.922 Total transportation	
Source of funds	
Transportation fund	251,072,742
TIB fund	13,202,337
Special funds	3,819,457
Federal funds	318,917,135
Internal service funds	20,684,524
Interdepartmental transfers	1,053,100
Local match	2,131,800
Total	610,881,095
Sec. B.1000 Debt service	
Operating expenses	78,097,467
Total	78,097,467
Source of funds	
General fund	72,860,749
Transportation fund	1,629,544
ARRA funds	1,102,486
TIB debt service fund	2,504,688
Total	78,097,467

Sec. B.1001 Total debt service

Source of funds	
General fund	72,860,749
Transportation fund	1,629,544
ARRA funds	1,102,486
TIB debt service fund	2,504,688
Total	78,097,467

Sec. B.1100 NEXT GENERATION; APPROPRIATIONS AND TRANSFERS

(a) In fiscal year 2019, $3,055,900 is appropriated or transferred from the Next Generation Initiative Fund created in 16 V.S.A. § 2887 as prescribed:

(1) Workforce education and training. The amount of $1,605,400 as follows:

(A) Workforce Education and Training Fund (WETF). The amount of $1,045,400 is transferred to the Vermont Workforce Education and Training Fund created in 10 V.S.A. § 543 and subsequently appropriated to the Department of Labor for workforce education and training. Up to seven percent of the funds may be used for administration of the program. Of this amount, $350,000 shall be allocated for competitive grants for internships through the Vermont Strong Internship Program pursuant to 10 V.S.A. § 544.

(B) Adult Career Technical Education Programs. The amount of $360,000 is appropriated to the Department of Labor in consultation with the State Workforce Development Board. This appropriation is for the purpose of awarding competitive grants to regional technical centers and high schools to provide adult career technical education, as that term is defined in 16 V.S.A. § 1522, to unemployed and underemployed Vermont adults.

(C) The amount of $200,000 is appropriated to the Agency of Commerce and Community Development to issue performance grants to the University of Vermont and the Vermont Center for Emerging Technologies for patent development and commercialization of technology and to enhance the development of high-technology businesses and Next Generation employment opportunities throughout Vermont.

(2) Loan repayment. The amount of $30,000 as follows:

(A) Large animal veterinarians' loan repayment. The amount of $30,000 is appropriated to the Agency of Agriculture, Food and Markets for a loan repayment program for large animal veterinarians pursuant to 6 V.S.A. § 20.

(3) Scholarships and grants. The amount of $1,420,500 as follows:

(A) Non-degree VSAC grants. The amount of $494,500 is appropriated to the Vermont Student Assistance Corporation. These funds shall be for the purpose of providing nondegree grants to Vermonters to improve job skills and increase overall employability, enabling them to enroll in a postsecondary education or training program, with equal emphasis on adult technical education that is not part of a degree or accredited certificate program. A portion of these funds shall be used for grants for indirect educational expenses to students enrolled in training programs. The grants shall not exceed $3,000 per student. None of these funds shall be used for administrative overhead.

(B) National Guard Educational Assistance. The amount of $150,000 is appropriated to Military – administration to be transferred to the Vermont Student Assistance Corporation for the National Guard Educational Assistance Program established in 16 V.S.A. § 2856.

(C) Dual enrollment programs and need-based stipend. The amount of $740,000 is appropriated to the Agency of Education for dual enrollment programs and $36,000 is appropriated to the Agency of Education to be transferred to the Vermont Student Assistance Corporation for need-based stipends pursuant to Sec. E.605.1 of this act.

Sec. B.1100.1 DEPARTMENT OF LABOR RECOMMENDATION FOR FISCAL YEAR 2020 NEXT GENERATION INITIATIVE FUND DISTRIBUTION

(a) The Department of Labor, in coordination with the Agencies of Commerce and Community Development, of Human Services, and of Education, and in consultation with the State Workforce Development Board, shall recommend to the Governor on or before December 1, 2018 how $3,055,900 from the Next Generation Initiative Fund should be allocated or appropriated in fiscal year 2020 to provide maximum benefit to workforce education and training, participation in secondary or postsecondary education by underrepresented groups, and support for promising economic sectors in Vermont. The State agencies and departments listed herein shall promote actively and publicly the availability of the funds to eligible entities.

Sec. B.1101 FISCAL YEAR 2019 ONE-TIME APPROPRIATION FROM THE ALBERT C. LORD PERMANENT TRUST FUND

(a) The sum of $86,267 is appropriated from the Albert C. Lord Permanent Trust Fund to the Department of Forests, Parks and Recreation – state parks, for conservation education activities, consistent with the intended purpose of the Fund. These funds will be used to pay the cost of one conservation education position and the cost of publishing conservation education outreach materials.

Sec. B.1102 ONE-TIME CLEAN ENERGY DEVELOPMENT FUND APPROPRIATION

(a) In fiscal year 2019, $200,000 is appropriated from the Clean Energy Development Fund created in 30 V.S.A. § 8015 to the Department of Environmental Conservation to increase the amount available for woodstove change outs to improve air quality and reduce air emissions related to woodstoves.

Sec. C.100 2017 Acts and Resolves No. 85, Sec. E.605 is amended to read:

Sec. E.605 Vermont student assistance corporation

(a) Of this appropriation, $25,000 is appropriated from the ~~Education~~ General Fund to the Vermont Student Assistance Corporation to be deposited into the Trust Fund established in 16 V.S.A. § 2845.

* * *

Sec. C.101 REPEAL

(a) 2017 Acts and Resolves No. 85, Sec. E.301.1 (General Fund reversion) is repealed.

Sec. C.102 FISCAL YEAR 2018 MEDICAID AUTHORIZED PAYMENT AND CARRY FORWARD REQUIREMENT

(a) In fiscal year 2018, to the extent funds are available within the funds appropriated in 2017 Acts and Resolves No. 85, Sec. B.301 as amended by 2018 Acts and Resolves No. 87, Sec. 8, as determined by the Secretary of Human Services in consultation with the Commissioner of Finance and Management and the Legislative Chief Fiscal Officer, the Agency of Human Services:

(1) Shall carry forward to fiscal year 2019 a total of $1,500,000 in General Funds for fiscal year 2019 obligations. The Commissioner of Finance and Management is authorized to adjust fiscal year 2018 Federal Fund and Global Commitment Fund appropriations in the Agency of Human Services and Department of Vermont Health Access to comport with this provision.

(A) The Commissioner of Finance and Management and the Secretary of Human Services shall ensure that the budget proposal submitted for Global Commitment as part of the requirement of 32 V.S.A. § 306 does not rely upon anticipated carry forward General Funds, and appropriates general funds in fiscal year 2020 to the Secretary of Human Services in an amount sufficient to fund the most current official Medicaid forecast adopted for fiscal year 2020 under 32 V.S.A. § 305a(c) adjusted for any recommended changes to policy or operations that impact the official forecast.

(2) Is authorized to spend $4,500,000 in General Funds to fund a negotiated agreement to settle financial reconciliation of the 2016 year of the Vermont Health Connect operations.

(3) Shall carry forward to fiscal year 2019 a total of $1,100,000 in General Funds for premium processing by Vermont Health Connect during fiscal year 2019. It is anticipated that premium processing functions will be performed by insurance carriers in the 2020 health insurance year. The Commissioner of Finance and Management is authorized to adjust fiscal year 2018 Federal Fund and Global Commitment Fund appropriations in the Agency of Human Services and Department of Vermont Health Access to comport with this requirement.

Sec. C.103 FISCAL YEAR 2017 ONE-TIME APPROPRIATION CARRY FORWARD

(a) In fiscal year 2018, the sum of $1,300,000 remaining of the amount appropriated to the Secretary of Administration in 2017 Acts and Resolves No. 85, Sec. C.100(a), shall be carried forward into fiscal year 2019 for distribution to the Department for Children and Families to provide funding for changes in employee classification that were previously approved in accordance with the collective bargaining agreement.

Sec. C.104 [DELETED]

Sec. C.105 FISCAL YEAR 2018 ONE-TIME TRANSFERS FROM THE TOBACCO LITIGATION SETTLEMENT FUND

(a) Transfers: Notwithstanding 32 V.S.A. § 435a(a) the following transfers shall be made from the Tobacco Litigation Settlement Fund:

(1) $13,500,000 is transferred to the Vermont Teachers' Retirement Fund established pursuant to 16 V.S.A. § 1944;

(2) $750,000 is transferred to the Environmental Contingency Fund established pursuant to 10 V.S.A. § 1283 for the purpose of conducting an evaluation of cleanup alternatives and, if required, a corrective action plan for PFOA and PFOS releases in the Town of Bennington; and

(3) $1,000,000 is transferred to the Complex Litigation Special Fund established in 3 V.S.A. § 167a.

Sec. C.105.1 FISCAL YEAR 2018 ONE-TIME APPROPRIATIONS FROM THE TOBACCO LITIGATION SETTLEMENT FUND

(a) Appropriations: Notwithstanding 32 V.S.A. § 435a(a), the following appropriations shall be made from the Tobacco Litigation Settlement Fund:

(1) $1,000,000 to the Department of Buildings and General Services to be used in combination with capital funds appropriated in fiscal year 2019 for renovation and fit-up at the Brattleboro Retreat to provide a minimum of 12 beds, including level-1 beds, to the State for a period determined by the Secretary of Human Services to be in the best interest of the State. The Department of Buildings and General Services shall not expend any funds from this appropriation until the Commissioner of Buildings and General Services and the Secretary of Human Services have notified the Commissioner of Finance and Management and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions that an agreement has been executed between the Brattleboro Retreat and the State.

(2) $500,000 to the University of Vermont;

(3) $500,000 to the Vermont State Treasurer to offset costs of interest and principal at the Treasurer's discretion for longer-term State building efficiency investment funding. The Treasurer and the Commissioner of Buildings and General Services shall report to the House and Senate Committees on Appropriations, the House Committee on Corrections and Institutions, and the Senate Committee on Institutions on the use of these funds.

(4) $1,000,000 to the Agency of Human Services. The use of these funds shall be pursuant to the plan specified by the Tobacco Evaluation and Review Board.

(5) $200,000 to the Department of Health to conduct two blood draw clinics in Bennington in calendar year 2018 for current and prior members of the community who may have had long-term exposure to PFOA and PFOS releases in the Town of Bennington

(6) $350,000 to the Department of Corrections to design reentry programming that will result in stronger support and reintegration into the community for inmates and lower recidivism.

(7) $400,000 to the Department of Corrections for Medication-Assisted Treatment as specified in S.166 of 2018.

(8) $300,000 to the Department of Forests, Parks and Recreation to be granted to the Vermont Youth Conservation Corps in even increments of $100,000 in fiscal years 2018, 2019, and 2020.

(9) $100,000 to the Department for Children and Families' Child Development Division to analyze how Vermont's families make early care and education arrangements for their children. These funds shall be used to contract with an independent organization to survey families in Vermont with children under six years of age about their child care arrangements and

preferences and what factors may constrain parental choices. The Department shall provide a copy of the survey instrument to the House and Senate Committees on Appropriations, the House Committee on Human Services and the Senate Committee on Health and Welfare prior to finalizing the instrument for survey implementation. The Department shall provide a report on the results of the survey to the General Assembly on January 15, 2019.

(10) $200,000 to the Department for Children and Families to prepare for the expansion of services to juvenile offenders 18 and 19 years of age pursuant to 33 V.S.A. chapters 52 and 52A as amended in S.274 of 2018 beginning in fiscal year 2021, with any unexpended funds to carry forward.

(11) $100,000 to the Office of Economic Opportunity in the Department for Children and Families for pass-through grants to the Community Action Agencies to provide funding for the regional Microbusiness Development Programs pursuant to 3 V.S.A. § 3722.

(12) $100,000 to the Agency of Education for fiscal year 2019 for administration in accordance with the Prekindergarten study required by Sec. E.500.7 of this act.

(13) $150,000 to the Joint Fiscal Office for the study of Corrections Health Care as specified in Sec. E.127 of this act.

Sec. C.106 CHINS CASES SYSTEM-WIDE REFORM

(a) The sum of $7,000,000 is appropriated from the Tobacco Litigation Settlement Fund to the Judiciary in fiscal year 2018 and shall carry forward for the uses and based on the allocations set forth in subsections (b) and (c) of this section. The purpose of the funds is to make strategic investments to transform the adjudication of CHINS cases in Vermont.

(b) The sum appropriated from the Tobacco Litigation Settlement Fund in subsection (a) of this section shall be allocated as follows:

(1) $1,250,000 for fiscal year 2019, which shall not be distributed until the group defined in subsection (c) of this section provides proposed expenditures as part of its fiscal year 2019 budget adjustment request;

(2) $2,500,000 for fiscal year 2020, for which the group shall provide proposed expenditures as part of its fiscal year 2020 budget request or budget adjustment request, or both;

(3) $2,500,000 for fiscal year 2021, for which the group shall provide proposed expenditures as part of its fiscal year 2021 budget request or budget adjustment request, or both; and

(4) $750,000 in fiscal year 2022 or after as needed.

(c) During the 2018 legislative interim, the Chief Superior Judge, the Executive Director of State's Attorneys and Sheriffs, the Defender General, and the Commissioner for Children and Families, shall review and propose changes to the system by which CHINS cases are processed and adjudicated. In undertaking this review the group shall evaluate successful models used in other countries, states, or cities. The proposal shall incorporate innovative approaches to holistic reform and strategies to reduce the need for court intervention, and may include the use of regional and mobile models, judicial masters, mediation, dedicated resources, and other alternative dispute resolution options to the CHINS process. The proposal for reform shall:

(1) support and improve child safety;

(2) provide early screening for substance abuse, mental health, and trauma of children and parents;

(3) provide early access to services designed to address screening outcomes;

(4) improve timeliness of adjudication, including timeliness to permanency for children, whether permanency is reunification with parents or termination of parental rights;

(5) ensure due process;

(6) serve the best interests of the affected children;

(7) relieve systemic resource and budget pressures; and

(8) lead to lasting changes.

(d) The Chief Superior Judge, the Executive Director of State's Attorneys and Sheriffs, the Defender General, and the Commissioner for Children and Families shall report on the proposal developed pursuant to subsection (c) of this section, and shall include a recommendation on how to allocate the $1,250,000 allocated for fiscal year 2019 to reflect the vision for reforming the CHINS docket that achieves the outcomes set forth in subsection (c) of this section:

(1) on or before December 1, 2018 shall report to a combined meeting of the Joint Legislative Justice Oversight Committee and Joint Legislative Child Protection Committee; and

(2) shall report to the House and Senate Committees on Appropriations, the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare on or before January 15, 2019 as a part of the Judiciary's recommendations for the fiscal year 2020 budget.

Sec. C.106.1 EXPANDING THE VERMONT WORKFORCE FOR SUBSTANCE USE DISORDER TREATMENT AND MENTAL HEALTH PROFESSIONALS

(a) The sum of $5,000,000 is appropriated from the Tobacco Litigation Settlement Fund to the Agency of Human Services in fiscal year 2018 and shall carry forward for the uses and based on the allocations set forth in subsections (b) and (c) of this section. The purpose of the funds is to make strategic investments in order to expand the supply of high-quality substance use disorder treatment and mental health professionals available to Vermont residents in need of their services.

(b) The sum appropriated to the Agency of Human Services in subsection (a) of this section shall be allocated to the Agency as follows:

(1) $1,500,000 for fiscal year 2019, which shall not be distributed until the Agency provides proposed expenditures as part of its fiscal year 2019 budget adjustment request;

(2) $1,500,000 for fiscal year 2020, for which the Agency shall provide proposed expenditures as part of its fiscal year 2020 budget request or budget adjustment request, or both;

(3) $1,500,000 for fiscal year 2021, for which the Agency shall provide proposed expenditures as part of its fiscal year 2021 budget request or budget adjustment request, or both; and

(4) $500,000 which may be provided in fiscal year 2022 or after as needed to ensure successful and sustainable implementation of the workforce expansion initiatives developed pursuant to this section.

(c)(1) The Secretary of Human Services shall convene a work group composed of representatives of the University of Vermont, the Vermont State Colleges, the Area Health Education Centers (AHEC) program and others including consumers, primary care doctors to select from among all proposals for use of the funds allocated pursuant to subsection (b) of this section those most likely to build capacity in Vermont's substance use disorder treatment and mental health systems in a cost-effective and sustainable manner by cultivating, attracting, recruiting, and retaining high-quality substance use disorder treatment and mental health professionals. The Secretary of Human Services shall present the selected proposals to the General Assembly within the allocations set forth in subsection (b) of this section for approval as part of the applicable budget or budget adjustment process.

(2) Successful proposals for use of the funds allocated pursuant to subsection (b) of this section may include scholarships; loan repayment for high-quality substance use disorder treatment and mental health professionals

who commit to practicing in Vermont; hiring bonuses or loan repayment, or both, for faculty and staff at institutions of higher education in Vermont to teach prospective substance use disorder treatment and mental health professionals; strategic bonuses for high-quality substance use disorder treatment and mental health professionals in Vermont's existing workforce; and appropriate continuing education and training for substance use disorder treatment and mental health professionals in Vermont's existing workforce. Loan repayment funds shall be distributed using the AHEC system as appropriate.

Sec. C.106.2 SUBSTANCE USE DISORDER RESPONSE INITIATIVES

(a) The sum of $2,500,000 is appropriated from the Tobacco Litigation Settlement Fund to the Agency of Human Services in fiscal year 2018 and shall carry forward for the uses and based on the allocations set forth in this section. These funds shall be used to finance time-limited or self-sustaining substance use disorder initiatives including initiatives relating to prevention, intervention, harm reduction, treatment, and recovery.

(b) The sum appropriated to the Agency of Human Services in subsection (a) of this section shall be allocated to the Agency as follows:

(1) $1,000,000 for fiscal year 2019, which shall not be distributed until the Agency provides proposed expenditures as part of its fiscal year 2019 budget adjustment request;

(2) $750,000 for fiscal year 2020, for which the Agency shall provide proposed expenditures as part of its fiscal year 2020 budget request or budget adjustment request, or both;

(3) $750,000 for fiscal year 2021, for which the Agency shall provide proposed expenditures as part of its fiscal year 2021 budget request or budget adjustment request, or both.

(c) The Secretary of Human Services shall present a plan to fund fiscal year initiatives relating to prevention, intervention, harm reduction, treatment, and recovery for approval at the Joint Fiscal Committee July 2018 meeting.

Sec. C.106.3 [DELETED]

Sec. C.106.4 [DELETED]

Sec. C.106.5 [DELETED]

Sec. C.107 [DELETED]

Sec. C.108 REPEALS

(a) 2018 Acts and Resolves No. 87, Sec. 37 (Temporary General Fund Reserve) is repealed.

(b) 2018 Acts and Resolves No. 87, Sec. 43 (Use of General Fund Balance Reserve) is repealed.

Sec. C.109 FISCAL YEAR 2018 FEDERAL FUNDS CONTINGENT APPROPRIATION

(a) In the event a federal infrastructure bill providing additional federal funding to Vermont for transportation-related projects is enacted and takes effect in fiscal year 2018 or fiscal year 2019, such federal funds are appropriated to the Agency of Transportation in fiscal year 2018 or fiscal year 2019 as provided and under the conditions prescribed in Sec. 2 of H.917 of 2018.

Sec. C.110 IMPLEMENTATION OF PRELIMINARY RECOMMENDATIONS OF THE VERMONT CLIMATE ACTION COMMISSION

(a) On December 29, 2017, the Vermont Climate Action Commission (Commission) created by the Governor through Executive Order No. 12-17 made five preliminary recommendations to advance Vermont's ability to achieve the Comprehensive Energy Plan's goals for 2050 to reduce greenhouse gas (GHG) emissions and increase renewable energy. Those recommendations are implemented by the provisions of this section and those other sections and bills described in this section.

(b) Recommendations of the Commission and actions taken on them include:

(1) Support advanced wood heat: In Sec. B.1102 of this act $200,000 shall be dedicated for additional woodstove change outs to improve air quality and reduce air emissions related to woodstoves, funded on a one-time basis;

(2) Increase the pace of weatherization: Two specific actions include:

(A) In H.907 of 2018, the State Treasurer is authorized in fiscal years 2019 and 2020 to invest up to $5,000,000 of funds from the credit facility established in 10 V.S.A. § 10 for an accelerated weatherization and housing improvement program. The funds shall be used to support efforts for households and multi-family rental homes as specified in H.907 of 2018.

(B) The Department of Buildings and General Services shall work with the Treasurer to maximize use of the credit facility for local investments established in 10 V.S.A. § 10, to fund energy efficiency projects for State buildings. The amount of $500,000 is appropriated in Sec. C.105.1(a)(3) of this act to the Treasurer to offset costs of interest and principal at the Treasurer's discretion for longer-term State building efficiency investment funding.

(3) Study regulatory and market decarbonization mechanisms: The Joint Fiscal Committee shall contract for independent professional assistance to analyze the costs and benefits for Vermont of adopting and implementing policies to reduce GHG emissions caused by Vermont's consumption of fossil fuels. There is $120,000 appropriated in Sec. C.1000(a)(1) of this act to the Joint Fiscal Committee for this study.

(A) The analysis shall include the comparative ability or potential of the policies to achieve reductions in GHG emissions; to spur economic development in the State; to encourage innovation in the State; to cause shifts in employment, including job creation, job loss, and sectors affected; and to affect the cost of living in Vermont.

(B) The Joint Fiscal Office and the contractor shall consult with the Climate Commission and the Chairs of the House Committees on Energy and Technology and on Natural Resources, Wildlife, and Water Resources and the Senate Committee on Natural Resources and Energy. On or before January 15, 2019, the Joint Fiscal Office shall submit the analysis to those same standing committees, with a copy to the Climate Commission.

(4) Foster the climate economy: The recommendations in subdivisions (1), (2), (3), and (5) of this subsection should result in added economic activity to foster a climate economy.

(5) Electrify the transportation system: The direction concerning the use of Environmental Mitigation Trust monies resulting from the Volkswagen litigation set forth in Sec. E.700 of this act is designed to increase electrification of transportation.

Sec. C.111 2017 Acts and Resolves No. 85, Sec. B.502 is amended to read:

Sec. B.502 Education – special education: formula grants

Grants	~~180,749,796~~	188,749,796
Total	~~180,749,796~~	188,749,796
Source of funds		
Education fund	~~180,749,796~~	188,749,796
Total	~~180,749,796~~	188,749,796

Sec. C.112 2017 Acts and Resolves No. 85, Sec. B.503 is amended to read:

Sec. B.503 Education – state placed students

Grants	~~16,700,000~~	14,700,000
Total	~~16,700,000~~	14,700,000
Source of funds		
Education fund	~~16,700,000~~	14,700,000
Total	~~16,700,000~~	14,700,000

Sec. C.113 2017 Acts and Resolves No. 85, Sec. B.504.1 as amended by 2018 Acts and Resolves No. 87, Sec. 32 is further amended to read:

Sec. B.504.1 Education - Flexible Pathways

Grants	~~7,850,000~~	7,100,000
Total	~~7,850,000~~	7,100,000
Source of funds		
Education fund	~~7,850,000~~	7,100,000
Total	~~7,850,000~~	7,100,000

Sec. C.114 2017 Acts and Resolves No. 85, Sec. B.516 as amended by 2018 Acts and Resolves No. 87, Sec. 33 is further amended to read:

Sec. B.516 Total general education

Source of funds		
General fund	427,964,287	427,964,287
Special funds	22,238,547	22,238,547
Tobacco fund	750,388	750,388
Education fund	~~1,615,538,843~~	1,620,788,843
Federal funds	136,958,720	136,958,720
Global Commitment fund	260,000	260,000
Interdepartmental transfers	4,608,110	4,608,110
Pension trust funds	7,687,431	7,687,431
Total	~~2,216,006,326~~	2,221,256,326

Sec. C.115 2017 Acts and Resolves No. 85, Sec. B.514 is amended to read:

Sec. B.514 State teachers' retirement system

Grants	~~83,809,437~~	84,109,437
Total	~~83,809,437~~	84,109,437
Source of funds		
General fund	~~75,912,816~~	76,212,816
Education fund	7,896,621	7,896,621
Total	~~83,809,437~~	84,109,437

Sec. C.116 2017 Acts and Resolves No. 85, Sec. B.515 is amended to read:

Sec. B.515 Retired teachers' health care and medical benefits

Grants	~~27,560,966~~	27,260,966
Total	~~27,560,966~~	27,260,966
Source of funds		
General fund	~~27,560,966~~	27,260,966
~~Education fund~~	~~0~~	
Total	~~27,560,966~~	27,260,966

Sec. C.117 2017 Acts and Resolves No. 85, Sec. E.514 is amended to read:

Sec. E.514 State teachers' retirement system

(a) In accordance with 16 V.S.A. § 1944(g)(2), the annual contribution to the State Teachers' Retirement System (STRS) shall be $88,409,437 of which ~~$83,809,437~~ $84,109,437 shall be the State's contribution and ~~$4,600,000~~ $4,300,000 shall be contributed from local school systems or educational entities pursuant to 16 V.S.A. § 1944c.

* * *

Sec. C.118 2017 Acts and Resolves No. 85, Sec. E.515 is amended to read:

Sec. E.515 Retired teachers' health care and medical benefits

(a) In accordance with 16 V.S.A. § 1944b(b)(2), ~~$27,560,966~~ $27,260,966 will be contributed to the Retired Teachers' Health and Medical Benefits plan.

Sec. C.119 2017 Acts and Resolves No. 85, Sec. D.101 as amended by 2018 Acts and Resolves No. 87, Sec. 36 is further amended to read:

Sec. D.101 FISCAL YEAR 2018 FUND TRANSFERS, REVERSIONS, AND RESERVES

* * *

(c) Notwithstanding any provisions of law to the contrary, in fiscal year 2018:

(1) The following amounts shall revert to the General Fund from the accounts indicated:

1210001000	Legislative Council	150,000.00
~~1210002000~~	~~Legislature~~	~~385,000.00~~
1230001000	Sergeant at Arms	19,000.00
7120890704	International Trade Commission	7,711.88
1110003000	Budget & Management	27,921.28
1100010000	Secretary of Administration	100,000.00
1140070000	Use Tax Reimbursement Program	404.00
1240001000	Lieutenant Governor	21,424.41
1250010000	Auditor of Accounts	53,389.23
2100002000	Court Diversion	24,744.91
2160010000	Victims Compensation	489.05
2280001000	Human Rights Commission	10,000.00
3310000000	Commission on Women	3,040.00
5100070000	Education – Education Services	128.66
5100060000	Adult Basic Education	1,065.35
7100000000	Administration Division	3,000.00

* * *

Sec. C.1000 FISCAL YEAR 2018 GENERAL FUND ONE-TIME APPROPRIATIONS, TRANSFERS, AND REVERSIONS

(a) Appropriations: The following appropriations are made from the General Fund in fiscal year 2018:

(1) To the Joint Fiscal Committee for the decarbonization mechanisms study as prescribed in Sec. C.110(b)(3) of this act. $120,000

(2) To the Legislature for a legislative staff workforce comparative evaluation specified in Sec. E.126 of this act. $40,000

(3) To the Agency of Agriculture, Food and Markets to be carried forward and used to increase grants awarded in the Vermont Working Lands Enterprise program in fiscal year 2019. $106,000

(4) To the Vermont State Colleges for the final State contribution for costs of the unification of Johnson and Lyndon State colleges into Northern Vermont University. $350,000

(5) To the Department of State's Attorneys and Sheriffs to be carried forward and used for transport per diem funding in fiscal year 2019 for Vermont Sheriffs. $105,776

(6) To the Joint Fiscal Office for the Vermont Tax Structure Commission established in Sec.15 of H.911 of 2018 $500,000

(7) To the Agency of Education in fiscal year 2018 to be carried forward for fiscal year 2019 under 16 V.S.A. § 2969(c) for the Agency to administer the grant program in accordance with Sec. E.500.6 of this act. $250,000

(8) To the Secretary of State for costs associated with administering primary and general election efforts. $400,000

(9) To the State's Attorneys for the purchase of a case management system. $200,000

(10) To the Agency of Agriculture, Food and Markets to be carried forward for Farm to School initiatives in fiscal year 2019. $50,000

(11) To the Vermont Economic Development Authority (VEDA) to be used by VEDA's agricultural subsidiary the Vermont Agricultural Credit Corporation (VACC) established under 10 V.S.A. § 374a. These funds are for a loss reserve in the 2018 Farm Operating Program which provides Vermont cow dairy farmers with loans to spring operating and related needs including refinancing debt. VEDA shall report to the Emergency Board at its July 2018 meeting on final program design and the use of these funds. $250,000

(12) To the Agency of Agriculture, Food and Markets to partially offset costs of participation in the Federal Margin Protection Program (MPP) for dairy producers during the 2018 calendar year. Specifically these funds shall be used to provide reimbursement grants to partially offset the premiums for participation in Tier 1 of the MPP program. The Agency of Agriculture, Food and Markets shall request that the Farm Services Agency provide participation information for dairy producers in the margin protection program and other information to assist the Agency to administer the grant program. Dairy producers shall receive a single payment of approximately $600, not to exceed the premium paid for calendar year 2018, by separate check from the State of Vermont. The Agency shall calculate a single farm payment amount based on the funds appropriated and the actual participation in this program and shall report to the Joint Fiscal Committee on or before November 10, 2019 on the amount of the calculated payment. $450,000

(13) To the Agency of Agriculture, Food and Markets to be carried forward for a grant to the Vermont Housing and Conservation Board for federal rural development grant writing assistance in fiscal year 2019. $75,000

(14) To the Agency of Human Services in fiscal year 2018 for any remaining amount of the Medicaid financial requirements specified in Sec. C.102 of this act that are not available within the funds appropriated in 2017 Acts and Resolves No. 85, Sec. B.301 as amended by 2018 Acts and Resolves No. 87, Sec. 8. The Agency shall expend funds available in this appropriation after meeting the requirements specified in Sec. C.102 of this act to the extent available to maintain critical healthcare services that have lost federal funding and to support substance use disorder activities including needle exchange programs, active case management of opioid addicted persons and the distribution of naloxone. The Agency shall report to the Joint Fiscal Committee at its July and September 2018 meetings on the funds allocated for the purposes allowed by this subdivision. $7,100,000

(15) To the Agency of Commerce and Community Development to fund expenses including the refund of subscriptions related to Vermont Life Magazine. $350,000

(b) Transfers:

(1) The amount of $1,790,000 in General Funds shall be transferred and reserved in the 27/53 Reserve in fiscal year 2018. This action is the fiscal year 2019 contribution to the 27th payroll reserve as required by 32 V.S.A. § 308e.

(2) $453,292 shall be transferred to the Clean Energy Development Fund as a result of final accounting reconciliation for the cost of solar energy tax credits.

(3) An amount not to exceed $9,800,000 shall be transferred to the Education Fund to bring the Education Fund reserve to its statutory maximum of 5 percent at the close of fiscal year 2018 and the close of fiscal year 2019.

(4) $21,000,000 is transferred to the Vermont Teachers' Retirement Fund established pursuant to 16 V.S.A. § 1944.

(5) $3,536,000 is transferred to the Vermont Life Magazine Enterprise Fund to address accumulated operational deficits.

(c) Reversion: In fiscal year 2018, $120,000 of the appropriation made in 2017 Acts and Resolves No. 85, Sec. C.100(c), shall revert to the General Fund.

(d) Fund Balance Carried Forward:

(1) $500,000 shall be reserved in the General Fund to carry forward to be available in fiscal year 2019 to obviate any transfer of funds from the Clean Energy Development Fund to the General Fund in fiscal year 2019.

(e) Contingent Reserves: In fiscal year 2018 to the extent any remaining unreserved and undesignated end of fiscal year General Fund surplus remains after satisfying the requirements of 32 V.S.A. § 308 and prior to the provisions of 2017 Acts and Resolves No. 85, Sec. C.120 as amended by this act, $12,000,000 shall be reserved in the General Fund and shall be carried forward to be available in fiscal year 2019 to offset any one-time personal income tax or corporate tax refund liabilities.

Sec. D.100 APPROPRIATIONS; PROPERTY TRANSFER TAX

(a) This act contains the following amounts appropriated from special funds that receive revenue from the property transfer tax. Expenditures from these appropriations shall not exceed available revenues.

(1) The sum of $518,000 is appropriated from the Current Use Administration Special Fund to the Department of Taxes for administration of the Use Tax Reimbursement Program. Notwithstanding 32 V.S.A. § 9610(c), amounts above $518,000 from the property transfer tax that are deposited into the Current Use Administration Special Fund shall be transferred into the General Fund.

(2) The sum of $9,804,840 is appropriated from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Notwithstanding 10 V.S.A. § 312, amounts above $9,804,840 from the property transfer tax and surcharge established by 32 V.S.A. § 9602a that are deposited into the Vermont Housing and Conservation Trust Fund shall be transferred into the General Fund.

(A) The dedication of $2,500,000 in revenue from the property transfer tax pursuant to 32 V.S.A. § 9610(d) for the debt payments on the affordable housing bond (10 V.S.A. § 314) is to be offset by the reduction of $1,500,000 in the appropriation to the Vermont Housing and Conservation Board (VHCB) and $1,000,000 from the surcharge established by 32 V.S.A. § 9602a. The fiscal year 2019 appropriation of $9,804,840 to VHCB reflects the $1,500,000 reduction. The affordable housing bond and related property transfer tax and surcharge provisions are repealed after the life of the bond on July 1, 2039. Once the bond is retired, the $1,500,000 reduction in the appropriation to VHCB is intended to be restored.

(3) The sum of $3,760,599 is appropriated from the Municipal and Regional Planning Fund. Notwithstanding 24 V.S.A. § 4306(a), amounts above $3,760,599 from the property transfer tax that are deposited into the Municipal and Regional Planning Fund shall be transferred into the General Fund. The $3,760,599 shall be allocated as follows:

(A) $2,924,417 for disbursement to regional planning commissions in a manner consistent with 24 V.S.A. § 4306(b);

(B) $457,482 for disbursement to municipalities in a manner consistent with 24 V.S.A. § 4306(b);

(C) $378,700 to the Agency of Digital Services for the Vermont Center for Geographic Information established in 10 V.S.A. § 122.

Sec. D.101 FUND TRANSFERS, REVERSIONS, AND RESERVES

(a) Notwithstanding any other provision of law, the following amounts are transferred from the funds indicated:

(1) From the General Fund to the Next Generation Initiative Fund established by 16 V.S.A. § 2887: $3,055,900.

(2) From the Clean Water Fund established by 10 V.S.A. § 1388 to the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803: $1,670,000.

(3) From the Transportation Fund to the Downtown Transportation and Related Capital Improvement Fund established by 24 V.S.A. § 2796 to be used by the Vermont Downtown Development Board for the purposes of the Fund: $423,966.

(4) From the Transportation Infrastructure Bond Fund established by 19 V.S.A. § 11f to the Transportation Infrastructure Bonds Debt Service Fund established by 32 V.S.A. § 951a for funding fiscal year 2020 transportation infrastructure bonds debt service: $2,497,663.

(b) Notwithstanding any provisions of law to the contrary, in fiscal year 2019:

(1) The following amounts shall be transferred to the General Fund from the funds indicated:

22005	AHS Central Office earned federal receipts	8,193,326.00
50300	Liquor Control Fund	1,805,000.00
	Caledonia Fair	5,000.00
	North Country Hospital Loan	24,250.00

(2) The following estimated amounts, which may be all or a portion of unencumbered fund balances, shall be transferred from the following funds to the General Fund in fiscal year 2019. The Commissioner of Finance and Management shall report to the Joint Fiscal Committee at its July meeting the final amounts transferred from each fund and certify that such transfers will not impair the agency, office, or department reliant upon each fund from meeting its statutory requirements.

21638	AG-Fees & Reimbursements-Court Order	2,000,000.00
21928	Secretary of State Services Fund	2,607,923.00
62100	Unclaimed Property Fund	3,415,143.00

(3) In fiscal year 2019, notwithstanding 2016 Acts and Resolves No. 172, Sec. E.228, $30,014,057 of the unencumbered balances in the Insurance Regulatory and Supervision Fund (Fund Number 21075), the Captive Insurance Regulatory and Supervision Fund (Fund Number 21085), and the Securities Regulatory and Supervision Fund (Fund Number 21080) shall be transferred to the General Fund.

(A) Any remaining unencumbered balances in these funds in fiscal year 2019 up to the amount of $6,080,000 shall remain in these funds for transfer to the General Fund in fiscal year 2020 consistent with the intent of 2016 Acts and Resolves No. 172, Sec. E.228. Fiscal year 2019 unencumbered balances above this amount shall be transferred to the General Fund and reserved in the General Fund Balance Reserve (Rainy Day Fund).

(c) Notwithstanding any provisions of law to the contrary, in fiscal year 2019:

(1) The following amounts shall revert to the General Fund from the accounts indicated:

1130010000	Department of Libraries	234,209.00
1210001000	Legislative Council	113,000.00

1210002000	Legislature	175,000.00
1220000000	Joint Fiscal Office	30,000.00

(d) To the extent that the Emergency Board determines at its July 2018 meeting that the fiscal year 2019 available General Fund forecast exceeds $1,568,200,000 as adjusted by any tax or revenue changes made through the 2018 legislative session:

(1) funds carried forward in accordance with the provisions of Sec. C.1000(e) of this act shall be transferred from the General Fund to the Retired Teachers' Health and Medical Benefits Fund established by 16 V.S.A. § 1944b to reduce any outstanding balance of any interfund loan authorized by the State Treasurer from the General Fund.

Sec. D.102 TOBACCO LITIGATION SETTLEMENT FUND BALANCE

(a) Notwithstanding 18 V.S.A. § 9502(b), the actual balances at the end of fiscal year 2018 in the Tobacco Litigation Settlement Fund established by 32 V.S.A. § 435a shall remain for appropriation in fiscal year 2019.

Sec. D.103 TRANSFER OF TOBACCO TRUST FUNDS

(a) Notwithstanding 18 V.S.A. § 9502(a)(3) and (4), the actual amount of investment earnings of the Tobacco Trust Fund at the end of fiscal year 2019 and any additional amount necessary to ensure the balance in the Tobacco Litigation Settlement Fund at the close of fiscal year 2019 is not negative shall be transferred in fiscal year 2019 from the Tobacco Trust Fund established by 18 V.S.A. § 9502(a) to the Tobacco Litigation Settlement Fund established by 32 V.S.A. § 435a.

Sec. D.104 GLOBAL COMMITMENT TRANSFER

(a) The fund balance in the Global Commitment Fund, estimated to be up to $79,846,983 as of June 30, 2018, shall be transferred as follows:

(1) $1,760,000 shall be transferred to the General Fund and reserved in the 27/53 Reserve under 32 V.S.A. § 308e in order to fund the fiscal year 2019 obligation of the next year in which a 53rd week of Medicaid payments is due, scheduled to occur in fiscal year 2022.

(2) Notwithstanding 32 V.S.A. § 308b, $64,022,729 shall be transferred to the General Fund and reserved in the Human Services Caseload Reserve and, within that Reserve, specifically reserved in the sub-account for any incurred but not reported Medicaid expenses associated with the current Medicaid Global Commitment waiver, reflecting the estimated amount of the State share of this potential obligation as of June 30, 2017.

(3) Notwithstanding 32 V.S.A. § 308b, up to $14,064,254 shall be transferred to the General Fund and reserved in the Human Services Caseload Reserve, and within that Reserve, specifically reserved in the sub-account for Medicaid-related pressures related to caseload, utilization, and changes in federal participation in existing human services programs.

Sec. D.104.1 [DELETED]

Sec. D.105 32 V.S.A. § 308b is amended to read:

§ 308b. HUMAN SERVICES CASELOAD RESERVE

(a) There is created within the General Fund a Human Services Caseload ~~Management~~ Reserve. Expenditures from the Reserve shall be subject to an appropriation by the General Assembly or approval by the Emergency Board. Expenditures from the Reserve shall be limited to Agency of Human Services caseload-related needs primarily in the Departments for Children and Families; of Health; of Mental Health; of Disabilities, Aging, and Independent Living; ~~and~~ of Vermont Health Access; and settlement costs associated with managing the Global Commitment waiver.

(b) The Secretary of Administration may transfer to the Human Services Caseload Reserve any General Fund carry-forward directly attributable to Agency of Human Services caseload reductions and the effective management of related federal receipts, with the exclusion of the Department of Corrections.

(c) The Human Services Caseload Reserve shall contain two sub-accounts:

(1) A sub-account for incurred but not reported Medicaid expenses. Each year beginning with fiscal year 2020, the Department of Finance and Management shall adjust the amount reserved for incurred but not reported Medicaid expenses to equal the amount specified in the Comprehensive Annual Financial Report as of June 30th of the prior fiscal year for the estimated amount of incurred but not reported Medicaid expenses associated with the current Medicaid Global Commitment waiver.

(2) A sub-account for Medicaid-related pressures related to caseload, utilization, changes in federal participation in existing human services programs, and settlement costs associated with managing the Global Commitment waiver. Any decrease in the amount of required reserves in subdivision (1) of this subsection shall first be reserved in the 27/53 Reserve under section 308e of this title in order to fund the current fiscal year obligation for the next year in which a 53rd week of Medicaid payments is due, next scheduled to occur in fiscal year 2022. The remainder shall result in an offsetting increase in the account for Medicaid-related pressures, as defined in subdivision (2) of this subsection. Any increase in the amount of required

reserve in subdivision (1) of this subsection shall require a corresponding transfer from the funds reserved in subdivision (2) of this subsection, to the extent there are funds available.

Sec. D.106 [DELETED]

Sec. D.107 32 V.S.A. § 308c is amended to read:

§ 308c. GENERAL FUND AND TRANSPORTATION FUND BALANCE RESERVES

(a) There is hereby created within the General Fund a General Fund Balance Reserve, also known as the "Rainy Day Reserve." After satisfying the requirements of section 308 of this title, and after other reserve requirements have been met, any remaining unreserved and undesignated end of fiscal year General Fund surplus shall be reserved in the General Fund Balance Reserve. The General Fund Balance Reserve shall not exceed five percent of the appropriations from the General Fund for the prior fiscal year without legislative authorization.

(1) ~~The Emergency Board shall determine annually at its July meeting the amount of available general funds that is greater than the amount of forecasted available general funds most recently adopted by the Board for the current fiscal year adjusted by any legislative action projected to increase General Fund taxes that result in additional revenue in excess of $1,000,000.00 over the revenue raised without legislative action in the current fiscal year. An amount not to exceed 33 percent of the amount determined in subdivision (1) shall be added to the base amount used to calculate the General Fund transfer under 16 V.S.A. § 4025(a)(2) for the next fiscal year. However, the amount to be added to the base amount used to calculate the General Fund transfer shall also not exceed 33 percent of the total amount which would be reserved in this subsection if not for the requirements of subdivisions (2) and (3) of this subsection.~~ [Repealed.]

(2) ~~Of the funds that would otherwise be reserved in the General Fund Balance Reserve under this subsection, 25 percent of any such funds shall be transferred from the General Fund to the Education Fund.~~ [Repealed.]

(3) Of the funds that would otherwise be reserved in the General Fund Balance Reserve under this subsection, 50 percent of any such funds shall be reserved as necessary and transferred from the General Fund to the Retired Teachers' Health and Medical Benefits Fund established by 16 V.S.A. § 1944b to reduce any outstanding balance of any interfund loan authorized by the State Treasurer from the General Fund. Upon joint determination by the Commissioner of Finance and Management and the State Treasurer that there is no longer any outstanding balance, no further transfers in accordance with this subdivision shall occur.

* * *

Sec. D.108 STATE HEALTH CARE RESOURCES FUND TRANSITION

(a) The Commissioner of Finance and Management may include in the Governor's proposed fiscal year 2019 budget adjustment report any recommendations and draft legislation necessary to transfer revenues and expenditures as appropriate that make up the State Health Care Resources Fund to the General Fund by the close of fiscal year 2019.

Sec. D.109 REVIEW OF THE STATUTORY RESERVE LEVELS

(a) On or before October 31, 2018, the Joint Fiscal Office and the Department of Finance and Management shall review the statutory reserve requirements for the General Fund, the Education Fund, and the State Health Care Resources Fund, and make recommendations for changes to the existing statutory requirements, taking into consideration actions taken during the 2018 legislative session.

Sec. D.110 FORECAST CONTINGENT TRANSFER FROM GENERAL FUND TO EDUCATION FUND

(a) If the total sales and use tax forecast adopted by the Emergency Board in July 2018 for fiscal year 2019 (the "adopted forecast") is less than $403,900,000, then the Commissioner of Finance and Management shall unreserve from the General Fund and transfer to the Education Fund an amount equaling the difference between the adopted forecast and $403,900,000; provided, however, that not more than $3,000,000 shall be unreserved and transferred. The Commissioner of Finance and Management shall not transfer any funds if the adopted forecast is greater than $403,900,000.

* * * GENERAL GOVERNMENT * * *

Sec. E.100 EXECUTIVE BRANCH POSITION AUTHORIZATIONS

(a) The establishment of the following new permanent classified positions is authorized in fiscal year 2019:

(1) In the Agency of Education – one (1) Finance Administrator II and one (1) School Finance Analyst. The positions established in this subdivision shall be transferred and converted from existing vacant positions in the Executive Branch and shall not increase the total number of authorized State positions, as defined in Sec. A.107 of this act.

(b) The conversion of classified limited service positions to classified permanent status is authorized in fiscal year 2019 as follows:

(1) In the Department of Public Safety – one (1) Financial Administrator II (position #330359) and one (1) Public Assistance Administrator (position #330361).

(2) In the Green Mountain Care Board – one (1) Board Legal Technician (position #270012), one (1) Health Policy Advisor (position #270013), and one (1) Evaluation Manager (position #270017).

(3) In the Agency of Education – one (1) Education Programs Coordinator I (position #770468).

(c) The conversion of exempt limited service positions to classified permanent status is authorized in fiscal year 2019 as follows:

(1) In the Department of Public Safety – one Public Assistance Officer (position #337013).

Sec. E.100.1 2014 Acts and Resolves No. 179, Sec. E.100(d), as amended by 2015 Acts and Resolves No. 4, Sec. 74, by 2016 Acts and Resolves No.172, Sec. E.100.2, and by 2017 Acts and Resolves No. 85, Sec. E.100.1, is further amended to read:

(d) Position Pilot Program. A Position Pilot is hereby created to assist participating departments in more effectively managing costs of overtime, compensatory time, temporary employees, and contractual work by removing the position cap with the goal of maximizing resources to the greatest benefit of Vermont taxpayers.

(1) Notwithstanding Sec. A.107 of this act, the Agency of Transportation, the Department for Children and Families, the Agency of Natural Resources, the Department of Buildings and General Services, the Department of Labor, the Department of Corrections, ~~and~~ the Department of Public Safety, the Department of State's Attorneys and Sheriffs, and the Vermont Veterans' Home shall not be subject to the cap on positions for the duration of the Pilot.

(A) The Department of Corrections is authorized to add only Correctional Officer I and II positions.

(B) The Department of State's Attorneys and Sheriffs is authorized to add only State's Attorney positions.

(C) The Vermont Veterans' Home is authorized to add direct care positions, including part-time positions. Prior to authorizing positions under subdivision (d)(2) of this section, the Secretary of Administration shall be provided the financial analysis from the Vermont Veterans' Home reviewed by the Commissioner of Finance and Management which demonstrates reduction in the cost of overtime expenses or other expenses equal to or greater than the

projected cost of the positions for the current and successive fiscal year of operations.

* * *

(7) This Pilot shall sunset on July 1, ~~2018~~ 2020, unless extended or modified by the General Assembly.

(8) On or before January 15, ~~2018~~ 2019, the Commissioner of Human Resources, in coordination with the Vermont State Employees' Association (VSEA), shall provide a report ~~by department~~ on the total number of positions created under the authority of this section to the House and Senate Committees on Appropriations. The ~~Commissioner~~ report shall include ~~in the report~~ a recommendation on whether this program should be expanded and continue and, if so, should it be extended but remain in session law or be made permanent by codification in statute.

Sec. E.100.2 [DELETED]

Sec. E.105 Agency of digital services

(a) Of the internal service funds appropriated in Sec. B.105 of this act, up to $600,000 is appropriated for a 24/7 cybersecurity operations center. These funds may only be spent upon approval of a budget and a spending plan by the Joint Fiscal Committee at its July 2018 meeting.

(1) The Agency shall consult with the information technology consultant to the Joint Fiscal Office in developing the budget and plan.

(2) The Joint Fiscal Office Information Technology Consultant shall present a report to the Joint Fiscal Committee to accompany the Agency's submission to provide an independent recommendation and review of the proposed budget and plan.

Sec. E.105.1 AGENCY OF DIGITAL SERVICES; REPORT ON STATE INFORMATION TECHNOLOGY EFFICIENCIES

(a) On or before January 15, 2019, the Secretary of Digital Services shall demonstrate in a report to the Senate Committees on Appropriations and on Government Operations and the House Committees on Appropriations and on Energy and Technology that the consolidation of State information technology services under the jurisdiction of the Agency has been at a minimum cost-neutral and shall specifically provide in this report the estimated dates on which the following will occur:

(1) the Agency's internal service fund negative balance will be reduced; and

(2) agency and department information technology charges paid to the Agency will be lowered.

Sec. E.111 Tax – administration/collection

(a) Of this appropriation, $15,000 is from the Current Use Administration Special Fund established by 32 V.S.A. § 9610(c) and shall be appropriated for programming changes to the CAPTAP software used by municipalities for establishing property values and administering their grand lists.

Sec. E.111.1 2007 Acts and Resolves No. 65, Sec. 282, as amended by 2011 Acts and Resolves No. 63, Sec. C.103, as amended by 2013 Acts and Resolves No. 1, Sec. 65, as amended by 2014 Acts and Resolves No. 95, Sec. 62, as amended by 2018 Acts and Resolves No. 85, Sec. 47, is further amended to read:

Sec. 282. TAX COMPUTER SYSTEM MODERNIZATION FUND

(a) Creation of fund.

(1) There is established the Tax Computer System Modernization Special Fund to consist of:

(A) The tax receipts received as a direct result of the data warehouse project initiated by the Department of Taxes beginning in calendar year 2011; and

(B) Eighty percent of tax receipts received as a direct result of the data sharing and comparison project between the Vermont Department of Labor and the Department of Taxes relative to entity and employee filings at both departments and/or lack thereof; and

(C) The incremental tax receipts received as a direct result of the implementation of the integrated tax system beginning in calendar year 2014, including any additional data warehouse modules. The Commissioner of Finance and Management shall approve baseline tax receipts in order to measure the increment from the new integrated tax system.

(2) Balances in the Fund shall be administered by the Department of Taxes and used for the exclusive purposes of funding: A) ancillary development of information technology systems necessary for implementation and continued operation of the data warehouse project; B) payments due to the vendor under the data warehouse project contract; C) enhanced compliance costs related to the data warehouse project; D) planning for an integrated tax system solution, including present-day analysis of business case and business requirements, requests for proposals and due diligence; E) implementation of tax types and any additional data warehouse modules into the selected integrated tax system solution; F) a micro-simulation model for use by the

Department of Taxes and the Joint Fiscal Office; and G) implementation of an ancillary scanning system to enhance the operation of tax types incorporated into the integrated tax system solution. All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund. This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5.

(b) Appropriation.

(1) There is appropriated in fiscal year 2008 from the Special Fund the sum of up to $7,800,000 to the Department of Taxes for the purposes described in subdivision (a)(2) of this section. The Commissioner shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(c) Transfer.

(1) Twenty percent of the tax receipts received pursuant to subdivision (a)(1)(A) of this section after payment to the vendor under the data warehouse contract shall be transferred to the General Fund annually for the duration of that contract. Thereafter, 20 percent of the tax receipts received pursuant to subdivision (a)(1)(A) shall be transferred to the ~~General~~ Fund which would receive the underlying tax receipts annually until the expiration of the Tax Computer System Modernization Fund.

(2) Twenty percent of the incremental tax receipts calculated pursuant to subdivision (a)(1)(C) shall be transferred to the ~~General~~ Fund which would receive the underlying tax receipts annually until the expiration of the Tax Computer Modernization Fund.

(d) Fund to terminate.

(1) This Fund shall terminate on July 1, 2024, provided that all amounts due pursuant to contract with the vendor of an integrated tax solution referenced in subdivision (a)(1)(C) of this section have been paid and any unexpended unencumbered balance in the Fund shall be transferred to the General Fund.

(e) The Commissioner of Taxes shall report to the Joint Fiscal Committee on fund receipts at or prior to the November Joint Fiscal Committee meeting each year until the Fund is terminated.

Sec. E.113 Buildings and general services – engineering

(a) The $3,432,525 interdepartmental transfer in this appropriation shall be from the fiscal year 2019 General Bond Fund appropriation in the Capital Bill of the 2017 legislative session (2017 Acts and Resolves No. 85, Sec. 2(c)(3)).

Sec. E.114 29 V.S.A. § 169 is amended to read:

§ 169. BROCHURE DISTRIBUTION FEES

* * *

(b) A special fund is established to be administered as provided under 32 V.S.A. chapter 7, subchapter 5 ~~of chapter 7 of Title 32,~~ and to be known as the ~~brochure distribution special fund~~ Brochure Distribution Special Fund for the purposes of ensuring that the fees collected under this section are utilized to fund travel destination promotion, ~~and~~ information at the ~~state's~~ State's travel information centers, and operations and maintenance of State travel information centers. Revenues to the ~~fund~~ Fund shall be those fees collected for the placement and distribution of brochures of businesses in the ~~state~~ State travel information centers and in other locations deemed appropriate by the ~~department~~ Department.

* * *

Sec. E.126 LEGISLATIVE BRANCH WORKFORCE COMPARATIVE EVALUATION

(a) The Speaker of the House and President Pro Tempore of the Senate shall contract with the National Conference of State Legislatures (NCSL) to perform a comprehensive evaluation of compensation, staffing, workload, and organization concerning the staff and offices of the Vermont General Assembly.

(b) NCSL's evaluation shall examine and provide recommendations on the following issues:

(1) Compensation.

(A) Comparison between the salaries and other compensation earned by staff of the Vermont General Assembly and the salaries and compensation earned by employees with similar responsibilities, workload, qualifications, and experience of:

(i) the Executive and Judicial Branches of Vermont State government;

(ii) other state legislatures; and

(iii) the private sector, if appropriate.

(B) Analysis of how states use salary schedules or other systems for determining the salaries of legislative employees.

(2) Staffing and workload.

(A) Analysis of the workload for each job description or category of legislative staff and each office or unit of the General Assembly as compared with employees with similar responsibility, workload, qualifications, and experience in:

(i) the Executive and Judicial Branches of Vermont State government;

(ii) other state legislatures; and

(iii) the private sector, if appropriate.

(B) The analysis of workload pursuant to subdivision (A) of this subdivision (2) shall include a comparison of:

(i) the job posting or job description relevant to each category or position;

(ii) the number of legislative members and committees that employees are responsible for or responsive to;

(iii) the range of responsibilities; and

(iv) the professional background, qualifications, subject matter expertise, or experience required by the job description or necessary to fulfill the position's responsibilities.

(3) Organization and structure.

(A) A comparison to other states of the current organization, structure, and oversight of the offices of the General Assembly, including:

(i) the strengths and weaknesses of the current organization and structure; and

(ii) alternative structures, if any, that may increase efficiency and improve the support and services provided to the members of the General Assembly.

(c) NCSL shall submit a final written report to the Speaker of the House, the President Pro Tempore of the Senate, the Joint Fiscal Committee, the Legislative Council Committee, the Joint Information Technology Oversight Committee, the House Rules Committee, the Senate Rules Committee, and the Joint Rules Committee on or before November 16, 2018.

Sec. E.126.1 JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE; SYSTEM-WIDE REVIEW

(a) During the 2018 legislative interim, the Joint Legislative Justice Oversight Committee shall undertake a review of Vermont's justice system, including both State and local functions. With a focus on reducing crime,

improving public safety, decreasing recidivism, and increasing accountability and cost-efficiencies, the review shall include evaluating:

(1) the Vermont State Auditor's 2017 report to the General Assembly on State and local spending on public safety;

(2) the existing administrative framework and physical infrastructure for redundancies and inefficiencies;

(3) existing criminal penalties and corrections policies;

(4) the manner by which the justice system utilizes technology; and

(5) strategies to reform the structure of the justice system to ensure consistency and cost-efficiency statewide.

(b) Any resulting recommendations to the General Assembly shall be in the form of proposed legislation.

Sec. E.126.2 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

(a) Creation. There is created the Joint Information Technology Oversight Committee to oversee investments in and use of information technology in Vermont.

(b) Membership. The Committee shall be composed of six members as follows:

(1) three members of the House of Representatives, not all of whom shall be from the same political party, who shall be appointed by the Speaker of the House; and

(2) three members of the Senate, not all of whom shall be from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall oversee, evaluate, and make recommendations on the following:

(1) the State's current deployment, management, and oversight of information technology in the furtherance of State governmental activities, including data processing systems, telecommunications networks, and related technologies, particularly with regard to issues of compatibility among existing and proposed technologies;

(2) issues related to the storage of, maintenance of, access to, privacy of, and restrictions on use of computerized records;

(3) issues of public policy related to the development and promotion of the private, commercial, and nonprofit information infrastructure in the State, its relationship to the State government information infrastructure, and its integration with national and international information networks; and

(4) cybersecurity.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Meetings.

(1) The Committee shall elect a chair and vice chair from among its members and shall adopt rules of procedure. The Chair shall rotate biennially between the House and Senate members.

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

(3) The Committee may meet when the General Assembly is not in session or at the call of the Chair.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

Sec. E.127 REVIEW AND EVALUATION OF DEPARTMENT OF CORRECTIONS HEALTH CARE SERVICES

(a) The Joint Fiscal Office (JFO), in coordination with the Office of Legislative Council, shall review and evaluate the policies, contracts, and processes the Department of Corrections (DOC) uses to deliver health care services to assess whether current costs are excessive. The evaluation shall include a review of whether there is potential for the State to achieve savings in providing health care services to inmates and whether the State is contracting for appropriate services.

(b) The JFO is authorized to contract for all or part of the review and evaluation described in subsection (a) of this section. The JFO shall also receive the assistance of the Agency of Human Services and any other relevant State government entity, as needed.

(c) On or before November 1, 2018, the JFO shall submit an update on the review and evaluation described in subsection (a) of this section to the Joint Legislative Justice Oversight Committee. On or before January 15, 2019, the JFO shall submit a final report to the House Committees on Appropriations, on

Corrections and Institutions, and on Health Care, and the Senate Committees on Appropriations, on Institutions, and on Health and Welfare.

Sec. E.133 Vermont state retirement system

(a) Notwithstanding 3 V.S.A. § 473(d), in fiscal year 2019, investment fees shall be paid from the corpus of the Fund.

Sec. E.139 [DELETED]

Sec. E.142 Payments in lieu of taxes

(a) This appropriation is for State payments in lieu of property taxes under 32 V.S.A. chapter 123, subchapter 4, and the payments shall be calculated in addition to and without regard to the appropriations for PILOT for Montpelier and for correctional facilities elsewhere in this act. Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. E.142.1 PILOT SPECIAL FUND PAYMENTS

(a) Total payments from the PILOT Special Fund under 32 V.S.A. § 3709 include the appropriation of $8,036,000 in Sec. B.142 of this act, the appropriation of $184,000 for the City of Montpelier in Sec. B.143 of this act, the appropriation of $40,000 for correctional facilities in Sec. B.144 of this act, and the appropriation of $146,000 for the supplemental facility payments from the Department of Corrections to the City of Newport and the Town of Springfield in Sec. B.338 of this act.

Sec. E.143 Payments in lieu of taxes – Montpelier

(a) Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. E.144 Payments in lieu of taxes – correctional facilities

(a) Payments in lieu of taxes under this section shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

* * * PROTECTION TO PERSONS AND PROPERTY * * *

Sec. E.200 Attorney general

(a) Notwithstanding any other provisions of law, the Office of the Attorney General, Medicaid Fraud and Residential Abuse Unit, is authorized to retain, subject to appropriation, one-half of the State share of any recoveries from Medicaid fraud settlements, excluding interest, that exceed the State share of restitution to the Medicaid Program. All such designated additional recoveries retained shall be used to finance Medicaid Fraud and Residential Abuse Unit activities.

(b) Of the revenue available to the Attorney General under 9 V.S.A. § 2458(b)(4), $1,390,500 is appropriated in Sec. B.200 of this act.

Sec. E.200.1 3 V.S.A. § 167a is added to read:

§ 167a. COMPLEX LITIGATION SPECIAL FUND

(a) There is established the Complex Litigation Special Fund pursuant to 32 V.S.A. chapter 7, subchapter 5 to be available for expenditure by the Attorney General, as annually appropriated or authorized pursuant to 32 V.S.A. § 511, to pay nonroutine expenses, not otherwise budgeted, incurred in the investigation, prosecution, and defense of complex civil and criminal litigation. These expenses may include, for example, costs incurred for expert witnesses and for support staff and technology needed to review and manage voluminous documents in discovery and at trial in complex cases.

(b) The Fund shall consist of:

(1) Such sums as may be appropriated or transferred by the General Assembly.

(2) Settlement monies other than consumer restitution collected by the Office of the Attorney General, except for those recoveries that by law are transferred or appropriated for other uses pursuant to 9 V.S.A. § 2458(b)(4), and subject to the Fund balance cap in subsection (c) of this section.

(c) The unencumbered Fund balance shall not exceed $1,000,000.00.

(d) The Attorney General shall submit a report of the amount and purpose of expenditures from the Fund at the close of each fiscal year to the Joint Fiscal Committee annually on or before September 1. As part of the annual budget submission, the Attorney General shall include a projection of the Fund balance for the current fiscal year and upcoming fiscal year and may recommend appropriations as needed consistent with the purpose of the Fund.

Sec. E.200.2 3 V.S.A. § 152 is amended to read:

§ 152. SCOPE OF AUTHORITY

The Attorney General may represent the State in all civil and criminal matters as at common law and as allowed by statute. The Attorney General shall also have the same authority throughout the State as a State's Attorney. The Attorney General shall represent members of the General Assembly in all civil matters arising from or relating to the performance of legislative duties.

Sec. E.200.3 3 V.S.A. § 157 is amended to read:

§ 157. APPEARANCE FOR STATE

The Attorney General shall appear for the State in the preparation and trial of all prosecutions for homicide and civil or criminal causes in which the State

is a party or is interested when, in his or her judgment, the interests of the State so require. The Attorney General shall represent members of the General Assembly in all civil causes arising from or relating to the performance of legislative duties.

Sec. E.200.4 ATTORNEY GENERAL POSITION

(a) The establishment of one (1) permanent classified position - IT Specialist II - is authorized in fiscal year 2019.

Sec. E.204 JUDICIAL BRANCH POSITIONS

(a) The establishment of seven (7) new permanent exempt positions is authorized in fiscal year 2019 as follows: five (5) Docket Clerk B and two (2) Law Clerk.

Sec. E.207 INMATE TRANSPORTATION WORK GROUP

(a) There is established an Inmate Transportation Work Group to study Vermont's system of transporting inmates for court appearances and make recommendations for improving the system's processes and efficiency and reducing its cost.

(b) The Work Group shall be composed of the following members:

(1) The Secretary of Administration or designee.

(2) The Chief Superior Judge or designee.

(3) The Executive Director of the Department of State's Attorneys and Sheriffs or designee.

(4) The President of the Vermont Sheriffs' Association or designee.

(5) The Defender General or designee.

(6) The Commissioner of Corrections or designee.

(7) The Commissioner of Mental Health or designee.

(8) The Commissioner for Children and Families or designee.

(c) The Work Group shall study how to develop and implement a system that ensures inmates are transported to court when necessary in the most cost-effective and efficient manner possible. The study shall include:

(1) any recommendations for process improvements to the current inmate transport system;

(2) recommendations for methods to ensure that transport deputies are available when needed;

(3) analysis of whether transport should be provided by the Judiciary, the Executive, or a statewide entity; and

(4) consideration of whether transported inmates should be permitted to be scheduled first in court proceedings in order to reduce transport deputy costs.

(d) On or before November 1, 2018, the Work Group shall submit a report to the Senate and House Committees on Appropriations and Judiciary, the House Committee on Corrections and Institutions, and the Senate Committee on Institutions containing its recommendations, including any proposals for legislative action.

Sec. E.208 Public safety – administration

(a) The Commissioner of Public Safety is authorized to enter into a contract with the Essex County Sheriff's Department to provide law enforcement service activities agreed upon by both the Commissioner of Public Safety and the Sheriff.

(b) Up to $86,000 of any funds appropriated in 2017 Acts and Resolves No. 85, Sec. C.100(e) may be carried forward to fiscal year 2019 and used for the purchase of Taser electroshock weapons by the State Police.

Sec. E.209 Public safety – state police

(a) Of this appropriation, $35,000 in special funds shall be available for snowmobile law enforcement activities and $35,000 in general funds shall be available to the Southern Vermont Wilderness Search and Rescue Team, which comprises State Police, the Department of Fish and Wildlife, county sheriffs, and local law enforcement personnel in Bennington, Windham, and Windsor Counties, for snowmobile enforcement.

(b) Of this appropriation, $405,000 is allocated for grants in support of the Drug Task Force and the Gang Task Force. Of this amount, $190,000 shall be used by the Vermont Drug Task Force to fund three town task force officers. These town task force officers shall be dedicated to enforcement efforts with respect to both regulated drugs as defined in 18 V.S.A. § 4201(29) and the diversion of legal prescription drugs. Any unobligated funds may be allocated by the Commissioner to fund the work of the Drug Task Force and to support the efforts of the Mobile Enforcement Team (Gang Task Force) or carried forward.

Sec. E.212 Public safety – fire safety

(a) Of this General Fund appropriation, $55,000 shall be granted to the Vermont Rural Fire Protection Task Force for the purpose of designing dry hydrants.

Sec. E.215 Military – administration

(a) The amount of $474,000 shall be disbursed to the Vermont Student Assistance Corporation for the National Guard Educational Assistance Program established in 16 V.S.A. § 2856 AND § 2857 as established in this act. Of this amount, $324,000 shall be general funds appropriated in Sec. B.215 and $150,000 shall be Next Generation special funds, as appropriated in Sec. B.1100(a)(3)(B) of this act.

Sec. E.215.1 16 V.S.A. § 2857 is added to read:

§ 2857. VERMONT NATIONAL GUARD TUITION BENEFIT PROGRAM

(a) Program creation. The Vermont National Guard Tuition Benefit Program (Program) is created, under which a member of the Vermont National Guard (member) who meets the eligibility requirements in subsection (c) of this section is entitled to:

(1) take courses tuition free at the Northern Vermont University, the University of Vermont and State Agricultural College (UVM), or at the Community College of Vermont (CCV); or

(2) receive a tuition benefit not to exceed the tuition charged for an in-state student to take courses at the Northern Vermont University, which may be used for tuition at a Vermont State College, and any other college or university located in Vermont.

(b) The tuition benefit provided under the Program shall be paid on behalf of the member by the Vermont Student Assistance Corporation (VSAC), subject to the appropriation of funds by the General Assembly specifically for this purpose. A college or university that accepts or receives the tuition benefit on behalf of a member shall charge the member the tuition for an in-state student. The amount of tuition for a member who attends an educational institution under the Program on less than a full-time basis shall be reduced to reflect the member's course load in a manner determined by VSAC under subdivision (f)(1) of this section. The tuition benefit shall be conditioned upon the member's executing a promissory note obligating the member to repay the member's tuition benefit, in whole or in part, if the member fails to complete the period of Vermont National Guard service required in subsection (d) of this section, or if the member's benefit is terminated pursuant to subdivision (e)(1) of this section.

(c) Eligibility. To be eligible for the Program, an individual, whether a resident or nonresident, shall satisfy all of the following requirements:

(1) be an active member of the Vermont National Guard;

(2) have successfully completed basic training;

(3) be enrolled at UVM, a Vermont State College, or any other college or university located in Vermont in a program that leads to an undergraduate certificate or degree;

(4) have not previously earned an undergraduate bachelor's degree;

(5) continually demonstrate satisfactory academic progress as determined by criteria established by the Vermont National Guard and VSAC, in consultation with the educational institution at which the individual is enrolled under the Program;

(6) have exhausted any post-September 11, 2001 tuition benefits and other federally funded military tuition assistance; provided, however, that this subdivision shall not apply to Montgomery GI Bill benefits, post-September 11, 2001 educational program housing allowances, federal educational entitlements, National Guard scholarship grants, loans under section 2856 of this title, and other nontuition benefits; and

(7) have submitted a statement of good standing to VSAC signed by the individual's commanding officer within 30 days prior to the beginning of each semester.

(d) Service commitment.

(1) For each full academic year of attendance under the Program, a member shall be required to serve two years in the Vermont National Guard in order to receive the full tuition benefit under the Program.

(2) If a member's service with the Vermont National Guard terminates before the member fulfills this two-year service commitment, other than for good cause as determined by the Vermont National Guard, the individual shall reimburse VSAC a pro rata portion of the tuition paid under the Program pursuant to the terms of an interest-free reimbursement promissory note signed by the individual at the time of entering the Program.

(3) For members participating in the Program on a less than full-time basis, the member's service commitment shall be at the rate of one month of Vermont National Guard service commitment for each credit hour, not to exceed 12 months of service commitment for a single semester.

(e)(1) Termination of tuition benefit. The Office of the Vermont Adjutant and Inspector General may terminate the tuition benefit provided an individual under the Program if:

(A) the individual's commanding officer revokes the statement of good standing submitted pursuant to subdivision (c)(7) of this section as a

result of an investigation or disciplinary action that occurred after the statement of good standing was issued;

(B) the individual is dismissed from the educational institution in which the individual is enrolled under the Program for academic or disciplinary reasons; or

(C) the individual withdraws without good cause from the educational institution in which the individual is enrolled under the Program.

(2) If an individual's tuition benefit is terminated pursuant to subdivision (1) of this subsection, the individual shall reimburse VSAC for the tuition paid under the Program, pursuant to the terms of an interest-free reimbursement promissory note signed by the individual at the time of entering the Program; shall be responsible on a pro rata basis for the remaining tuition cost for the current semester or any courses in which the individual is currently enrolled; and shall be ineligible to receive future tuition benefits under the Program.

(3) If an individual is dismissed for academic or disciplinary reasons from any postsecondary educational institution before receiving tuition benefits under the Program, the Office of the Adjutant and Inspector General may make a determination regarding the individual's eligibility to receive tuition benefits under the Program.

(f)(1) Adoption of policies, procedures, and guidelines. VSAC, in consultation with the Office of the Adjutant and Inspector General, shall adopt policies, procedures, and guidelines necessary to implement the provisions of this section, which shall include eligibility, application, and acceptance requirements, pro-ration of service requirements for academic semesters or attendance periods shorter than one year, data sharing guidelines, and the criteria for determining "good cause" as used in subdivisions (d)(2) and (e)(1)(C) of this section.

(2) Each educational institution participating in the Program shall adopt policies and procedures for the enrollment of members under the Program. These policies and procedures shall be consistent with the policies, procedures, and guidelines adopted by VSAC under subdivision (1) of this subsection.

(g) Reports.

(1) On or before November 1 of each year, the President, Chancellor, or equivalent position of each educational institution that participated in the Program during the immediately preceding school year shall report to the Vermont National Guard and VSAC regarding the number of members enrolled at its institution during that school year who received tuition benefits under the Program and, to the extent available, the courses or program in

which the members were enrolled.

(2) On or before January 15 of each year, the Vermont National Guard and VSAC shall report these data and other relevant performance factors, including information pertaining to the achievement of the goals of this entitlement program and the costs of the program to date, to the Governor, the House and Senate Committees on Education, and the House Committees on Appropriations and on General, Housing, and Military Affairs. The provisions of 2 V.S.A. § 20(d), expiration of reports, shall not apply to the reports to be made under this subsection.

Sec. E.215.2 REPEAL

(a) 16 V.S.A. § 2856 (educational assistance; interest free loans) is repealed on July 1, 2022.

Sec. E.215.3 TRANSITION

(a) The benefits under 16 V.S.A. § 2856, the Vermont National Guard Educational Assistance Program, shall only be available through December 31, 2018, except as provided in this subsection.

(1) A member who is, as of December 31, 2018, pursuing a graduate degree under that Program may continue to receive a loan under the Program through June 30, 2020, provided that the member continues to satisfy the eligibility requirements of 16 V.S.A. § 2857(c).

(b) A member of the Vermont National Guard who received a loan on or before January 1, 2019 under 16 V.S.A. § 2856 shall be entitled to the benefits under the Vermont National Guard Tuition Benefit Program if the member satisfies the eligibility criteria under that Program.

(c) The Vermont Student Assistance Corporation (VSAC), in consultation with the Office of the Adjutant and Inspector General, shall adopt guidelines for participants transitioning from the Vermont National Guard Educational Assistance Program under 16 V.S.A. § 2856 to the benefits under the Vermont National Guard Tuition Benefit Program.

(d) If, on or before July 1, 2022, a loan provided to a Vermont National Guard member under 16 V.S.A. § 2856 has gone into repayment pursuant to the terms of the loan, the member shall repay the loan in accordance with its terms unless and to the extent canceled or forgiven by the Corporation.

Sec. E.215.4 EXCESS COST; SERVICE REQUIREMENT

(a) If the cost to the State under the Vermont National Guard Tuition Benefit Program exceeds $2,000,000 annually, then the General Assembly intends to amend 16 V.S.A. § 2857 to require, for each full academic year of

attendance at the University of Vermont and State Agricultural College, three years of service in the Vermont National Guard in order to receive the full tuition benefit under the Program.

Sec. E.219 Military – veterans' affairs

(a) Of this appropriation, $1,000 shall be used for continuation of the Vermont Medal Program; $4,800 shall be used for the expenses of the Governor's Veterans' Advisory Council; $7,500 shall be used for the Veterans' Day parade; $5,000 shall be used for the Military, Family, and Community Network; and $10,000 shall be granted to the American Legion for the Boys' State and Girls' State programs.

(b) Of this General Fund appropriation, $39,484 shall be deposited into the Armed Services Scholarship Fund established in 16 V.S.A. § 2541.

Sec. E.220 Center for crime victim services

(a) Notwithstanding 20 V.S.A. § 2365(c), the Vermont Center for Crime Victim Services shall transfer $43,923 from the Domestic and Sexual Violence Special Fund established in 13 V.S.A. § 5360 to the Criminal Justice Training Council for the purpose of funding one-half the costs of the Domestic Violence Trainer position. The other half of the position will be funded with an appropriation to the Criminal Justice Training Council.

Sec. E.224 Agriculture, food and markets – agricultural development

(a) Of the funds appropriated in Sec. B.224 of this act, the amount of $594,000 in general funds is appropriated for expenditure by the Vermont Working Lands Enterprise Board established in 6 V.S.A. § 4606 for investments in food and forest system businesses and service providers pursuant to 6 V.S.A. § 4607 and consistent with the funding priorities in 2012 Acts and Resolves No. 142, Sec. 5, as amended by 2014 Acts and Resolves No. 179, Sec. E.224.1.

Sec. E.233 ENERGY PLANNING SUPPORT; ALLOCATION OF COSTS

(a) During fiscal year 2019, the Commissioner of Public Service, in consultation with the Commissioner of Housing and Community Development, shall award the amount of $300,000 to regional planning commissions established under 24 V.S.A. chapter 117 and to municipalities for the purpose of providing training under 2016 Acts and Resolves No. 174.

(b) In awarding 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 2016 Acts and Resolves No. 174.

(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.

Sec. E.233.1 SUSTAINABLE FUNDING FOR THE PUBLIC UTILITY COMMISSION AND THE DEPARTMENT OF PUBLIC SERVICE; STUDY

(a) The Commissioner of Public Service, in consultation with the Public Utility Commission, shall study and make findings and recommendations regarding the gross operating revenue tax on public utilities imposed under 30 V.S.A. § 22, as well as the assessments imposed under 30 V.S.A. §§ 20 and 21. The purpose of the study is to determine whether the existing statutory mechanisms for financing utility regulation in Vermont are appropriate and, if not, how they might be improved to achieve a sustainable general gross receipts tax fund position and to better serve the public interest.

(1) With respect to the gross operating revenue tax, the Commissioner shall consider:

(A) the total amount collected by each category of companies described under 30 V.S.A. § 22;

(B) how that amount correlates with the regulatory activities of the Commission and the Department with respect to those companies;

(C) whether there is cross-subsidization of regulatory activities and, if so, to what extent;

(D) the gross operating revenue trends of companies subject to the tax and the factors influencing those trends;

(E) the projected fund balance in the General Gross Receipts Tax Fund;

(F) the allocation of funds between the Public Utility Commission and the Department of Public Service and whether the 40/60 percentage allocation is appropriate;

(G) whether adjustments should be made to the tax rates; and

(H) any other matters deemed relevant by the Commissioner.

(2) With respect to the assessments imposed under 30 V.S.A. §§ 20 and 21 (the bill-back provisions):

(A) whether there are persons involved in particular proceedings who are not subject to the assessment for State expenses incurred as a result of those proceedings;

(B) the amount of expenses incurred for which there is no applicable bill-back provision, resulting in expenses for additional personnel being reimbursed from the General Gross Receipts Tax Fund; and

(C) any other matters deemed relevant by the Commissioner.

(b) The Commissioner shall hold two regional public hearings seeking input with regard to the study and report required by this section, and shall present an interim status report on his or her findings and recommendations at the September 2018 meeting of the Joint Fiscal Committee.

(c) On or before November 15, 2018, after consultation with the Joint Fiscal Office, the Commissioner shall report his or her findings and recommendations to the Senate Committees on Finance and on Appropriations and the House Committees on Ways and Means and on Energy and Technology.

Sec. E.233.2 SHORT-TERM EMERGENCY FUNDING TO MAINTAIN CRITICAL WIRELESS E-911 SERVICE; STUDY

(a) It is the purpose of this section to provide the Commissioner of Public Service with discretionary authority to allocate short-term emergency funding to any provider who has a lease agreement with the State to operate a mobile wireless network comprising microcell equipment owned by the State. The funding authorized pursuant to this section is intended to support the health and safety needs of the general public by maintaining critical microcell wireless E-911 service in rural areas of the State that would otherwise be without such service, consistent with the objectives of prior State investments in microcell network infrastructure.

(b) Beginning in fiscal year 2018 and continuing until December 31, 2018, the Commissioner of Public Service is authorized to spend up to $50,000 from the Connectivity Fund established under 30 V.S.A. § 7516 to support E-911 geolocation service charges incurred by any provider that has a lease agreement with the State to operate a mobile wireless network comprising microcell equipment owned by the State. Funds awarded pursuant to this subsection shall be on a reimbursement basis only, and shall be awarded only to providers who comply with or submit to the Commissioner of Public Service's written agreement to comply with subsection (d) of this section.

(c) Beginning on January 1, 2019 and continuing until June 30, 2019, the Commissioner of Public Service is authorized to spend up to an additional $50,000 from the Connectivity Fund as specified in subsection (b) of this

section, provided the Commissioner obtains the prior approval of the Joint Fiscal Committee.

(d) As a condition to the receipt of funds pursuant to this section and for the purpose of ensuring that State-owned assets are sufficiently protected and used in a manner that serves the public interest, on or before September 1, 2018, in a form and manner specified by the Commissioner of Public Service, any provider that has a lease agreement with the State to operate a mobile wireless network comprising State-owned microcell equipment shall submit to the Department of Public Service a business plan. All financial information, trade secrets, or other information customarily regarded as confidential business information submitted to the Commissioner pursuant to this subsection shall be exempt from inspection and copying under the Public Records Act and shall not be released.

(e) On or before December 1, 2018, the Commissioner of Public Service shall submit a report to the Senate Committees on Finance and on Institutions and the House Committees on Energy and Technology and on Corrections and Institutions regarding E-911 compliant microcell service in Vermont. The report shall include findings and recommendations related to:

(1) the financial viability of operating and maintaining a microcell network in Vermont using existing 2G technology as well as 4G technology;

(2) whether changes to State regulatory policy are needed to facilitate the availability of wireless E-911 service in Vermont;

(3) whether the State should subsidize E-911 geolocation service charges incurred by microcell service providers on a permanent basis;

(4) the costs of completing a statewide propagation coverage analysis and whether such an analysis is needed to inform State policy, planning, and investment with respect to wireless service in Vermont;

(5) the estimated costs of providing microcell service in Vermont, including rates and charges related to electric, backhaul, and geolocation services, pole rental fees, backup-power requirements, colocation requirements, and any other costs deemed relevant by the Commissioner; and

(6) any other matters deemed relevant by the Commissioner.

Sec. E.234 E-911 SYSTEM; PUBLIC UTILITY COMMISSION; REPORT

(a) On or before September 1, 2018, the Public Utility Commission shall submit a memorandum to the Joint Fiscal Committee detailing its regulatory authority with respect to Vermont's Enhanced 911 network, with specific reference to the regulatory authority of both the E-911 Board and the Federal Communications Commission. The memorandum shall include the

Commission's recommendations, if any, for ensuring comprehensive regulatory oversight and enforcement of matters pertaining to the E-911 network.

Sec. E.235 E-911 SYSTEM; RESILIENCY AND REDUNDANCY; REPORT

(a) On or before September 1, 2018, the Executive Director of the Enhanced 911 Board, in consultation with the Secretary of Digital Services, shall submit a report to the Joint Fiscal Committee detailing the level of resiliency and redundancy within the E-911 system and explaining any plans for ensuring operational integrity in the event of critical software or hardware failures. The report shall include, with explanation, identification of the locations and services deemed most vulnerable to system outages or call failures, as determined by the Board. The report also shall include a cost estimate for making any recommended system upgrades.

Sec. E.238 UNLAWFUL ALCOHOLIC BEVERAGE TRADE PRACTICES; REPORT

(a) On or before January 15, 2019, the Commissioner of Liquor Control shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding the occurrence in Vermont of unfair trade practices at wholesale, including unlawful financial interests in retail licensees, price discrimination between retail licensees, and inducement of retail licensees to purchase or sell certain brands of alcoholic beverages to the exclusion of others. In particular, the report shall include:

(1) a description of the State and federal laws and regulations restricting:

(A) certain types of financial interests between wholesale and retail licensees;

(B) price discrimination between retail licensees by wholesale dealers and packagers; and

(C) the giving of free alcoholic beverages, monetary payments, or any other thing of value in order to induce or persuade a retail licensee to purchase or contract to purchase a certain brand or kind of alcoholic beverage to the exclusion of others, or to refrain from purchasing or contracting to purchase a certain brand or kind of alcoholic beverage;

(2) a description of the Department of Liquor Control's efforts to enforce the laws and regulations related to unlawful financial interests in retail licensees, price discrimination between retail licensees, and inducement of

retail licensees to purchase or sell certain brands of alcoholic beverages to the exclusion of others, including:

(A) the number of complaints received by the Department;

(B) the number of investigations performed by the Department;

(C) the number of alleged violations prosecuted by the Department; and

(D) the result of any prosecutions carried out by the Department; and

(3) any suggestions for legislative action to strengthen or improve the enforcement of Vermont's laws restricting unlawful financial interests in retail licensees, price discrimination between retail licensees, and inducement of retail licensees to purchase or sell certain brands of alcoholic beverages to the exclusion of others.

Sec. E.238.1 DEPARTMENT OF LIQUOR CONTROL; UNFAIR TRADE PRACTICES; ANONYMOUS REPORTING

(a) On or before November 15, 2018, the Commissioner of Liquor Control shall develop and follow a protocol to allow licensees and members of the public to submit to the Department confidential and anonymous reports of unfair trade practices, including unlawful financial interests in retail or wholesale licensees, price discrimination between retail licensees, and the inducement of retail licensees to purchase or sell certain brands of alcoholic beverages to the exclusion of others.

(b) On or before January 15, 2019, the Commissioner shall report to the House Committees on Appropriations and on General, Housing, and Military Affairs and the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs regarding how the Department receives reports of unfair trade practices and ensures confidentiality. The report shall also be included in the Department's presentation of its budget to the House and Senate Committees on Appropriations.

* * * HUMAN SERVICES * * *

Sec. E.300.1 DEPOSIT AND USE OF MASTER SETTLEMENT FUND

(a) Deposit of Master Tobacco Settlement receipts and appropriations of Tobacco Settlement funds in fiscal year 2019 are made, notwithstanding 2013 Acts and Resolves No. 50, Sec. D.104.

Sec. E.300.2 FUNDING FOR THE OFFICE OF THE HEALTH CARE ADVOCATE

(a) Of the funds appropriated in Sec. B.300 of this act, $1,457,406 shall be used for the contract with the Office of the Health Care Advocate.

Sec. E.301 Secretary's office – Global Commitment

(a) The Agency of Human Services shall use the funds appropriated in Sec. B.103 of this act for payment of the actuarially certified premium required under the intergovernmental agreement between the Agency of Human Services and the managed care entity, the Department of Vermont Health Access, as provided for in the Global Commitment for Health Waiver (Global Commitment) approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) In addition to the State funds appropriated in this section, a total estimated sum of $26,413,016 is anticipated to be certified as State matching funds under the Global Commitment as follows:

(1) $23,336,050 certified State match available from local education agencies for eligible special education school-based Medicaid services under the Global Commitment. This amount combined with $27,163,950 of federal funds appropriated in Sec. B.301 of this act equals a total estimated expenditure of $50,500,000. An amount equal to the amount of the federal matching funds for eligible special education school-based Medicaid services under Global Commitment shall be transferred from the Global Commitment Fund to the Medicaid Reimbursement Special Fund created in 16 V.S.A. § 2959a.

(2) $3,076,966 certified State match available from local designated mental health and developmental services agencies for eligible mental health services provided under Global Commitment.

Sec. E.301.1 Secretary's office – Global Commitment

(a) An amount up to $16,800,000 is transferred from the AHS Federal Receipts Holding Account to the Interdepartmental Transfer Fund consistent with the amount appropriated in Section B.301 – Secretary's office – global commitment of this act.

Sec. E.301.2 GLOBAL COMMITMENT APPROPRIATIONS; TRANSFER; REPORT

(a) In order to facilitate the end-of-year closeout for fiscal year 2019, the Secretary of Human Services, with approval from the Secretary of Administration, may make transfers among the appropriations authorized for Medicaid and Medicaid-waiver program expenses, including Global Commitment appropriations outside the Agency of Human Services. At least three business days prior to any transfer, the Agency shall submit to the Joint Fiscal Office a proposal of transfers to be made pursuant to this section. A final report on all transfers made under this section shall be made to the Joint Fiscal Committee for review at the September 2019 meeting. The purpose of

this section is to provide the Agency with limited authority to modify the appropriations to comply with the terms and conditions of the Global Commitment for Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

Sec. E.306 ALTERNATIVE FORMS OF COST-SHARING ASSISTANCE; REPORT

(a)(1) The Secretary of Human Services, in consultation with the Green Mountain Care Board, the Office of the Health Care Advocate, and other interested stakeholders, shall research, analyze, and recommend alternatives to the cost-sharing assistance established in 33 V.S.A. § 1812 for eligible individuals enrolled in Exchange plans.

(2) The alternatives to be considered may include:

(A) creation of a fund to reimburse eligible individuals who experience high out-of-pocket health care costs;

(B) creation of an uncompensated care pool; and

(C) other strategies for reducing the out-of-pocket exposure of individuals and families with income between 200 and 300 percent of the federal poverty level who purchase silver-level qualified health benefit plans through the Vermont Health Benefit Exchange.

(b) On or before January 15, 2019, the Secretary of Human Services shall report its findings and recommendations for alternative forms of cost-sharing assistance to the House Committees on Health Care and on Appropriations and the Senate Committees on Health and Welfare, on Finance, and on Appropriations. The report shall also include the Secretary's recommendations for ways to assist individuals purchasing qualified health benefit plans during open enrollment periods in making informed choices.

Sec. E.306.1 FISCAL YEAR 2019 BUDGET ADJUSTMENT; REALLOCATION; RESEARCH STUDY ON EFFECTS OF INCREASED ACCESS TO ACUPUNCTURE CARE

(a) As part of its fiscal year 2019 budget adjustment proposal, the Agency of Human Services shall recommend the specific reallocation of funds remaining in the Evidence-Based Education and Advertising Fund in fiscal year 2019 in order to provide $100,000 to the Department of Vermont Health Access to conduct the first year of a two-year research study into the effects of increased access to acupuncture care on utilization of and expenditures on other medical services for individuals enrolled in Medicaid and commercial health insurance in Vermont. The Agency shall manage the Fund during fiscal year 2019 in a manner consistent with this purpose.

(b) As part of its fiscal year 2019 budget adjustment proposal, the Agency of Human Services shall also report on the financial status of the Fund, including anticipated fiscal year 2020 revenue and the allocation of an additional $100,000 for the second year of the study described in subsection (a) of this section.

Sec. E.306.2 VERMONT HEALTH BENEFIT EXCHANGE RULES

(a) The Agency of Human Services may adopt rules pursuant to 3 V.S.A. chapter 25 to conform Vermont's rules regarding health care eligibility and enrollment and the operation of the Vermont Health Benefit Exchange to state and federal law and guidance. The Agency may use the emergency rules process pursuant to 3 V.S.A. § 844 prior to June 30, 2019, but only in the event that new state or federal law or guidance require Vermont to amend or adopt its rules in a time frame that cannot be accomplished under the traditional rulemaking process. An emergency rule adopted under these exigent circumstances shall be deemed to meet the standard for the adoption of emergency rules required pursuant to 3 V.S.A. § 844(a).

Sec. E.307 PRIMARY CARE FUNDING

(a) Of the funds appropriated in Sec. B.307 of this act, $2,166,000 shall be used to increase the amount of the per-member per-month payment through the Blueprint for Health to each patient-centered medical home in fiscal year 2019.

Sec. E.308 33 V.S.A. chapter 76 is added to read:

CHAPTER 76. CHOICES FOR CARE

§ 7601. DEFINITIONS

As used in this chapter:

(1) "Commissioner" means the Commissioner of Disabilities, Aging, and Independent Living.

(2) "Department" means the Department of Disabilities, Aging, and Independent Living.

(3) "Savings" means the difference remaining at the conclusion of each fiscal year between the amount of funds appropriated for Choices for Care and the sum of expended and obligated funds, less an amount equal to one percent of that fiscal year's total Choices for Care expenditure. The one percent shall function as a reserve to avoid implementing a High Needs wait list due to unplanned Choices for Care budget pressures throughout the fiscal year.

§ 7602. CALCULATING AND ALLOCATING SAVINGS

(a)(1) The Department shall calculate savings and investments in Choices for Care and report the amount of savings to the Joint Fiscal Committee and the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare by September 15 of each year. The Department shall not reduce the base funding needed in a subsequent fiscal year prior to calculating savings for the current fiscal year.

(2) After reporting the savings in accordance with subdivision (1) of this subsection, the Commissioner shall determine how to allocate available Choices for Care program savings in accordance with this section.

(b) Savings shall be one-time investments or shall be used in ways that are sustainable into the future. Use of savings shall be based on the assessed needs of Vermonters as identified by the Department and its stakeholders. Priority for the use of any identified savings after the needs of all individuals meeting the terms and conditions of the waiver have been met shall be given to home- and community-based services. As used in this chapter, "home- and community-based services" includes all home-based services and Enhanced Residential Care.

(c) Savings may be used to:

(1) increase Choices for Care home- and community-based provider rates;

(2) increase Choices for Care self-directed service budgets;

(3) expand Choices for Care capacity to accommodate additional enrollees;

(4) expand Choices for Care home- and community-based service options;

(5) address Choices for Care quality improvement outcomes; and

(6) fund investments to serve older Vermonters and Vermonters with disabilities outside Choices for Care, understanding non-Medicaid services are not eligible for a federal match.

(d) Savings shall not be used to:

(1) increase nursing home rates already addressed pursuant to section 905 of this title; or

(2) pay for budget pressures related to the Collective Bargaining Agreement for independent direct support workers.

Sec. E.308.1 [DELETED]

Sec. E.312 Health – public health

(a) AIDS/HIV funding:

(1) In fiscal year 2019 and as provided in this section, the Department of Health shall provide grants in the amount of $475,000 in AIDS Medication Rebates special funds to the Vermont AIDS service and peer-support organizations for client-based support services. The Department of Health AIDS Program shall meet at least quarterly with the Community Advisory Group (CAG) with current information and data relating to service initiatives. The funds shall be allocated according to an RFP process.

(2) Ryan White Title II funds for AIDS services and the Vermont Medication Assistance Program (VMAP) shall be distributed in accordance with federal guidelines. The federal guidelines shall not apply to programs or services funded solely by State general funds.

(3)(A) The Secretary of Human Services shall immediately notify the Joint Fiscal Committee if at any time there are insufficient funds in VMAP to assist all eligible individuals. The Secretary shall work in collaboration with persons living with HIV/AIDS to develop a plan to continue access to VMAP medications until such time as the General Assembly can take action.

(B) As provided in this section, the Secretary of Human Services shall work in collaboration with the VMAP Advisory Committee, which shall be composed of not less than 50 percent of members who are living with HIV/AIDS. If a modification to the program's eligibility requirements or benefit coverage is considered, the Committee shall make recommendations regarding the program's formulary of approved medication, related laboratory testing, nutritional supplements, and eligibility for the program.

(4) In fiscal year 2019, the Department of Health shall provide grants in the amount of $100,000 in general funds to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for community-based HIV prevention programs and services. These funds shall be used for HIV/AIDS prevention purposes, including syringe exchange programs; improving the availability of confidential and anonymous HIV testing; prevention work with at-risk groups such as women, intravenous drug users, and people of color; and anti-stigma campaigns. Not more than 15 percent of the funds may be used for the administration of such services by the recipients of these funds. The method by which these prevention funds are distributed shall be determined by mutual agreement of the Department of Health and the Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers.

(5) In fiscal year 2019, the Department of Health shall provide grants in the amount of $150,000 in general funds to Vermont AIDS service organizations and other Vermont HIV/AIDS prevention providers for syringe exchange programs. The method by which these prevention funds are distributed shall be determined by mutual agreement of the Department of Health, the Vermont AIDS service organizations, and other Vermont HIV/AIDS prevention providers. The performance period for these grants will be State fiscal year 2019. Grant reporting shall include outcomes and results.

Sec. E.312.1 IMPROVING OUTCOMES FOR PREGNANT WOMEN

(a) To improve outcomes for pregnant women the Commissioner of Health shall:

(1) Prioritize funding for tobacco cessation to address the rates of smoking among pregnant women by utilizing evidence-based best practices. Not less than $50,000 of the funding for tobacco cessation and prevention activities in fiscal year 2019 shall be used to implement or expand evidence-based interventions intended to reduce tobacco use among pregnant women.

(2) Continue to implement an outreach plan developed in 2017 to Vermonters who are eligible but not enrolled in the Women, Infants and Children (WIC) program.

Sec. E.312.2 WOMEN, INFANTS AND CHILDREN (WIC) STAKEHOLDER SUMMIT AND REPORT

(a) The Department of Health shall convene a community stakeholder summit to discuss innovative methods of increasing WIC program enrollment in Vermont by November 1, 2018. The Department shall solicit input on methods of increasing WIC enrollment from current and former WIC participants, as well as WIC-eligible nonparticipants, and the Department for Children and Families through interviews and surveys. The Department shall present recommended actions to the Senate Committee on Health and Welfare and the House Committee on Human Services on or before April 1, 2019.

Sec. E.314 DESIGNATED AGENCY STAFF RETENTION

(a) To address the compensation gap between the designated agency system and other providers in the health care delivery system the funds appropriated in this section are to enable the Department of Mental Health to increase payments to the Designated Agencies in fiscal year 2019 in a manner to work toward this goal.

(b) Of the funds appropriated in Sec. B.314 of this act, $4,328,689 shall be used to provide increased payments to the Mental Health Designated Agencies in fiscal year 2019. The Department may allocate up to 20 percent of these funds to be used to address the compensation gap through value-based

incentive payments focusing on quality and outcomes. The remaining funds shall be allocated to the base rates for providers. Of these funds, up to 50 percent may be targeted for direct services that are provided by master's level clinicians and other staff with high levels of credentials and experience to reduce the compensation gap for this staff. These targeted funds shall be used to increase recruitment and retention of these levels of professional staff. The Designated Agencies shall assist the Department by providing baseline data.

(c) The Department shall report to the Joint Fiscal Committee in September 2018 on the implementation of this section.

(d) Representatives of the Designated Agencies shall report to the Joint Fiscal Committee in September 2018 on the impacts of these resources on recruitment and retention of master's level clinicians and other staff with high levels of credentials and experience.

Sec. E.316 ECONOMIC SERVICES DIVISION; INNOVATION IN DELIVERY OF SERVICES

(a) For the purpose of exploring innovative approaches to the administration of programs within the Department for Children and Families' Economic Services Division, the Commissioner may authorize pilot programs within specific regions of the State that waive Division rules adopted pursuant to 3 V.S.A. chapter 25 in a manner that does not impact program eligibility or benefits. Temporarily waiving some existing rules for a prescribed period of time shall enable the Division to test innovative ideas for improving the delivery of services with the specific goal of achieving more responsive client services and operational efficiencies.

(b) During fiscal year 2019, the Division may propose pilot programs in accordance with the goals described in subsection (a) of this section to the Commissioner for approval. Each proposal shall outline the targeted service area, efficiencies sought, rules to be waived, duration of the program, and evaluation criteria. Notice shall be given to clients affected by a pilot program and to the Chairs of the House Committee on Human Services and the Senate Committee on Health and Welfare prior to the commencement of the pilot program, including a description of how benefit delivery will be affected, length of the program, and right to a fair hearing.

(c) On or before January 15, 2019, the Commissioner shall submit a report to the House Committee on Human Services and to the Senate Committee on Health and Welfare summarizing the pilot programs implemented pursuant to this section and any findings and recommendations. In the event a particular pilot program is successful at improving the delivery of services to clients, the Commissioner may seek to amend the Division's rules in conformity with the approach used by the pilot program pursuant to 3 V.S.A. chapter 25.

Sec. E.316.1 3 V.S.A. § 1101 is amended to read:

§ 1101. OBLIGATION OF STATE TO DEFEND EMPLOYEES; DEFINITION

* * *

(b) As used in this chapter, "State employee" includes any elective or appointive officer or employee within the Legislative, Executive, or Judicial Branch of State Government or any former such employee or officer. The term includes:

* * *

(10) administrative reviewers whose services are contracted by the State pursuant to 33 V.S.A. § 4916a(f).

Sec. E.317 PARENT CHILD CENTER NETWORK; EVALUATION OF MASTER GRANT

(a) The Agency of Human Services, in consultation with the parent child center network, shall calculate the true value of the services delivered through the network's master grant. The Agency shall present these findings as part of its fiscal year 2020 budget presentation.

Sec. E.318 EARLY CARE AND CHILD DEVELOPMENT PROGRAM GRANT

(a) In fiscal year 2019 and thereafter, the Department for Children and Families shall award 70 percent of funds designated for the Early Care and Child Development Program Grants to center-based child care and preschool programs participating in the Step Ahead Recognition System (STARS) and 30 percent of the designated funds to family child care homes participating in STARS in accordance with the formula described in subsection (b) of this section.

(b) The Department's Child Development Division shall calculate eligibility for Early Care and Child Development Program Grants on a quarterly basis. In determining eligibility, the Division shall consider:

(1) the percent of enrollees receiving a Child Care Financial Assistance Program (CCFAP) subsidy as compared to a center-based child care and preschool program or a family child care home's licensed capacity at a weight of 70 percent;

(2) the average number of enrollees at a center-based child care and preschool program or family child care home receiving a CCFAP subsidy at a weight of 15 percent; and

(3) the average number of infants and toddlers enrolled in a center-based child care and preschool program or family child care home at a weight of 15 percent.

(c) The Division shall provide Early Care and Child Development Program Grants to eligible child care and preschool programs or family child care homes as funds allow. Center-based child care and preschool programs or family child care homes receiving Early Care and Child Development Program Grants shall remain in compliance with the Department's rules, continue to participate in STARS, and maintain high enrollment of children receiving a CCFAP subsidy.

Sec. E.318.1 CHILD CARE FINANCIAL ASSISTANCE PROGRAM ADJUSTMENTS

(a) Of the funds appropriated in Sec. B.318 of this act, $738,511 is allocated consistent with provisions related to the Child Care Financial Assistance Program in any legislation enacted in 2018 pertaining to Vermont's minimum wage, to allow the Commissioner for Children and Families to:

(1) adjust the sliding scale of the Child Care Financial Assistance Program benefit to correspond with the increase in minimum wage to $10.50 as of July 1, 2018 and to $11.10 as of January 1, 2019, to ensure that the benefit percentage at each new minimum wage level remains the same as the percentage applied under the former minimum wage; and

(2) adjust the market rate used to inform the fee scale in a manner that offsets the estimated increased cost of child care in Vermont resulting from the increase in minimum wage to $10.50 as of July 1, 2018 and to $11.10 as of January 1, 2019.

(b) In November 2018 and each year thereafter until 2021, the Department shall report to the Joint Fiscal Committee regarding the projected cost to:

(1) adjust the sliding scale of the Child Care Financial Assistance Program benefit to correspond with a statutorily required increase in the minimum wage for January 1, 2020 and for each year thereafter until 2023 that ensures that the benefit percentage at a new minimum wage level remains the same as the percentage applied under the former minimum wage; and

(2) adjust the market rate used to inform the fee scale in a manner that offsets the estimated increased cost of child care in Vermont resulting from a statutorily required increase in the minimum wage for January 1, 2020 and for each year thereafter until 2023.

Sec E.318.2 CHILD CARE FUNDING ALLOCATIONS

(a) Of the funds appropriated in Sec. B.318 of this act:

(1) $247,388 may be used to fill licensing staff positions; and

(2) a minimum of $2,451,000 shall be used to increase the infant and toddler rate used in the Child Care Financial Assistance Program. In the event there is no statutorily required increase in the minimum wage on January 1, 2019, the funds allocated in Sec. E.318.1(a) of this act shall also be used to increase the infant and toddler rate.

Sec. E.318.3 CHILD CARE AND PREKINDERGARTEN CAPACITY BASELINE REPORT

(a) In order to better understand the relationship between the pre-kindergarten system and the impact on child care and early education facilities not operated by public school districts, the Joint Fiscal Office shall research and assemble the following for each of the last five years:

(1) The demographic information of Vermont children zero to five years of age, by town, county, or region and to the extent possible by family household income.

(2) Array by town, county, or region the known capacity or "slots" at licensed child care facilities, registered child care providers, and pre-kindergarten programs operated by school districts for each age group between zero and five years of age.

(3) To the extent possible, an analysis of the age composition of enrolled children at licensed providers who have ceased doing business in each of the last five years.

(b) The Joint Fiscal Office shall have the assistance and cooperation of the Department for Children and Families as well the Agency of Education and shall report to the Senate and House Committees on Appropriations and on Education not later than November 15, 2018.

Sec. E.321 GENERAL ASSISTANCE HOUSING

(a) Funds appropriated to the Agency of Human Services in the General Assistance program in fiscal year 2019 may be used for temporary housing in catastrophic situations and for vulnerable populations, as defined in rules adopted by the Agency. The Commissioner for Children and Families may, by policy, provide temporary housing for a limited duration in adverse weather conditions when appropriate shelter space is not available.

Sec. E.321.1 HOUSING ASSISTANCE BENEFITS; FLEXIBILITY PROGRAM; COMMUNITY-BASED ALTERNATIVES TO GENERAL ASSISTANCE TEMPORARY HOUSING

(a) For fiscal year 2019, the Agency of Human Services may continue to fund housing assistance programs within the General Assistance program to

create flexibility to provide General Assistance benefits, as well as grants to support the establishment of community-based alternatives for temporary housing as part of the effort to reduce the number of individuals temporarily housed by the General Assistance program. The purpose of these housing assistance programs and community-based alternatives is to mitigate poverty and serve applicants more effectively than they are currently being served with General Assistance funds. Eligible activities shall include, among other things, the provision of shelter, overflow shelter, case management, transitional housing, deposits, down payments, rental assistance, upstream prevention, and related services that ensure that all Vermonters have access to shelter, housing, and the services they need to become safely housed. The Agency may award grants to homeless and housing service providers for eligible activities. Where such housing assistance programs and grants are provided and community- based programs are established, the General Assistance rules shall not apply. The assistance provided under this section is not an entitlement and may be discontinued when the appropriation has been fully spent.

(b) The housing assistance and community-based programs may operate in up to 12 districts designated by the Secretary of Human Services. The Agency shall establish goals and procedures for evaluating the program overall, including performance measures that demonstrate program results, and for each district in which the Agency operates the program, it shall establish procedures for evaluating the district program and its effects.

(c) The Agency shall continue to engage interested parties, including both statewide organizations and local agencies, in the design, implementation, and evaluation of housing assistance programs and community-based alternatives to General Assistance temporary housing.

Sec. E.323 2016 Acts and Resolves No. 172, Sec. E.100.9 is amended to read:

Sec. E.100.9 REPORTING UNFUNDED BUDGET PRESSURES

(a) In an effort to better understand the current services obligations, as part of the budget report required under 32 V.S.A. § 306(a)(1), the Governor shall include an itemization of current services liabilities, including the total obligations and the amount estimated for full funding in the current year in which an amortization schedule exists. These shall include the following liabilities projected for the start of the budget fiscal year:

* * *

(4) Reach Up funding full benefit obligations, including the standard of need for the current fiscal year, prior to any rateable reductions made pursuant to 33 V.S.A. § 1103(a) which ensure that the expenditures for the programs shall not exceed appropriations;

* * *

Sec. E.324 EXPEDITED CRISIS FUEL ASSISTANCE

(a) The Commissioner for Children and Families or designee may authorize crisis fuel assistance to those income-eligible households that have applied for an expedited seasonal fuel benefit but have not yet received it if the benefit cannot be executed in time to prevent them from running out of fuel. The crisis fuel grants authorized pursuant to this section count toward the one crisis fuel grant allowed per household for the winter heating season pursuant to 33 V.S.A. § 2609(b).

Sec. E.324.1 33 V.S.A. § 2602b is added to read:

§ 2602b. LIHEAP AND WEATHERIZATION

Notwithstanding section 2501 of this title, the Secretary of Human Services may transfer up to 15 percent of each federal fiscal year's Low Income Home Energy Assistance Program (LIHEAP) block grant to the Home Weatherization Assistance Program to be used for weatherization projects and program administration allowable under LIHEAP in the same State fiscal year. At the same time, an equivalent transfer shall be made to the Low Income Home Energy Assistance Program from the Home Weatherization Assistance Fund to provide home heating fuel benefits and program administration in the same State fiscal year.

Sec. E.325 Department for children and families – office of economic opportunity

(a) Of the General Fund appropriation in Sec. B.325 of this act, $1,092,000 shall be granted to community agencies for homeless assistance by preserving existing services, increasing services, or increasing resources available statewide. These funds may be granted alone or in conjunction with federal Emergency Solutions Grants funds. Grant decisions shall be made with assistance from the Vermont Coalition to End Homelessness.

Sec. E.325.1 33 V.S.A. § 1123 is amended to read:

§ 1123. INDIVIDUAL DEVELOPMENT SAVINGS PROGRAM

(a) As used in this section:

* * *

(6) "Eligible uses" means education, training that leads to employment, the purchase or improvement of a home, the purchase or repair of a vehicle necessary to participate in an employment-related activity, or participation in or development of an entrepreneurial activity.

* * *

Sec. E.326 Department for children and families – OEO – weatherization assistance

(a) Of the Special Fund appropriation in Sec. B.326 of this act, $750,000 is for the replacement and repair of home heating equipment.

Sec. E.329 ADULT DAY CERTIFICATION

(a) Certification of new adult day providers seeking to be Medicaid funded shall require a demonstration that the new program is filling an unmet need for adult day services in a given geographic region, and does not have an adverse impact on existing adult day services. In the process of approval for certifying any new adult day program, the Department of Disabilities, Aging, and Independent Living shall consider review and comment from the Vermont Association of Adult Day Services as to whether the new program:

(1) meets adult day standards;

(2) fills an unmet service need in that geographic area; and

(3) does not have an adverse impact on existing adult day services.

Sec. E.330 PARTICIPANT DIRECTED ATTENDANT CARE (PDAC) PROGRAM

(a) The Department of Disabilities, Aging, and Independent Living shall continue to operate the participant directed attendant care program and shall not reduce an enrolled individual's level of services in fiscal year 2019. The Agency of Human Services shall ensure that adequate funding is available to the Department for the operation of this program for fiscal year 2019 and shall report to the Joint Fiscal Committee in November 2018 any necessary funding transfers from within the Agency needed to meet this requirement.

(b) The Department shall make a determination regarding the clinical and financial eligibility of each currently enrolled individual for the Medicaid Choices for Care program or any other program that could provide the necessary attendant care services. The Department shall report to the Joint Fiscal Committee in September 2018 on the status of these determinations.

Sec. E.335 CORRECTIONS APPROPRIATIONS; TRANSFER; REPORT

(a) In fiscal year 2019, the Secretary of Administration may, upon recommendation of the Secretary of Human Services, transfer unexpended funds between the respective appropriations for correctional services and for correctional services out-of-state beds. At least three days prior to any such transfer being made, the Secretary of Administration shall report the intended transfer to the Joint Fiscal Office and shall report any completed transfers to the Joint Fiscal Committee at its next scheduled meeting.

Sec. E.338 Corrections - correctional services

(a) The special funds appropriation of $146,000 for the supplemental facility payments to Newport and Springfield shall be paid from the PILOT Special Fund under 32 V.S.A. § 3709.

Sec. E.338.1 [DELETED]

Sec. E.343 [DELETED]

Sec. E.344 Retired senior volunteer program

(a) Funds appropriated pursuant to Sec. B.344 of this act shall be administered by the Agency of Human Services and distributed by SerVermont to each local program to be used to match the Corporation for National and Community Service's approved expenditures.

Sec. E.345 Green mountain care board

(a) The Green Mountain Care Board shall use the Global Commitment Funds appropriated in this section to encourage the formation and maintenance of public-private partnerships in health care, including initiatives to support and improve the health care delivery system.

* * * K-12 EDUCATION * * *

Sec. E.500 Education – finance and administration

(a) The Global Commitment funds appropriated in this section shall be used for physician claims for determining medical necessity of Individualized Education Program (IEPs). It is the goal of these services to increase the access of quality health care to uninsured persons, underinsured persons, and Medicaid beneficiaries.

Sec. E.500.1 UNIFORM CHART OF ACCOUNTS

(a) Not later than July 1, 2020, all Vermont supervisory unions, supervisory districts, school districts, and independent tech center districts shall utilize the same school finance and financial data management system. The system shall be selected by the Agency of Education per State procurement guidelines.

(b) The Agency shall work with participating supervisory unions to:

(1) conform to a uniform chart of accounts as outlined in 2014 Acts and Resolves No. 179, Secs. E.500.1-E.500.3 as amended by 2015 Acts and Resolves No. 58, Sec. E.500.1;

(2) improve the comparability, consistency, and timeliness of school financial data;

(3) enhance the abilities of the General Assembly, Agency of Education, supervisory unions, and supervisory districts to better understand and manage cost centers and related school expenditures; and

(4) categorize expenditures in a way that draws a distinction between direct educational expenses and expenses that are primarily human or social services expenses.

(c) Notwithstanding subsection (a) of this section, supervisory unions with districts that are merging into a new governance structure as of July 1, 2018 and that have executed a contract on or before May 1, 2018 to acquire a new school finance and financial data system other than the management system selected by the Agency of Education to serve the merged system may delay adoption of the system selected by the Agency until July 1, 2021.

(d) Notwithstanding subsection (a) of this section, a supervisory union or a supervisory district that entered into a contract for a school finance and financial data management system on or after July 1, 2017, may delay adoption of the system selected by the Agency until July 1, 2021 or upon expiration of the current contract, whichever is earlier.

Sec. E.500.2 16 V.S.A. § 242(4) is amended to read:

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

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

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

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

~~(D)~~(B) Prepare for each district an itemized report detailing the portion of the proposed supervisory union budget for which the district would be assessed for the subsequent school year identifying the component costs by category and explaining the method by which the district's share for each cost was calculated; and provide the report to each district at least 14 days before a budget, including the supervisory union assessment, is voted on by the electorate of the district.

Sec. E.500.3 INTERSTATE SCHOOL DISTRICT

(a) The General Assembly supports the study by the board of the Stamford school district of the formation of an interstate school district that would combine the Stamford school district with the Clarksburg, Massachusetts school district. On or before December 15, 2018, the board of the Stamford school district shall report its findings and recommendations to the General Assembly.

Sec. E.500.4 EDUCATOR LICENSURE REQUIREMENTS

(a) The Vermont Standards Board for Professional Educators shall consider whether the educator licensure and endorsement requirements are appropriate or should be updated. As part of its review, the Board shall consider whether the use by a school of a school-based teacher quality and performance measurement program approved by the New England Association of Schools and Colleges, or examinations offered by the Smarter Balanced Assessment Consortium, should be used as criteria to qualify for licensure and endorsement. On or before December 1, 2018, the Board shall report its findings and recommendations to the House and Senate Committees on Education.

(b) As part of its review under subsection (a) of this section, the Vermont Standards Board for Professional Educators shall consider whether the educator licensure and endorsement requirements for teachers in career technical education centers are appropriate or should be updated. After the House and Senate Committees on Education have concluded their consideration of the report of the Vermont Standards Board for Professional Educators under subsection (a) of this section, the Vermont Standards Board for Professional Educators and the State Board of Education shall either update their educator licensure and endorsement rules for teachers in career technical education centers or issue a report to the House and Senate Committees on Education that they do not intend to update these rules. Until the date upon which these updated rules are implemented or the report is issued, teachers employed by career technical centers who were hired before April 1, 2018 and who do not have the licensure or endorsement that is required under applicable rules shall be exempt from these rules and any requirement to pursue licensure or endorsement under these rules.

(c) Notwithstanding subsection (b) of this section and any provision of law to the contrary, an employee in an approved area career technical center located in an approved independent school who was hired before April 1, 2018 and who did not have the licensure or endorsement that is required under applicable rules governing career technical centers shall be exempt from these rules. An employee hired on or after April 1, 2018 shall be subject to these

rules, and an employee hired before April 1, 2018 who complied with these rules shall maintain his or her licensure and endorsements as required by these rules.

Sec. E.500.5 RESTORATIVE JUSTICE PRINCIPLES FOR RESPONDING TO SCHOOL DISCIPLINE PROBLEMS

(a) On or before July 1, 2019, the Agency of Education shall issue guidance to all public school boards and boards of approved independent schools that sets out restorative justice principles for responding to school discipline problems. Each public school board and each board of an approved independent school shall consider this guidance and whether to adopt a policy on the use of restorative justice principles for responding to school discipline problems. The restorative justice principles contained in the Agency guidance shall be designed to:

(1) decrease the use of exclusionary discipline;

(2) ensure that disciplinary measures are applied fairly and do not target students based on race, ethnicity, gender, family income level, sexual orientation, immigration status, or disability status; and

(3) provide students with the opportunity to make academic progress while suspended or expelled.

Sec. E.500.6 IMPLEMENTATION OF RESTORATIVE JUSTICE PRINCIPLES; GRANT PROGRAM

(a) The Agency of Education shall use funding under 16 V.S.A. § 2969(c) to assist public and approved independent schools with the adoption and implementation of restorative justice principles for responding to school discipline problems. The Agency shall determine the eligibility criteria for receiving a grant and determining the grant amount, and shall monitor the use of grant monies.

(b) On or before December 1, 2018, 2019, and 2020, the Secretary of Education shall submit a written report to the House Committees on Education and on Judiciary and the Senate Committees on Education and on Judiciary describing the eligibility criteria for receiving a grant and for determining the grant amount, identifying the grant recipients and the amounts they received in grant monies, and the use of grant monies by the recipients.

Sec. E.500.7 PREKINDERGARTEN EDUCATION; REPORT

(a) The Agency of Education, in consultation with the Agency of Human Services, shall commission an independent study to recommend how to more effectively and efficiently provide prekindergarten education that considers:

(1) whether the current delivery and funding models are working effectively to provide prekindergarten education services, and if not, the issues with the current models and recommendations to enhance the quality and effectiveness of these models;

(2) how Vermont families make early care and education arrangements for their children under six years of age, including what factors may constrain parental choices;

(3) how well the prekindergarten system is operating to provide prekindergarten education to all eligible Vermont children and how to provide equitable access to prekindergarten education for children from economically deprived backgrounds;

(4) how to identify ways that the prekindergarten education system may create undesirable outcomes for prekindergarten students, their parents or guardians, or providers of prekindergarten education services or child care services and steps to mitigate them; and

(5) how to simplify regulatory oversight and administration of prekindergarten education.

(b)(1) On or before March 15, 2019, the Agency of Education shall report on the status of the independent study to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare.

(2) On or before July 1, 2019, the Agency of Education shall report the results of the independent study to the House Committees on Education and on Human Services and the Senate Committees on Education and on Health and Welfare.

Sec. E.502 Education – special education: formula grants

(a) Of the appropriation authorized in this section, and notwithstanding any other provision of law, an amount not to exceed $3,665,521 shall be used by the Agency of Education in fiscal year 2019 as funding for 16 V.S.A. § 2967(b)(2)–(6). In distributing such funds, the Secretary shall not be limited by the restrictions contained within 16 V.S.A. § 2969(c) and (d).

Sec. E.503 Education – state-placed students

(a) The Independence Place Program of the Lund Family Center shall be considered a 24-hour residential program for the purposes of reimbursement of education costs.

Sec. E.504.1 Education – flexible pathways

(a) Of this appropriation, $3,916,000 from the Education Fund shall be distributed to school districts for reimbursement of high school completion

services pursuant to 16 V.S.A. § 943(c). Notwithstanding 16 V.S.A. § 4025(b), of this Education Fund appropriation, the amount of:

(1) $740,000 is available for dual enrollment programs and the amount of $36,000 is available for use pursuant to Sec. E.605.1(a)(2) of this act;

(2) $100,000 is available to support the Vermont Virtual Learning Cooperative at the River Valley Technical Center School District;

(3) $200,000 is available for secondary school reform grants; and

(4) $450,000 is available for the Vermont Academy of Science and Technology and $1,870,000 for Early College pursuant to 16 V.S.A. § 946.

Sec. E.505 REIMBURSEMENT FOR NEWBURY SCHOOL DISTRICT

(a) Notwithstanding any other provision of law, in addition to the education payment due to the Newbury School District for fiscal year 2019, the Agency of Education shall pay $44,471 from the Education Fund to the Newbury School District to compensate the district for a pre-K census error in fiscal years 2016 and 2017.

Sec. E.513 [DELETED]

Sec. E.514 State teachers' retirement system

(a) In accordance with 16 V.S.A. § 1944(g)(2), the annual contribution to the State Teachers' Retirement System (STRS) shall be $105,640,777 of which $99,940,777 shall be the State's contribution and $5,700,000 shall be contributed from local school systems or educational entities pursuant to 16 V.S.A. § 1944c.

(b) In accordance with 16 V.S.A. § 1944(c)(2), of the annual contribution, $8,081,768 is the "normal contribution," and $97,559,009 is the "accrued liability contribution."

Sec. E.515 Retired teachers' health care and medical benefits

(a) In accordance with 16 V.S.A. § 1944b(b)(2), $31,639,205 will be contributed to the Retired Teachers' Health and Medical Benefits Fund.

Sec. E.515.1 16 V.S.A. § 1942(p) is amended to read:

(p) The Board shall enter into insurance arrangements to provide health and medical benefits for retired members and their dependents. The State is legally responsible for the costs of the health and medical benefits provided in this chapter in the amounts specified in section 1944e of this chapter. The Board may enter into insurance arrangements to provide dental coverage for retired members and their dependents, provided the State or the System has no legal obligation to pay any portion of the dental benefit premiums.

Sec. E.515.2 16 V.S.A. § 1944d is amended to read:

§ 1944d. EMPLOYER ANNUAL CHARGE FOR TEACHER HEALTH CARE

(a) ~~The~~ Beginning on July 1, 2018, the employer of teachers who become members of the State Teachers' Retirement System of Vermont on or after July 1, 2015 shall pay an annual assessment ~~for those teachers' health and medical benefits~~ of $1,275.00 for each such teacher to the Benefits Fund.

(b) ~~The assessment shall be the value,~~ Beginning on July 1, 2019, and each year thereafter, the annual assessment shall be adjusted to account for inflation, as approved annually by the Board of Trustees ~~based on the actuary's recommendation, of the portion of future retired teachers' health and medical benefits attributable to those teachers for each year of service in the State Teachers' Retirement System of Vermont. The equivalent number for the June 30, 2013 valuation is $1,072.00~~.

Sec. E.515.3 EVALUATION OF EMPLOYER ANNUAL CHARGE FOR TEACHER HEALTH CARE; REPORT

(a) On or before January 15, 2023, the State Treasurer, in consultation with representatives from the Vermont-National Education Association and Vermont Association of School Business Officers, shall evaluate and prepare a report on the impact of repealing the employer annual charge for teacher health care.

(b) The State Treasurer shall submit the report described in subsection (a) of this section to the House and Senate Committees on Appropriations.

Sec. E.515.4 REPEAL OF EMPLOYER ANNUAL CHARGE FOR TEACHER HEALTH CARE

(a) The employer annual charge for teacher health care, established in 16 V.S.A. § 1944d, is repealed on July 1, 2023.

* * * HIGHER EDUCATION * * *

Sec. E.600 University of Vermont

(a) The Commissioner of Finance and Management shall issue warrants to pay one-twelfth of this appropriation to the University of Vermont on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, $380,326 shall be transferred to EPSCoR (Experimental Program to Stimulate Competitive Research) for the purpose of complying with State matching fund requirements necessary for the receipt of available federal or private funds, or both.

(c) If Global Commitment Fund monies are unavailable, the total grant funding for the University of Vermont shall be maintained through the General Fund or other State funding sources.

(d) The University of Vermont shall use the Global Commitment funds appropriated in this section to support Vermont physician training. The University of Vermont prepares students, both Vermonters and out-of-state, and awards approximately 100 medical degrees annually. Graduates of this program, currently representing a significant number of physicians practicing in Vermont, deliver high-quality health care services to Medicaid beneficiaries and to uninsured or underinsured persons, or both, in Vermont and across the nation.

Sec. E.602 Vermont state colleges

(a) The Commissioner of Finance and Management shall issue warrants to pay one-twelfth of this appropriation to the Vermont State Colleges on or about the 15th day of each calendar month of the year.

(b) Of this appropriation, $427,898 shall be transferred to the Vermont Manufacturing Extension Center for the purpose of complying with State matching fund requirements necessary for the receipt of available federal or private funds, or both.

Sec. E.603 Vermont state colleges – allied health

(a) If Global Commitment fund monies are unavailable, the total grant funding for the Vermont State Colleges shall be maintained through the General Fund or other State funding sources.

(b) The Vermont State Colleges shall use the Global Commitment funds appropriated in this section to support the dental hygiene, respiratory therapy, and nursing programs that graduate approximately 315 health care providers annually. These graduates deliver direct, high-quality health care services to Medicaid beneficiaries or uninsured or underinsured persons, or both.

Sec. E.605 Vermont student assistance corporation

(a) Of this appropriation, $25,000 is appropriated from the General Fund to the Vermont Student Assistance Corporation to be deposited into the Trust Fund established in 16 V.S.A. § 2845.

(b) Of this appropriation, not more than $200,000 may be used by the Vermont Student Assistance Corporation for a student aspirational pilot initiative to serve one or more high schools.

(c) Of the appropriated amount remaining after accounting for subsections (a) and (b) of this section, not less than 93 percent of this appropriation shall be used for direct student aid.

(d) Funds available to the Vermont Student Assistance Corporation pursuant to Sec. E.215(a) of this act shall be used for the purposes of 16 V.S.A. § 2856. Any unexpended funds from this allocation shall carry forward for this purpose.

Sec. E.605.1 NEED-BASED STIPEND FOR DUAL ENROLLMENT AND EARLY COLLEGE STUDENTS

(a) The sum of $72,000 shall be transferred to the Vermont Student Assistance Corporation (VSAC) as follows:

(1) $36,000 from Sec. B.1100(a)(3)(C) (Next Generation funds appropriated for dual enrollment and need-based stipend purposes).

(2) $36,000 pursuant to Sec. E.504.1(a)(1) (flexible pathways funds appropriated for dual enrollment and need-based stipend purposes).

(b) The sums transferred to VSAC in this section shall be used to fund a flat-rate, need-based stipend or voucher program for financially needy students enrolled in a dual enrollment course pursuant to 16 V.S.A. § 944 or in early college pursuant to 16 V.S.A. § 946 to be used for the purchase of books, cost of transportation, and payment of fees. VSAC shall establish the criteria for program eligibility. Funds shall be granted to eligible students on a first-come, first-served basis until funds are depleted.

(c) VSAC shall report on the program to the House Committees on Appropriations and on Commerce and Economic Development and to the Senate Committees on Appropriations and on Economic Development, Housing and General Affairs on or before January 15, 2019.

* * * NATURAL RESOURCES * * *

Sec. E.700 VOLKSWAGEN LITIGATION; ENVIRONMENTAL MITIGATION TRUST FOR STATE BENEFICIARIES

(a) As used in this section:

(1) "Appendix D-2" means Appendix D-2 to the Environmental Mitigation Trust, entitled "Eligible Mitigation Actions and Mitigation Action Expenditures."

(2) "Environmental Mitigation Trust" or "Trust" means the Environmental Mitigation Trust Agreement for State Beneficiaries filed on October 2, 2017 in In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, 3:16-CV-00295-CRB, MDL No. 2672 CRB (JSC) (N.D. Cal.).

(3) "Mobile source" means any vehicle, freight switcher, ferry, tug, vessel, or equipment that qualifies under an eligible mitigation action listed in Appendix D-2.

(b) The Secretary of Natural Resources shall administer Environmental Mitigation Trust monies pursuant to 10 V.S.A. § 554(15) and, in administering the Trust monies appropriated under Sec. B.710 of this act, shall:

(1) Dedicate at least 15 percent of those monies for the purchase of light duty electric supply equipment and associated allowable administrative costs in accordance with Appendix D-2.

(2) Dedicate the remainder of the monies to the replacement of mobile sources that consume fossil fuels with all-electric mobile sources or the repowering of mobile sources that consume fossil fuels with all-electric engines, or both, and associated allowable administrative costs. The expenditures shall be in accordance with the requirements of Appendix D-2.

Sec. E.700.1 [DELETED]

Sec. E.700.2 2017 Acts and Resolves No. 47, Sec. 2 is amended to read:

Sec. 2. COMMISSION ON ACT 250: THE NEXT 50 YEARS; REPORT

* * *

(i) Reimbursement.

(A) For attendance at no more than ~~10~~ 14 Commission meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(B) There shall be no reimbursement for attendance at subcommittee meetings or more than ~~10~~ 14 Commission meetings.

* * *

* * * COMMERCE AND COMMUNITY DEVELOPMENT * * *

Sec. E.800 [DELETED]

Sec. E.802 Housing & community development

(a) Of the General Funds appropriated in Sec. B.802 of this act, the sum of $100,000 of General Funds is intended to support planning and implementation of a community development program targeting outdoor recreation, in consultation with the Department of Forests, Parks and Recreation.

Sec. E.808 Vermont council on the arts

(a) The Vermont Council on the Arts shall pay its full lease charge as assessed by the Department of Buildings and General Services.

* * * TRANSPORTATION * * *

Sec. E.900 FISCAL YEAR 2019 TRANSPORTATION FUND CONTINGENT APPROPRIATION

(a) In the event contingent spending authority of transportation funds is increased to the statewide district leveling program or the maintenance program as provided and under the terms prescribed in Sec. 8 of H.917 of 2018, the appropriation of transportation funds in, respectively, Sec. B.903, Program Development, and Sec. B.905, Maintenance, of this act are increased in the same amount.

* * * MISCELLANEOUS AND TECHNICAL CORRECTIONS * * *

Sec. F.100 10 V.S.A. § 128 is amended to read:

§ 128. VERMONT CENTER FOR GEOGRAPHIC INFORMATION SPECIAL FUND

(a) A Special Fund is created for the operation of the Vermont Center for Geographic Information in the Agency of ~~Commerce and Community Development~~ Digital Services. The Fund shall consist of revenues derived from the charges by the Agency of ~~Commerce and Community Development~~ Digital Services pursuant to subsection (c) of this section for the provision of Geographic Information products and services, interest earned by the Fund, and sums which from time to time may be made available for the support of the Center and its operations. The Fund shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be available to the Agency to support activities of the Center.

(b) The receipt and expenditure of monies from the Special Fund shall be under the supervision of the Secretary of ~~Commerce and Community Development~~ Digital Services.

(c) Notwithstanding 32 V.S.A. § 603, the Secretary of ~~Commerce and Community Development~~ Digital Services is authorized to impose charges reasonably related to the costs of the products and services of the Vermont Center for Geographic Information, including the cost of personnel, equipment, supplies, and intellectual property.

Sec. F.101 10 V.S.A. § 122 is amended to read:

§ 122. VERMONT CENTER FOR GEOGRAPHIC INFORMATION, INCORPORATED; ESTABLISHMENT

* * *

(b) In order to develop and implement that strategy, and to ensure that all data gathered by State agencies that is relevant to the VGIS shall be in a form

that is compatible with, useful to, and shared with that geographic information system, there is hereby established as a division under the Agency of ~~Commerce and Community Development~~ Digital Services the Vermont Center for Geographic Information (the Center).

* * * EFFECTIVE DATES * * *

Sec. G.100 EFFECTIVE DATES

(a) This section and Secs. C.100 (fiscal year 2018 technical correction, VSAC), C.101 (fiscal year 2018 General Fund reversion repeal), C.102 (fiscal year 2018 Medicaid carry forward requirement), C.103 (fiscal year 2018 carry forward of fiscal year 2017 one-time appropriation), C.105-C.105.1 (fiscal year 2018 tobacco litigation settlement fund receipts, transfers, and appropriations), C.106 (fiscal year 2018 CHINS cases system strategic reform), C.106.1 (fiscal year 2018 substance use disorder, mental health workforce expansion), C.106.2 (fiscal year 2018 substance use disorder response initiatives), C.108 (fiscal year 2018 budget adjustment repeals), C.109 (fiscal year 2018 federal funds contingent appropriation), C.110 (fiscal year 2018 climate commission implementation), C.111-C.114 (fiscal year 2018 Agency of Education adjustments), C.115-C.118 (fiscal year 2018 teachers' retirement system and health care and medical benefits adjustments), C.119 (fiscal year 2018 fund transfers, reversions and reserves), C.1000 (fiscal year 2018 one-time transfers and reversions), D.102 (Tobacco Litigation Settlement Fund balance), E.126 (Legislative Branch workforce comparative evaluation), E.126.1 (Vermont justice system review), E.126.2 (Joint Information Technology Oversight Committee), E.127 (JFO review and evaluation of Corrections health care services), E.233.2 (short-term emergency funding to maintain critical wireless E-911 service), and E.308 (Choices for Care) shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Sec. E.111.1 (Tax Computer System Modernization Fund) shall take effect on passage and apply retroactively to July 1, 2017.

(c) Secs E.215.1- E.215.4 of this act shall take effect on July 1, 2018 and the tuition benefits established under the Vermont National Guard Tuition Benefit Program shall be available to eligible Vermont National Guard members enrolled in institutions under the Program starting on or after January 1, 2019.

(d) All remaining sections shall take effect on July 1, 2018.

And by renumbering all of the sections of the bill to be numerically correct (including internal references) and adjusting all of the totals to be arithmetically correct.

M. JANE KITCHEL
RICHARD W. SEARS
RICHARD A. WESTMAN

Committee on the part of the Senate

CATHERINE B. TOLL
PETER J. FAGAN
MARY S. HOOPER

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative on a roll call, Yeas 29, Nays 0.

Senator Ashe 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, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, Starr, White.

Those Senators who voted in the negative were: None.

The Senator absent and not voting was: Westman.

Election of Senate Member to Judicial Nominating Board Replacement Member

The President announced that the next order of business was the election of a replacement member to serve on the Judicial Nominating Board pursuant to 4 V.S.A. §601 to the remaining term for Senator Rodgers who resigned.

Senator Ashe, on behalf of the Committee on Committees, placed in nomination the name of the following Senator to serve on the Board:

JEANETTE K. WHITE

of Windham District, as the third member of the Board.

Senator Mazza of Grand Isle District seconded the nomination.

There being no further nominations, on motion of Chair, the nominations were closed, and the Secretary was instructed to cast one ballot for

JEANETTE K. WHITE

of Windham District, as the third member of the Board, for a term remainder of the two years or until her successor is elected and has qualified.

Message from the House No. 84

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on bill of the following title:

S. 281. An act relating to the mitigation of systemic racism.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 287. An act relating to aquatic nuisance control.

And has adopted the same on its part.

The House has considered Senate proposal of amendment to Senate bill of the following title:

S. 260. An act relating to funding the cleanup of State waters.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Recess

The Chair declared a recess until the fall of the gavel.

Evening

The Senate was called to order by the President.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 27, H. 696, H. 917, H. 919.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 281.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to the mitigation of systemic racism.

Was taken up for immediate consideration.

Senator Pearson, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 281. An act relating to the mitigation of systemic racism.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal of amendment and that the bill be further amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to promote racial justice reform throughout the State by mitigating systemic racism in all systems of State government and creating a culture of inclusiveness.

Sec. 2. 3 V.S.A. § 2102 is amended to read:

§ 2102. POWERS AND DUTIES

(a) The Governor's Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

(b) The Cabinet shall work collaboratively with the Executive Director of Racial Equity and shall provide the Director with access to all relevant records and information as permitted by law.

Sec. 3. 3 V.S.A. chapter 68 is added to read:

CHAPTER 68. EXECUTIVE DIRECTOR OF RACIAL EQUITY

§ 5001. POSITION

(a) There is created within the Executive Branch the position of Executive Director of Racial Equity to identify and work to eradicate systemic racism within State government.

(b) The Executive Director of Racial Equity shall have the powers and duties enumerated within section 2102 of this title and shall work collaboratively with and act as a liaison between the Governor's Workforce Equity and Diversity Council, the Vermont Human Rights Commission, and the Governor's Cabinet.

(c) The Executive Director shall be housed within and have the administrative, legal, and technical support of the Agency of Administration.

(d) The Executive Director shall report to and be under the general supervision of the Governor, or, to the extent such supervisory authority is delegated, the Secretary of Administration. The Administration shall not prevent or prohibit the Executive Director from initiating, carrying out, or completing the duties of the Executive Director as set forth in section 5003 of this title.

§ 5002. RACIAL EQUITY ADVISORY PANEL

(a) The Racial Equity Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall have the administrative, legal, and technical support of the Agency of Administration.

(b)(1) The Panel shall consist of five members, as follows:

(A) one member appointed by the Senate Committee on Committees who shall not be a current legislator;

(B) one member appointed by the Speaker of the House who shall not be a current legislator;

(C) one member appointed by the Chief Justice of the Supreme Court who shall not be a current legislator;

(D) one member appointed by the Governor who shall not be a current legislator; and

(E) one member appointed by the Human Rights Commission who shall not be a current legislator.

(2) Members shall be drawn from diverse backgrounds to represent the interests of communities of color throughout the State, have experience working to implement racial justice reform and, to the extent possible, represent geographically diverse areas of the State.

(3) The term of each member shall be three years, except, so that the term of one regular member expires in each ensuing year of the members first appointed, one shall serve a term of: one year, to be appointed by the Human Rights Commission; two years, to be appointed by the Governor; three years, to be appointed by the Speaker of the House; four years, to be appointed by the Senate Committee on Committees; and five years, to be appointed by the Chief Justice of the Supreme Court. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this subsection. Appointments of members to fill vacancies or expired terms shall

be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are elected or appointed. Members shall serve not more than three consecutive terms in any capacity.

(4) Members of the Panel shall elect by majority vote the Chair of the Panel, who shall serve for a term of three years after the implementation period. Members of the Panel shall be appointed on or before September 1, 2018 in order to prepare as they deem necessary for the establishment of the Panel, including the election of the Chair of the Panel. Terms of members shall officially begin on January 1, 2019.

(c) The Panel shall have the following duties and responsibilities:

(1) work with the Executive Director of Racial Equity to implement the reforms identified as necessary in the comprehensive organizational review as required by subsection 5003(a) of this title;

(2) advise the Executive Director to ensure ongoing compliance with the purpose of this chapter, and advise the Governor on strategies for remediating systemic racial disparities in statewide systems of government; and

(3) on or before January 15, 2020, and annually thereafter, report to the House and Senate Committees on Government Operations on:

(A) the extent to which the State is achieving the performance targets and measures as developed pursuant to section 5003(c) of this title; and

(B) the nature and quality of the collaboration between the Governor's Cabinet and the Executive Director.

(d) Each member of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

§ 5003. DUTIES OF EXECUTIVE DIRECTOR OF RACIAL EQUITY

(a) The Executive Director of Racial Equity (Director) shall work with the agencies and departments to implement a program of continuing coordination and improvement of activities in State government in order to combat systemic racial disparities and measure progress toward fair and impartial governance, including:

(1) overseeing a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities;

(2) managing and overseeing the statewide collection of race-based data to determine the nature and scope of racial discrimination within all systems of State government; and

(3) developing a model fairness and diversity policy and reviewing and making recommendations regarding the fairness and diversity policies held by all State government systems.

(b) Pursuant to section 2102 of this title, the Director shall work collaboratively with State agencies and departments to gather relevant existing data and records necessary to carry out the purpose of this chapter and to develop best practices for remediating systemic racial disparities throughout State government.

(c) The Director shall work with the agencies and departments and with the Chief Performance Officer to develop performance targets and performance measures for the General Assembly, the Judiciary, and the agencies and departments to evaluate respective results in improving systems. These performance measures shall be included in the agency's or department's quarterly reports to the Director, and the Director shall include each agency's or department's performance targets and performance measures in his or her annual reports to the General Assembly.

(d) The Director shall, in consultation with the Department of Human Resources and the agencies and departments, develop and conduct trainings for agencies and departments regarding the nature and scope of systemic racism and the institutionalized nature of race-based bias. Nothing in this subsection shall be construed to discharge the existing duty of the Department of Human Resources to conduct trainings.

(e) The Director shall periodically report to the Racial Equity Advisory Panel on the progress towards carrying out the duties as established by this section.

(f) On or before January 15, 2020, and annually thereafter, the Director shall report to the House and Senate Committees on Government Operations demonstrating the State's progress in identifying and remediating systemic racial bias within State government.

§ 5004. INFORMATION; DISCLOSURE AND CONFIDENTIALITY

(a) Confidentiality of records.

(1) Any records transmitted to or obtained by the Executive Director of Racial Equity and the Racial Equity Advisory Panel that are exempt from public inspection and copying under the Public Records Act shall remain exempt and shall be kept confidential to the extent required by law.

(2) Draft reports, working papers, and internal correspondence between the Director and the Panel shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. The completed reports shall be public records.

(b) Exceptions.

(1) The Director and Panel members may make records available to each other, the Governor, and the Governor's Cabinet as necessary to fulfill their duties as set forth in this chapter. They may also make records pertaining to any alleged violations of antidiscrimination statutes available to any State or federal law enforcement agency authorized to enforce such statutes.

(2) Absent a court order for good cause shown or the prior written consent of an individual providing information or lawfully obtained records to the Director or the Panel, the Director and Panel Members may decline to disclose:

(A) the identity of the individual if good cause exists to protect his or her confidentiality; and

(B) materials pertaining to the individual, including written communications among the individual, the Director, and the Panel and recordings, notes, or summaries reflecting interviews or discussions among the individual, the Director, and the Panel.

§ 5005. NOMINATION, APPOINTMENT, AND REMOVAL PROCESS

(a) The Racial Equity Advisory Panel shall select for consideration by the Panel, by majority vote, provided that a quorum is present, from the applications for the position of Executive Director of Racial Equity as many candidates as it deems qualified for the position.

(b) The Panel shall submit to the Governor the names of the candidates deemed most qualified to be appointed to fill the position.

(c) The Governor shall make the appointment to the Executive Director position from the list of qualified candidates submitted pursuant to subsection (b) of this section. The names of candidates submitted and not selected shall remain confidential.

(d) The Executive Director of Racial Equity may be removed from office by the Governor with the consent of the Panel. The Governor shall notify the Racial Equity Advisory Panel in writing the reasons for the proposed removal no less than 30 days prior to removing the Executive Director.

Sec. 4. AUTHORIZATION FOR EXECUTIVE DIRECTOR OF RACIAL EQUITY POSITION

One new permanent, exempt position of Executive Director of Racial Equity is created within the Agency of Administration.

Sec. 5. EXECUTIVE DIRECTOR OF RACIAL EQUITY; RACIAL EQUITY ADVISORY PANEL; FUNDING SOURCE; SURCHARGE; REPEAL

(a) Surcharge.

(1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth the purpose and rate of charges collected in the Human Resource Services Internal Service Fund, in fiscal year 2019, a surcharge of up to 1.65 percent, and in fiscal year 2020 and thereafter, a surcharge of up to 3.3 percent, but not greater than the cost of both the Racial Equity Advisory Panel and the position of Executive Director of Racial Equity set forth in Sec. 3 of this act, on the per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the Racial Equity Advisory Panel and the position of the Executive Director of Racial Equity set forth in Sec. 3 of this act.

(b) Repeal. This section shall be repealed on June 30, 2024.

Sec. 6. FISCAL YEAR 2019 APPROPRIATION

There is appropriated to the Agency of Administration from the Human Resource Services Internal Service Fund for fiscal year 2019 the amount of $75,000.00 for the Racial Equity Advisory Panel and the position of Executive Director of Racial Equity.

Sec. 7. SECRETARY OF ADMINISTRATION; RACIAL EQUITY ADVISORY PANEL; EXECUTIVE DIRECTOR OF RACIAL EQUITY; REPORT

(a) On or before September 1, 2018, the Racial Equity Advisory Panel shall be appointed.

(b) On or before November 1, 2018, the Racial Equity Advisory Panel shall, in consultation with the Secretary of Administration and with the assistance and advice of the Department of Human Resources, have developed and posted a job description for the Executive Director of Racial Equity.

(c) On or before January 1, 2019, the Racial Equity Advisory Panel shall submit to the Governor the names of the candidates for the Executive Director of Racial Equity position.

(d) On or before February 1, 2019, the Governor shall appoint the Executive Director of Racial Equity.

(e) On or before May 1, 2019, the Executive Director of Racial Equity shall update the House and Senate Committees on Government Operations regarding how best to complete a comprehensive organizational review to identify systemic racism pursuant to 3 V.S.A. § 500, and potential private and public sources of funding to achieve the review.

Sec. 8. REPEAL

On June 30, 2024:

(1) Sec. 3 of this act (creating the Executive Director of Racial Equity and Racial Equity Advisory Panel in 3 V.S.A. chapter 68) is repealed and the Executive Director position and Panel shall cease to exist; and

(2) Sec. 4 of this act (authorization for the Executive Director of Racial Equity position) is repealed.

Sec. 9. 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 racial equity in State government"

CHRISTOPHER A. PEARSON
BRIAN P. COLLAMORE
JEANETTE K. WHITE

Committee on the part of the Senate

JOHN M. GANNON
CYNTHIA A. WEED

Committee on the part of the House

Senator Ashe Assumes the Chair

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

President Resumes the Chair

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 287.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to aquatic nuisance control.

Was taken up for immediate consideration.

Senator Bray, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 287. An act relating to aquatic nuisance control.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House proposal of amendment.

CHRISTOPHER A. BRAY
BRIAN A. CAMPION
JOHN S. RODGERS

Committee on the part of the Senate

TREVOR J. SQUIRRELL
JAMES M. MCCULLOUGH
STEPHEN C. BEYOR

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment to Senate Proposal of Amendment to House Proposals of Amendment Concurred In

S. 260.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House proposal of amendment to Senate proposal of amendment to House proposals of amendment to Senate bill entitled:

An act relating to funding the cleanup of State waters.

Were taken up for immediate consideration.

The House concurs in the Senate proposal of amendment to House proposal of amendment as follows:

First: In Sec. 2, 10 V.S.A. § 1389a, in subsection (a), in the second sentence, after "restoration over the prior" and before "year." by striking out "calendar" and inserting in lieu thereof "fiscal"

Second: In Sec. 5, 10 V.S.A. chapter 47, subchapter 2A, by striking out § 1312 in its entirety and inserting in lieu thereof a new § 1312 to read as follows:

§ 1312. LAKE IN CRISIS ORDER

The Secretary of Natural Resources, pursuant to chapter 201 of this title, or the Secretary of Agriculture, Food and Markets, pursuant to 6 V.S.A. chapter 215, may issue an order to require a person to:

(1) take an action identified in the lake in crisis response plan;

(2) cease or remediate any acts, discharges, site conditions, or processes contributing to the impairment of the lake in crisis;

(3) mitigate a significant contributor of a pollutant to the lake in crisis; or

(4) conduct testing, sampling, monitoring, surveying, or other analytical operations required to determine the nature, extent, duration, or severity of the potential harm to the public health or a risk of damage to the environment or natural resources.

Third: In Sec. 5, 10 V.S.A. chapter 47, subchapter 2A, in § 1313, in subsection (b), by striking out the second and third sentences in their entirety and inserting in lieu thereof the following new sentences:

An applicant for a State grant shall pay at least 35 percent of the total eligible project cost or shall pay the specific cost share authorized by statute for the program from which the grant is awarded. The dollar amount of a State grant shall be equal to the total eligible project cost, less the percent of the total required to be paid by the applicant, and less the amount of any federal assistance awarded.

Fourth: In the reader assistance heading preceding Sec. 9, by striking out "ANR" where it appears

Fifth: By striking out Sec. 13 (effective dates) and its reader assistance and inserting in lieu thereof new sections to be Secs. 13–27 to read as follows:

Sec. 13. COMBINATION TANK SYSTEMS; CONTINUATION OF SERVICE

(a) As used in this section:

(1) "Combination tank system" shall have the same meaning as set forth in 10 V.S.A. § 1922.

(2) "Motor fuel" means fuel subject to the licensing fee under 10 V.S.A. § 1942(a).

(b) Notwithstanding the requirements in 10 V.S.A. § 1927(e)(2) that a combination tank system shall be closed by January 1, 2018, the Secretary of Natural Resources may authorize a combination tank service to supply motor

fuel after January 1, 2018 upon a determination that the combination tank system:

(1) is the sole supply of motor fuel in the municipality in which the combination tank system is located;

(2) is needed to supply motor fuel to public safety or fire control services in the municipality; and

(3) the owner of the combination system has entered into a contract and obtained financing to replace the tank as required under 10 V.S.A. § 1927.

(c) The Secretary may authorize the continued supply of motor fuel from a combination tank system under this section until October 1, 2018.

(d) This section shall be repealed on October 1, 2018.

* * * Municipal Roads General Permit Fees * * *

Sec. 14. 3 V.S.A. § 2822(j)(2)(B)(iv)(VI) is amended to read:

(VI) ~~Application~~ For application to operate under a general permit for stormwater runoff associated with municipal roads~~: $2,000.00~~, the following fees per authorization annually:

(aa) in a municipality with a population of more than 5,000 persons: $1,800.00;

(bb) in a municipality with a population of 2,500 to 5,000 persons and 95 miles or more of maintained road: $1,800.00;

(cc) in a municipality with a population of 2,500 to 5,000 persons and 25 to less than 95 miles of maintained road: $1,350.00;

(dd) in a municipality with a population of 2,500 to 5,000 persons and less than 25 miles of maintained road: $500.00;

(ee) in a municipality with a population of fewer than 2,500 but more than 500 persons and 25 miles or more of maintained road: $1,350.00;

(ff) in a municipality with a population of fewer than 2,500 but more than 500 persons and less than 25 miles of maintained road: $500.00;

(gg) in a municipality with a population of fewer than 500 persons: $500.00;

(hh) in a municipality that is covered under a municipal separate storm sewer system permit: $0.00; and

(ii) in an unincorporated or disincorporated municipality: $0.00.

* * * Mercury-Added Motor Vehicle Components * * *

Sec. 15. 10 V.S.A. § 7108 is added to read:

§ 7108. MERCURY-ADDED MOTOR VEHICLE COMPONENTS

(a) Applicability. This section applies to:

(1) a motor vehicle recycler or scrap metal recycling facility in the State; and

(2) a manufacturer of motor vehicles sold in this State.

(b) Mercury-added switch removal requirements. A motor vehicle recycler that accepts end-of-life motor vehicles shall remove mercury-added vehicle switches prior to crushing, shredding, or other scrap metal processing and prior to conveying for crushing, shredding, or other scrap metal processing.

(1) Motor vehicle recyclers shall maintain a log sheet of switches removed from end-of-life motor vehicles and shall provide such log to the Agency annually or upon request of the Agency.

(2) Switches, including switches encased in light or brake assemblies, shall be collected, stored, transported, and handled in accordance with all applicable State and federal laws.

(c) Manufacturer mercury-added switch recovery program. A manufacturer of vehicles sold in this State, individually or as part of a group, shall implement a mercury-added vehicle switch recovery program that includes the following:

(1) educational material to assist motor vehicle recyclers in identifying mercury-added vehicle switches and safely removing, properly handling, and storing switches;

(2) storage containers provided at no cost to all motor vehicle recyclers identified by the Agency, suitable for the safe storage of switches, including switches encased in light or brake assemblies;

(3) collection, packaging, shipping, and recycling of mercury-added switches, including switches encased in light or brake assemblies, provided to all motor vehicle recyclers at no cost and that comply with all applicable State and federal laws; and

(4) a report on or before December 1 annually to the Agency that includes the total number of mercury-added switches recovered in the program, the names of the motor vehicle recyclers and the number of switches

removed from each, and the total amount of mercury collected during the previous 12-month period.

(d) Agency responsibility.

(1) The Agency shall provide workshops and other training to motor vehicle recyclers to inform them of the requirements of this section.

(2) The Agency may develop, by procedure, exemptions of certain mercury-added vehicle switches and other components from the requirements of this section, including mercury-added switches that are inaccessible due to motor vehicle damage and anti-lock brake switches in certain motor vehicle types that are difficult or labor-intensive to remove.

Sec. 16. APPLICATION OF ENACTMENT

On December 31, 2017, the former 10 V.S.A. § 7108, requiring establishing mercury-added vehicle component requirements, as established by 2006 Acts and Resolves No. 117, was repealed. Sec. 15 of this act reenacts 10 V.S.A. § 7108 in substantially the same form as the section was enacted by 2006 Acts and Resolves No. 117. Notwithstanding the requirements of 1 V.S.A. § 214, the requirements of 10 V.S.A. § 7108 as enacted by Sec. 15 of this act shall apply retroactively to December 31, 2017 and shall be implemented prospectively from that date.

Sec. 17. REPEAL OF MERCURY-ADDED MOTOR VEHICLE COMPONENT REQUIREMENTS

10 V.S.A. § 7108 (mercury-added vehicle component requirements) shall be repealed on December 31, 2021.

* * * Forgiveness of Municipal Water Supply and Pollution Control Planning Advances * * *

Sec. 18. FORGIVENESS OF REPAYMENT OF PLANNING ADVANCES

The Secretary of Natural Resources shall not require a municipality to repay engineering planning advances awarded under 24 V.S.A. chapter 120, subchapter 2 if the Secretary determines that:

(1) the engineering planning advance was awarded prior to September 1, 2011; and

(2) due to the effects of Tropical Storm Irene, documentation is no longer available to establish the engineering planning scope and associated construction project for which the engineering planning advance was awarded.

* * * Environmental Enforcement Report * * *

Sec. 19. 10 V.S.A. § 8017 is amended to read:

§ 8017. ANNUAL REPORT

The Secretary and the Attorney General shall report annually to the President Pro Tempore of the Senate, the Speaker of the House, the House Committee on ~~Fish, Wildlife and Water Resources~~ Natural Resources, Fish, and Wildlife, and the Senate ~~and House Committees~~ Committee on Natural Resources and Energy. The report shall be filed ~~no later than January 15~~ on or before February 15, on the enforcement actions taken under this chapter, and on the status of citizen complaints about environmental problems in the State. The report shall describe, at a minimum, the number of violations, the actions taken, the disposition of cases, the amount of penalties collected, and the cost of administering the enforcement program. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

* * * Wastewater System and Potable Water Supplies Lending * * *

Sec. 20. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(13) "Potable water supply ~~facilities~~" ~~means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps, and attendant facilities necessary to develop a source of water and to treat and convey it in proper quantity and quality for public use within a municipality~~ shall have the same meaning as in 10 V.S.A. § 1972.

* * *

(17) "Designer" means a person authorized to design wastewater systems and potable water supplies as identified in 10 V.S.A. § 1975.

Sec. 21. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement

of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to $275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited ~~on an annual basis~~ into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of $275,000.00 exists for each fiscal year.

* * *

Sec. 22. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only ~~one single-family residence on its own lot~~ single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to ~~the owner of the residence~~ an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) ~~loans~~ a loan may only be made to ~~households with~~ an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) ~~loans~~ a loan may only be made to ~~households where the recipient of the loan resides in the residence~~ an owner who resides in one of the residences served by the failed supply or system on a year-round basis;

(3) ~~loans~~ a loan may only be made ~~if the owner of the residence~~ to an owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;

(4) when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

(5) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

~~(5)~~(6) all funds from the repayment of loans made under this section shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

* * * Stormwater Permitting * * *

Sec. 23. 27 V.S.A. § 613(b) is amended to read:

(b) Beginning on July 1, 2004, and notwithstanding any law to the contrary, no encumbrance on record title to real property or effect on marketability of title shall be created by the failure of the holder of real property from which regulated stormwater runoff discharges to an impaired watershed to obtain, renew, or comply with the terms and conditions of a pretransition stormwater discharge permit for a conveyance or refinancing, provided that such holder:

(1) provides a notice of deferral of permit to the Secretary of Natural Resources with a property description, the identity of the impaired watershed, the permit number of any expired pretransition stormwater discharge permit covering the property, and such other information as the Secretary may require; and

(2) records in the land records a notice indicating, in an appropriate form to be determined by the Secretary of Natural Resources, that at the time of establishment of a general permit in the impaired watershed where the real property is located, but not later than ~~June 30, 2018~~ 180 days after the date of adoption by the Agency of Natural Resources of the stormwater rule pursuant to 10 V.S.A. § 1264, the mortgagor (in the case of a refinancing) or the grantee

(in the case of a conveyance) shall be subject to all applicable requirements of the water quality remediation plan, TMDL, or watershed improvement permit established under 10 V.S.A. chapter 47.

Sec. 24. 2012 Acts and Resolves No. 91, Sec. 3, as amended by 2016 Acts and Resolves No. 73, Sec. 1, is further amended to read:

Sec. 3. REPEAL

27 V.S.A. § 613 (stormwater discharges during transition period; encumbrance on title) shall be repealed ~~on June 30, 2018~~ 180 days after the date the Agency of Natural Resources adopts the stormwater rule pursuant to 10 V.S.A. § 1264.

* * * Mixed Paper; Disposal * * *

Sec. 25. ANR SUSPENSION OF LANDFILL DISPOSAL BAN ON MIXED PAPER

Upon finding that insufficient markets exist for the recycling of paper and adequate uses are not reasonably available to serve as an alternative to disposal of paper, the Secretary of Natural Resources may suspend the application of the landfill disposal ban under 10 V.S.A. § 6621a to a solid waste management facility for one or more of the following materials: white and colored paper, newspaper, magazines, catalogues, paper mail and envelopes, boxboard, and paper bags.

Sec. 26. REPEAL; SUSPENSION OF LANDFILL DISPOSAL BAN

Sec. 25 (ANR suspension of landfill disposal ban; mixed paper) shall be repealed on July 1, 2019.

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 14 (municipal road stormwater fees) and 19 (environmental enforcement report) shall take effect on July 1, 2018.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment to the House proposals of amendment?, were severally decided in the affirmative.

Rules Suspended; Bills Delivered

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 260, S. 281, S. 287.

Recess

On motion of Senator Ashe the Senate recessed until the fall of the gavel.

Called to Order

The Senate was called to order by the President.

Message from the House No. 85

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 94. An act relating to promoting remote work.

And has adopted the same on its part.

Message from the House No. 86

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 272. An act relating to miscellaneous changes to laws related to motor vehicles.

And has adopted the same on its part.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 571, H. 593, H. 675, H. 913.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 94.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

An act relating to promoting remote work.

Was taken up for immediate consideration.

Senator Sirotkin, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 94. An act relating to promoting remote work.

Respectfully reports that it has met and considered the same and recommends that the House recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Promoting Remote Workers and Remote Work Arrangements * * *

Sec. 1. NEW REMOTE WORKER GRANT PROGRAM

(a) As used in this section:

(1) "New remote worker" means an individual who:

(A) is a full-time employee of a business with its domicile or primary place of business outside Vermont;

(B) becomes a full-time resident of this State on or after January 1, 2019; and

(C) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(2) "Qualifying remote worker expenses" means actual costs a new remote worker incurs for one or more of the following that are necessary to perform his or her employment duties:

(A) relocation to this State;

(B) computer software and hardware;

(C) broadband access or upgrade; and

(D) membership in a co-working or similar space.

(b)(1) The Agency of Commerce and Community Development shall design and implement the New Remote Worker Grant Program, which shall include a simple certification process to certify new remote workers and certify qualifying expenses for a grant under this section.

(2) A new remote worker may be eligible for a grant under the Program for qualifying remote worker expenses in the amount of not more than $5,000.00 per year, not to exceed a total of $10,000.00 per individual new remote worker over the life of the Program.

(3) The Agency shall award grants under the Program on a first-come, first-served basis, subject to available funding, as follows:

(A) not more than $125,000.00 in calendar year 2019;

(B) not more than $250,000.00 in calendar year 2020;

(C) not more than $125,000.00 in calendar year 2021; and

(D) not more than $100,000.00 per year in each subsequent calendar year, to the extent funding remains available.

(c) The Agency shall:

(1) adopt procedures for implementing the Program;

(2) promote awareness of the Program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns; and

(3) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the Program.

(d) On or before October 1, 2019, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the procedures adopted pursuant to subdivision (c)(1) of this section;

(2) the promotion and marketing of the Program pursuant to subdivision (c)(2) of this section; and

(3) any additional recommendations for qualifying remote worker expenses or qualifying workers that should be eligible under the Program, and any recommendations for the maximum amount of the grant.

* * * ThinkVermont Innovation Initiative * * *

Sec. 2. THINKVERMONT INNOVATION INITIATIVE

(a) Purpose.

(1) The ThinkVermont Innovation Initiative is created to respond to the growth needs of Vermont small businesses with 20 or fewer employees by funding innovative strategies that accelerate small business growth and meet the project criteria specified in this section.

(2) The Initiative shall enable the State to invest in projects with grants that can be accessed more quickly and with fewer restrictions than traditional federal initiatives.

(b) Process; grant distribution.

(1) The Secretary of Commerce and Community Development, in consultation with the Vermont Economic Progress Council, shall:

(A) adopt a schedule and process for accepting, reviewing, and approving grant proposals on a competitive basis;

(B) distribute grants across geographic areas of the State; and

(C) distribute grants across diverse industries, sectors, and business types, including for-profit and nonprofit organizations.

(2)(A) A grant shall provide funding in only one fiscal year.

(B) A recipient shall be eligible for a grant through the Initiative in not more than two fiscal years.

(c) Funding; matching requirements. The Secretary shall require a grant recipient to provide a funding match of 100 percent of the value of the grant.

(d) Eligibility criteria. To be eligible for a grant, a project shall:

(1) provide workforce training and recruitment that is not eligible for funding through another State or federal program and that serves an immediate employer need to fill one or more job vacancies;

(2) establish or enhance a facility that attracts small companies or remote workers, or both, including maker spaces, co-working spaces, remote work hubs, and innovation spaces, with special emphasis on facilities that promote colocation of nonprofit, for-profit, and government entities;

(3) enable or support deployment of broadband telecommunications connectivity;

(4) leverage economic development funding outside State government, including the federal New Market Tax Credit program and Small Business Innovation Research grants;

(5) support growth in Vermont's aerospace, aviation, or aviation technology sectors; or

(6) provide technical assistance to support small business growth.

(e) Outcomes; measures. The Secretary shall adopt measures to evaluate a grant to determine its impact, including job growth measured at one-, three-, and five-year intervals.

* * * Economic Development Marketing * * *

Sec. 3. ECONOMIC DEVELOPMENT MARKETING

(a) The Agency of Commerce and Community Development shall continue economic development marketing activities funded in 2017 Acts and Resolves No. 85, Sec. C.100.1, and may match State funds appropriated for that purpose with federal funds, special funds, grants, donations, and private funds.

(b) To increase the amount and effectiveness of its economic development marketing activities, the Agency shall collaborate with public or private sector partners, or both, to maximize State marketing resources and to enable Vermont businesses to align their own brand identities with the Vermont brand to enhance the reputations of both the businesses and the State.

* * * Appropriations * * *

Sec. 4. ECONOMIC DEVELOPMENT APPROPRIATIONS; FY 2018 CARRY FORWARD

The following appropriations are made from the General Fund in fiscal year 2018 to the Agency of Commerce and Community Development to be carried forward until expended and used for the following purposes:

(1) $500,000 for the New Remote Worker Grant Program created in Sec. 1 of this act;

(2) $150,000 for the ThinkVermont Innovation Initiative created in Sec. 2 of this act; and

(3) $250,000 for economic development marketing pursuant to Sec. 3 of this act.

* * * Promoting Remote Work, Maker, and Innovation Spaces * * *

Sec. 5. IMPROVING INFRASTRUCTURE AND SUPPORT FOR REMOTE WORK IN VERMONT; STUDY; REPORT

(a) The Secretary of Commerce and Community Development, in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services and other interested stakeholders, shall identify and examine the infrastructure improvements and other support needed to:

(1) enable workers and businesses to establish or enhance a remote presence in Vermont;

(2) build capacity throughout the State to increase access to maker spaces, co-working spaces, remote work hubs, and innovation spaces; and

(3) support the interconnection of current and future maker spaces, co-working spaces, remote work hubs, innovation spaces, and regional technical centers.

(b) On or before January 15, 2019, the Secretary shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a written report detailing his or her findings and recommendations.

Sec. 6. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

(a) The Secretary of Administration, in consultation with the Secretary of Commerce and Community Development and the Commissioner of Buildings and General Services, shall examine the potential for the State to establish remote worksites that are available for use by both State employees and remote workers in the private sector.

(b) The Secretary shall examine the feasibility of and potential funding models for the worksites, including the opportunity to provide at low- or no-cost co-working space within State buildings that is currently vacant or underutilized.

(c) On or before January 15, 2019, the Secretary shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs detailing his or her findings and any recommendations for legislative action.

Sec. 7. BROADBAND AVAILABILITY FOR REMOTE WORKERS

On or before January 15, 2019, the Director of Telecommunications and Connectivity, in consultation with the Agency of Commerce and Community Development, shall submit with the annual report required by 30 V.S.A. § 202e findings and recommendations concerning:

(1) the current availability of broadband service in municipal downtown centers that do, or could at reasonable cost, support one or more co-working spaces or similar venues for remote workers and small businesses; and

(2) strategies for expanding and enhancing broadband availability for such spaces.

* * * Municipalities; Village Center Designation; Electronic Filings * * *

Sec. 8. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation ~~every five~~ four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

* * *

Sec. 9. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(d) The State Board shall review a village center designation every ~~five~~ eight years and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the village center no longer meets the standards for designation established in subsection (a) of this section, it may take any of the following actions:

* * *

Sec. 10. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

* * *

(d) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a new town center designation ~~every five~~ four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. The State Board may adjust the schedule of review under this subsection to coincide with the review of a related growth center. If at any time the State Board determines the new town center no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

* * *

Sec. 11. 24 V.S.A. § 4345b is amended to read:

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

(a)(1) Prior to exercising the authority granted under this section, a regional planning commission shall:

(A) draft bylaws specifying the process for entering into, method of withdrawal from, and method of terminating service agreements with municipalities; and

(B) hold one or more public hearings within the region to hear from interested parties and citizens regarding the draft bylaws.

(2) At least 30 days prior to any hearing required under this subsection, notice of the time and place and a copy of the draft bylaws, with a request for comments, shall be delivered to the chair of the legislative body of each municipality within the region, which may be done electronically, provided the sender has proof of receipt. The regional planning commission shall make copies available to any individual or organization requesting a copy.

* * *

Sec. 12. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered physically or electronically with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

(1) the chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the Department of Housing and Community Development within the Agency of Commerce and Community Development;

(4) business, conservation, low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned; and

(5) the Agency of Natural Resources and the Agency of Agriculture, Food and Markets.

* * *

(e) The regional planning commission may make revisions to the proposed plan or amendment at any time not less than 30 days prior to the final public hearing held under this section. If the proposal is changed, a copy of the proposed change shall be delivered~~,~~ physically or electronically with proof of receipt or by certified mail, return receipt requested, to the ~~chairperson~~ chair of the legislative body of each municipality within the region, and to any individual or organization requesting a copy, at least 30 days prior to the final hearing.

* * *

Sec. 13. 24 V.S.A. § 4352 is amended to read:

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE; ENHANCED ENERGY PLANNING

* * *

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail or electronically with proof of receipt to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination in writing within two months ~~of~~ after the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

* * *

Sec. 14. 24 V.S.A. § 4384 is amended to read:

§ 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING COMMISSION

* * *

(e) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered physically or electronically with proof of receipt, or mailed by certified mail, return receipt

requested, to each of the following:

(1) the ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that municipality;

(2) the executive director of the regional planning commission of the area in which the municipality is located;

(3) the ~~department of housing and community affairs~~ Department of Housing and Community Development within the ~~agency of commerce and community development~~ Agency of Commerce and Community Development; and

(4) business, conservation, ~~low income~~ low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.

* * *

Sec. 15. 24 V.S.A. § 4385 is amended to read:

§ 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY LEGISLATIVE BODY

* * *

(c) A plan of a municipality or an amendment thereof shall be adopted by a majority of the members of its legislative body at a meeting which is held after the final public hearing. If, however, at a regular or special meeting of the voters duly warned and held as provided in 17 V.S.A. chapter 55, a municipality elects to adopt or amend municipal plans by Australian ballot, that procedure shall then apply unless rescinded by the voters at a regular or special meeting similarly warned and held. If the proposed plan or amendment is not adopted so as to take effect within one year ~~of~~ after the date of the final hearing of the planning commission, it shall be considered rejected by the municipality. Plans and amendments shall be effective upon adoption~~, and~~. Copies of newly adopted plans and amendments shall be provided to the regional planning commission and to the ~~commissioner of housing and community affairs~~ Commissioner of Housing and Community Development within 30 days ~~of~~ after adoption, which may be done electronically, provided the sender has proof of receipt. If a municipality wishes its plan or plan amendment to be eligible for approval under the provisions of section 4350 of this title, it shall request approval. The request for approval may be before or after adoption of the plan by the municipality, at the option of the municipality.

* * *

Sec. 16. 24 V.S.A. § 4424 is amended to read:

§ 4424. SHORELANDS; RIVER CORRIDOR PROTECTION AREAS; FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING BYLAWS

(a) Bylaws; flood and other hazard areas; river corridor protection. Any municipality may adopt freestanding bylaws under this chapter to address particular hazard areas in conformance with the municipal plan or, for the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6. Such freestanding bylaws may include the following, which may also be part of zoning or unified development bylaws:

(1) Bylaws to regulate development and use along shorelands.

(2) Bylaws to regulate development and use in flood areas, river corridor protection areas, or other hazard areas. The following shall apply if flood or other hazard area bylaws are enacted:

* * *

(D)(i) Mandatory provisions. Except as provided in subsection (c) of this section, all flood and other hazard area bylaws shall provide that no permit for new construction or substantial improvement shall be granted for a flood or other hazard area until after both the following:

(I) A copy of the application is mailed or delivered by the administrative officer or by the appropriate municipal panel to the Agency of Natural Resources or its designee, which may be done electronically, provided the sender has proof of receipt.

(II) Either 30 days have elapsed following the mailing or the Agency or its designee delivers comments on the application.

(ii) The Agency of Natural Resources may delegate to a qualified representative of a municipality with a flood hazard area bylaw or ordinance or to a qualified representative for a regional planning commission the Agency's authority under this subdivision (a)(2)(D) to review and provide technical comments on a proposed permit for new construction or substantial improvement in a flood hazard area. Comments provided by a representative delegated under this subdivision (a)(2)(D) shall not be binding on a municipality.

* * *

Sec. 17. 24 V.S.A. § 4441 is amended to read:

§ 4441. PREPARATION OF BYLAWS AND REGULATORY TOOLS; AMENDMENT OR REPEAL

* * *

(e) At least 15 days prior to the first hearing, a copy of the proposed bylaw, amendment, or repeal and the written report shall be delivered physically or electronically with proof of receipt~~,~~ or mailed by certified mail, return receipt requested, to each of the following:

(1) The ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in a municipality, the clerk of that abutting municipality.

(2) The executive director of the regional planning commission of the area in which the municipality is located.

(3) The ~~department of housing and community affairs~~ Department of Housing and Community Development within the ~~agency of commerce and community development~~ Agency of Commerce and Community Development.

* * *

Sec. 18. 24 V.S.A. § 4445 is amended to read:

§ 4445. AVAILABILITY AND DISTRIBUTION OF DOCUMENTS

Current copies of plans, bylaws, and capital budgets and programs shall be available to the public during normal business hours in the office of the clerk of any municipality in which those plans, bylaws, or capital budgets or programs have been adopted. The municipality shall provide all final adopted bylaws, amendments, or repeals to the regional planning commission of the area in which the municipality is located and to the ~~department of housing and community affairs~~ Department of Commerce and Community Development, which may be done electronically, provided the sender has proof of receipt.

* * *

* * * Wastewater and Potable Water Lending * * *

Sec. 19. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(13) "Potable water supply ~~facilities~~" ~~means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps, and~~

~~attendant facilities necessary to develop a source of water and to treat and convey it in proper quantity and quality for public use within a municipality~~ has the same meaning as in 10 V.S.A. § 1972.

* * *

(17) "Designer" means a person authorized to design wastewater systems and potable water supplies as identified in 10 V.S.A. § 1975.

Sec. 20. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to $275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited ~~on an annual basis~~ into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of $275,000.00 exists for each fiscal year.

* * *

Sec. 21. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only ~~one single-family residence on its own lot~~ single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to ~~the owner of the residence~~ an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) ~~loans~~ a loan may only be made to ~~households with~~ an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) ~~loans~~ a loan may only be made to ~~households where the recipient of the loan resides in the residence~~ an owner who resides in one of the residences served by the failed supply or system on a year-round basis;

(3) ~~loans~~ a loan may only be made ~~if the owner of the residence~~ to an owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;

(4) when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

(5) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

~~(5)~~(6) all funds from the repayment of loans made under this section shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

* * * Rural Economic Development Districts * * *

Sec. 22. 24 V.S.A. § 5704 is amended to read:

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

(a) Governing board. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of a district shall be vested in a governing board, except as otherwise specifically provided in this chapter.

(b) Composition. The ~~first~~ governing board of the district shall consist of ~~four to eight~~ members appointed in equal numbers by the legislative bodies of the underlying municipalities. ~~It~~ The board shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing and removing members to the ~~permanent governing~~ board, including nonvoting, at-large board members. The bylaws shall require that ~~a majority of the board shall be appointed annually by~~ the legislative bodies of the underlying municipalities appoint board members and fill board member vacancies. Board members appointed by the underlying municipalities may appoint additional, nonvoting, at-large board members and fill at-large board member vacancies. Board members, including at-large members, are not required to be residents of an underlying municipality. However, a majority of the board shall be residents of an underlying municipality. Board members shall serve staggered, three-year terms~~,~~ and shall be eligible to serve successive terms. ~~The legislative bodies of the municipalities in which the district is located shall fill board vacancies, and may remove board members at will.~~ At-large board members shall serve one-year terms, and shall be eligible to serve successive terms. Any bylaws developed by the governing board under this subsection shall be submitted for approval to the legislative bodies of the municipalities within the district and shall be considered duly adopted 45 days ~~from~~ after the date of submission, provided none of the legislative bodies disapprove ~~of~~ the bylaws.

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. ~~Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted.~~ The board shall elect from among its members a chair, vice chair, clerk, and treasurer. The board shall establish the fiscal year of the district and shall adopt rules of parliamentary procedure. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

(d) Annual and special meetings. Unless otherwise established by the voters, the annual district meeting shall be held on the second Monday in January and shall be warned by the clerk or, in the clerk's absence or neglect, by a member of the board. Special meetings shall be warned in the same manner on application in writing by five percent of the voters of the district.

A warning for a district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted.

(e) Annual report. The district shall report annually to the legislative bodies and the citizens of the municipalities in which the district is located on the results of its activities in support of economic growth, job creation, improved community efficiency, and any other benefits incident to its activities.

(f) Definition. For purposes of this section and section 5709 of this chapter, after a district has been established pursuant to section 5702 of this chapter, "voter" means a board member or subscriber or customer of a service provided by the district. "Voter" does not mean an at-large board member unless the vote is taken at an annual or special meeting and the at-large board member is a subscriber or customer of a service provided by the district.

Sec. 23. 24 V.S.A. § 5705 is amended to read:

§ 5705. OFFICERS

(a) Generally. The ~~district~~ board shall elect at its first meeting and at each annual meeting thereafter a chair, vice chair, clerk, and treasurer, who shall hold office until the next annual meeting and until others are elected. The board may fill a vacancy in any office.

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) Vice chair. During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair, and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities given to or imposed upon the chair. During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its members an acting vice chair who shall have the powers and be subject to all the responsibilities given to or imposed upon the vice chair.

(d) Clerk. The clerk shall keep a record of the meetings, votes, and proceedings of the district for the inspection of its inhabitants.

(e) Treasurer. The treasurer of the district shall be ~~appointed~~ elected by the board~~,~~ and shall serve at its pleasure. The treasurer shall have the exclusive

charge and custody of the funds of the district and shall be the disbursing officer of the district. When warrants are authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment made. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. Upon the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to his or her successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

* * * Effective Date * * *

Sec. 24. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

BRIAN A. CAMPION
MICHAEL D. SIROTKIN
REBECCA A. BALINT

Committee on the part of the Senate

WILLIAM G. F. BOTZOW
MICHAEL J. MARCOTTE
JANET ANCEL

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Report of Committee of Conference Accepted and Adopted on the Part of the Senate

S. 272.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and the report of the Committee of Conference on Senate bill entitled:

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

Was taken up for immediate consideration.

Senator Mazza, for the Committee of Conference, submitted the following report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill entitled:

S. 272. An act relating to miscellaneous changes to laws related to motor vehicles.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal to the House proposal of amendment.

RICHARD T. MAZZA
RICHARD A. WESTMAN
MARGARET K FLORY

Committee on the part of the Senate

PATRICK M. BRENNAN
DAVID E. POTTER
MOLLIE SULLIVAN BURKE

Committee on the part of the House

Thereupon, the question, Shall the Senate accept and adopt the report of the Committee of Conference?, was decided in the affirmative.

Rules Suspended; Bills Delivered

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered delivered to the Governor forthwith:

S. 94, S. 272.

Recess

On motion of Senator Ashe the Senate recessed until fall of the gavel.

Called to Order

The Senate was called to order by the President.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

H. 716, H. 911, H. 924.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 60.

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

By Senator Ashe,

J.R.S. 60. Joint resolution relating to final adjournment of the General Assembly in 2018.

Resolved by the Senate and House of Representatives

That the President of the Senate and the Speaker of the House of Representatives adjourn their respective Houses *sine die* on the twelfth day of May, 2018.

Secretary Directed to Inform the House of Completion of Business

On motion of Senator Ashe, the Secretary was directed to inform the House that the Senate has completed the business of the session and is ready on its part to adjourn *sine die*, pursuant to the provisions of J.R.S. 60.

Committee Appointed to Inform Governor of Completion of Business

On motion of Senator Ashe, the President appointed the following three Senators as members of a Committee to wait upon His Excellency, Philip B. Scott, the Governor, and inform him that the Senate has completed the business of the session and is ready on its part to adjourn *sine die*, pursuant to the provisions of J.R.S. 60:

Senator Ayer
Senator Branagan
Senator Flory

Report of Committee

The Committee appointed to wait upon His Excellency, the Governor, to inform him that the Senate had, on its part, completed the business of the session and was ready to adjourn *sine die*, pursuant to the provisions of J.R.S. 60, performed the duties assigned to it and escorted the Governor to the rostrum where he delivered his remarks in person.

Remarks of Governor

The Honorable Philip B. Scott, Governor of the State of Vermont, assumed the rostrum and briefly addressed the Senate.

Departure of Governor

The Governor, having completed the delivery of his message, was escorted from the Chamber by the Committee appointed by the Chair.

Final Adjournment

On motion of Senator Ashe, at eleven o'clock and sixteen minutes in the evening (11:16 P.M.), the Senate adjourned *sine die*, pursuant to the provisions of J.R.S. 60.

Messages Received After Final Adjournment

After final adjournment, the following messages were received by the Secretary.

Message from the House No. 87

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 593. An act relating to miscellaneous consumer protection provisions.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 696. An act relating to establishing a State individual mandate.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 711. An act relating to employment protections for crime victims.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 764. An act relating to data brokers and consumer protection.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 910. An act relating to the Open Meeting Law and the Public Records Act.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 911. An act relating to changes in Vermont's personal income tax and education financing system.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 917. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 919. An act relating to workforce development.

And has adopted the same on its part.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

H. 924. An act relating to making appropriations for the support of government.

And has adopted the same on its part.

The House has considered Senate proposal of amendment to the following House bill:

H. 928. An act relating to compensation for certain State employees (Pay Act).

And has severally concurred therein.

Message from the House No. 88

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, 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. 60. Joint resolution relating to final adjournment of the General Assembly in 2018.

And has adopted the same in concurrence.

Message from the House No. 89

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr President:

I am directed to inform the Senate that the House has on its part completed the business of the second half of the Biennial session and is ready to adjourn *sine die*, pursuant to the provisions of J.R.S. 60.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the sixteenth, day of May 2018 he approved and signed a bill originating in the Senate of the following title:

S. 175. An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-first day of May 2018 he approved and signed a bill originating in the Senate of the following title:

S. 225. An act relating to pilot programs for coverage by commercial health insurers of costs associated with medication-assisted treatment.

Message from the House No. 90

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on May 16, 2018, he approved and signed bills originating in the House of the following titles:

H. 624. An act relating to the protection of information in the statewide voter checklist.

H. 828. An act relating to disclosures in campaign finance law.

H. 856. An act relating to miscellaneous amendments to municipal law.

H. 892. An act relating to regulation of short-term, limited-duration health insurance coverage and association health plans.

H. 909. An act relating to technical and clarifying changes in transportation-related laws.

The Governor has informed the House that on May 17, 2018, he approved and signed a bill originating in the House of the following title:

H. 719. An act relating to insurance companies and trust companies.

The Governor has informed the House that on May 21, 2018, he approved and signed bills originating in the House of the following titles:

H. 404. An act relating to Medicaid reimbursement for long-acting reversible contraceptives.

H. 718. An act relating to creation of the Restorative Justice Study Committee.

H. 859. An act relating to requiring municipal corporations to affirmatively vote to retain ownership of lease lands.

H. 895. An act relating to legislative review of certain report requirements.

H. 925. An act relating to approval of amendments to the charter of the City of Barre.

H. 926. An act relating to approval of amendments to the charter of the Town of Colchester.

H. 25. An act relating to domestic terrorism.

H. 132. An act relating to limiting landowner liability for posting the dangers of swimming holes.

H. 378. An act relating to the creation of the Artificial Intelligence Task Force.

H. 410. An act relating to appliance efficiency, energy planning, and electric vehicle parking.

H. 603. An act relating to human trafficking.

H. 639. An act relating to banning cost-sharing for all breast imaging services.

H. 660. An act relating to establishing the Commission on Sentencing

Disparities and Criminal Code Reclassification.

H. 663. An act relating to municipal land use regulation of accessory on-farm businesses.

H. 684. An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 710. An act relating to beer franchises.

H. 727. An act relating to the admissibility of a child's hearsay statements in a proceeding before the Human Services Board.

H. 731. An act relating to miscellaneous workers' compensation and occupational safety amendments.

H. 736. An act relating to lead poisoning prevention.

H. 739. An act relating to energy productivity investments under the self-managed energy efficiency program.

H. 806. An act relating to the Southeast State Correctional Facility.

H. 874. An act relating to inmate access to prescription drugs.

H. 899. An act relating to a town fee report and request.

H. 908. An act relating to the Administrative Procedure Act.

H. 916. An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority.

H. 917. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

H. 927. An act relating to approval of amendments to the charter of the City of Montpelier.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-second day of May, 2018 he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 40. An act relating to increasing the minimum wage.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 40** to the Senate is as follows:

"May 22, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State Street
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.40, *An act relating to increasing the minimum wage*, without my signature because of my objections described herein:

I know what it's like to be a working Vermonter struggling to make ends meet. I have worried about putting food on the table and experienced winters when I had to buy heating oil one 5-gallon bucket at a time to keep my family warm. I know the struggles of running a small business striving to make payroll and stay afloat, in the face of seemingly never-ending tax and fee increases, expensive mandates and duplicative regulations. And I know for many years the costs of living have been rising faster than wages, and many families, and most of our state, haven't fully recovered from the Great Recession.

On my first day in office, I signed an Executive Order outlining the strategic priorities of my Administration: to grow the economy, make Vermont more affordable, and protect the most vulnerable. Improving the economic opportunities of those struggling to ascend the economic ladder is central to all three of these outcomes. My Administration is measuring our progress in meeting these priorities through key performance indicators defined in the State strategic plan, which include organic job and wage growth by region and reducing the percent of household income spent on housing, healthcare and taxes and fees, among other metrics.

By taking a strategic, results-based approach, we can position Vermont's economy and the wages of workers to grow faster than the cost of living; we can make our state *measurably* more affordable each year for families and businesses; and we can meet our obligations to the most vulnerable and make additional investments in priorities Vermonters' value. To achieve these outcomes, however, we need to take actions that are based on real, evidence-based public policy.

As Vermonters, we share a deep desire to improve the economic security of every community and every family. As a member of the Vermont Senate, I voted to increase the minimum wage and tie annual increases to inflation.

So, while I agree with the spirit of S.40, I believe the bill is more likely to harm those it intends to help, weaken small businesses and the economy as a

whole, and deepen the economic inequality that exists between Chittenden County and other counties in the state.

The Weight of Evidence Indicates S.40 is Bad Economic Policy

What we *want* the outcome of a new law to be is sometimes very different than what the analysis and evidence indicates the results will be. This is one of those cases. Unfortunately, the evidence available to us – much of it from the Legislature's own economist –indicates that the mandated wage increase proposed in S.40 will result in negative outcomes for job seekers, current employees, job creators and our economy as a whole.

More specifically, according to the bill's fiscal note,[i] as well as memoranda[ii] from the Legislature's economist, many of the assumed economic gains of a mandated minimum wage increase will be offset by negative economic consequences. Job losses resulting from mandated wages increase of this scope are likely, and the cited data also indicates reductions in hours, reduced employee benefits, price increases, and more.

As reported by Vermont employers in 2016, the number of hours worked per week decreased 2.9 percent since 2008. The population of long-term unemployed, a large number of who have entry-level skills, has been rising. This population of Vermonters is having the most difficult time gaining economic traction because they need more skills to meet the demand for available jobs. And over the last four years since the last mandate to ratchet up the base minimum wage was implemented, the labor force participation rate has declined. Forcing employers to raise the mandated minimum wage faster than the current law requires will reduce entry-level opportunities.

Additionally, according to a study on the effects of a minimum wage increase in Seattle,[iii] the data suggests the hours worked in low-skill jobs fell by 9.4 percent. Alternative measures suggest that the number of entry-level jobs actually declined by 6.8 percent. Perhaps most strikingly, total net payroll for low-wage workers fell by an average of $125 per month—that equates to a $1,500 decline in income annually. Put very simply: while hourly wages increased, actual annual income decreased – meaning mandating a higher minimum wage had the opposite impact it was intended to have.

S.40 Fails to Address & Expands the 'Benefits Cliff'

We all share the goal of providing Vermonters the resources they need to thrive, but we can't do that if we do not also fully consider net value of wages, benefits and prices of goods and services, and their inseparable relationship.

S.40 will push many Vermonters over the "benefits cliff," which could result in a total decline in their resources. According to the Vermont Legislative Joint Fiscal Office, roughly 2,000 families—with 3,000 children—

could potentially lose child care assistance because of these changes[i] in S.40. The current "fix" contained in the bill for this loss in benefits falls unacceptably short of real reform. It only states that the sliding scale for the Child Care Financial Assistance Program shall be adjusted, contingent on "the extent funds are appropriated."

While it is positive that some thought, albeit incomplete, was given to the impact on this policy change to childcare assistance recipients, S.40 also fails to adequately assess the net impact on Vermonters receiving assistance from Medicaid, LIHEAP, Section 8 Housing, 3SquaresVT, the Earned Income Tax Credit (EITC), SSDI, and SSI.

These reasons alone constitute sufficient reason to veto this proposal.

S.40 Hurts Small, Local Businesses the Most

Ninety percent of all Vermont businesses have fewer than 20 employees.[ii] These businesses are the backbone of our economy. They employ 29 percent of our employed population and pay 26 percent of wages. Under current law, these businesses will already have to raise the minimum wage every single year in perpetuity. This alone is a challenge—not counting other mandates State government has imposed on them in recent years. Our small businesses simply cannot afford this legislation.

Take, for example, Caleb Magoon of Power Play Sports in Morrisville and Waterbury Sports in Waterbury, who said, "My heart is 100 percent behind raising the minimum wage. I understand the want and need to raise up those at the bottom of the pay scale. But my head knows better; the numbers simply don't add up for businesses like mine." [iii]

Similarly, David Anderson, owner of Maple Hill Residential Care Home, said, "We operate at the line between profit and loss every day. The minimum wage increase will create an environment in which it will be impossible to staff our home adequately to support the residents we have."[iv]

These are just two examples, among many.

Most Regions in Vermont Cannot Absorb Impacts of S.40

The effects of a mandated minimum wage increase beyond the currently scheduled increases will be drastically different by region. Vermonters and small businesses in Benson will be impacted differently than those in Burlington. Those in Essex Town will be affected differently than those in Essex County. Rural areas of Vermont—which are struggling economically under a growing crisis of affordability compounded by years of a one-size fits all approach in Montpelier—will be hit the hardest by this proposal.[v] Employers on the eastern border of our state will also be hurt more by this measure than employers further from the border. Vermont small businesses on

the Vermont-New Hampshire border are already in tight competition with New Hampshire, which has no state sales or income tax. If this legislation were to be implemented, the minimum wage differential between Vermont and New Hampshire would rise from 38 percent to a shocking 107 percent.[i] Vermont small businesses—the staples of our rural communities—would simply be unable to compete.

Real Economic Growth & Real Wage Growth is a Better Path Forward

Vermont has the sixth highest minimum wage in the country and it is scheduled to increase each year based on a mandated cost of living adjustment. As announced by the Vermont Department of Labor on May 18, the seasonally-adjusted statewide unemployment rate for April was 2.8 percent and overall Vermont's unemployment rate was tied for fifth lowest in the country.

The fact is the labor market is competing aggressively to recruit and retain skilled and reliable workers. As a result, we are seeing employers increase wages above the rate of inflation to be more competitive. In 2017, the average wage in Vermont increased by 2.4 percent over the year versus the general level of inflation as measured by the CPI that grew by 2.1 percent for the same time period.

There are also many good paying jobs available right now in Vermont. There's also a shortage of skilled labor. Through our focus on labor force expansion, and efforts like the newly created "Returnship Program," we are training more workers so they can reenter the workforce or move into better paying jobs. We've held the line on taxes and fees; passed the largest housing package in state history; increased support for childcare and state colleges; and more. Yet, there is much more work to do to change the economic trajectory of our state.

Here's the bottom line: We can continue to encourage higher wages and more take home pay without the negative economic consequences of policies that contributed to our economic challenges and the current crisis of affordability facing many families and businesses.

To do this, we must more aggressively prioritize policies – like technical education and trades training – that help low-wage workers move up the economic ladder, and help employers create more good jobs. We must continue the hard work of making Vermont measurably more affordable for families and businesses each year. And we must continue to modernize government and eliminate the "benefits cliff" that is preventing many families from making more money and achieving economic independence.

In conclusion, for these reasons and more, I cannot support S.40 and return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

[i]Fiscal Note
https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20Ways%20and%20Means/Bills/S.40/S.40~Joyce%20Manchester~Fiscal%20Note~4-4-2018.pdf

[ii]May 2018 JFO Memorandum, page 7
https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20Appropriations/Bills/S.40/S.40-MINIMUMWAGE~Tom%20Kavet,%20Legislature's%20Economist,%20Kavet,%20Rockler%20and%20Associates,%20LLC~Memo%20-%20Minimum%20Wage%20Review%20-%20May%202017~4-19-2018.pdf

[iii]UW Study, pages 28, 35-36
http://www.leg.state.vt.us/jfo/Minimum_Wage_Study_Committee/MWSC%20 - %20Background/NBER%20Working%20Paper%20Series%20-%20Minimum%20Wage%20Increases.pdf

[iv]Deb Brighton, The Benefits Cliff and S.40
https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20General/Bills/S.40/S.40~Deb%20Brighton~The%20%E2%80%9CBenefits%20Cliff%E2%80%9D%20and%20S.40~3-22-2018.pdf

[v]http://www.leg.state.vt.us/jfo/Minimum_Wage_Study_Committee/MWSC%20 - %20September%202017/VSJF%20testimony_Min%20Wage%20Study%20Committee%209.6.17.pdf

[vi]https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20General/Bills/S.40/Written%20Copies%20of%20Testimony/S.40~Caleb%20Magoon~Copy%20of%20Testimony~4-4-2018.pdf

[vii]https://legislature.vermont.gov/assets/Documents/2018/WorkGroups/House%20General/Bills/S.40/Public%20Comment/S.40~David%20Anderson%20~Comments%20from%20Maple%20Hill%20Residential%20Care%20Home~4 -12-2018.pdf

[viii]VT Digger August 15, 2017
https://vtdigger.org/2017/08/15/economists -debate-impact-15-hourly-minimum-wage/#.WZ8lhCiGNaQ

[ix]October, 2017 JFO Memo, page 6
http://www.leg.state.vt.us/jfo/Minimum_Wage_Study_Committee/MWSC%20 - %20October%202,%202017/Kavet%20-%20Memo%20Minimum%20Wage%20100217%20(2).pdf

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-second day of May, 2018 he returned without signature and *vetoed* a a bill originating in the Senate of the following title:

S. 105. An act relating to consumer justice enforcement.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. S. 105** to the Senate is as follows:

"May 22, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State Street
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S. 105, *An act relating to consumer justice enforcement* without my signature in the time permitted by the Constitution because of my objections described herein.

I am proud that Vermont is already known as a leader in consumer protection. It is essential, however, that such protections are fair, carefully defined regulations to avoid unintended consequences that disadvantage Vermont consumers and businesses when compared to laws of other states. To have a strong economy that provides Vermonters with good jobs, and ensures we have the revenue needed to invest in vital programs and services, Vermont must be able to compete, not only regionally and nationally, but globally.

Since its passage by the Legislature, my office has heard from a significant number of businesses and non-profits alike, with serious concerns about the detrimental impacts of this bill. This feedback has come from entities ranging from charitable organizations and community groups, to Vermont's outdoor recreation sector (vital to our economy and our state's identity) and our burgeoning tech industry. While I do not believe the Legislature intended to adversely impact such a diverse group of organizations in our state, the unintended consequences of this policy are pervasive and unacceptable.

Vermont's outdoor recreation economy and non-profit organizations, like the YMCA, Run Vermont, and the Vermont Special Olympics who offer recreational services to the community, have voiced opposition to provisions in this bill, noting it will greatly inhibit the use of standard waivers, which are central to daily operations.

The outdoor recreation industry helps to generate $2.6 billion and brings 13 million visitors through our tourism economy. This legislation would hamper the ability of Vermont's outdoor recreation businesses and non-profits to exist, much less grow, and jeopardize the significant tax revenues and direct spending that tourism and outdoor recreation generate.

By weakening the enforceability of waivers and releases, S.105 increases liability exposure for many Vermont businesses and non-profits. Cross country and alpine ski areas, guide services, trail-based organizations, recreational event providers, environmental and educational programs, college outing groups, land owners, and summer camps all use waivers for protection under the law when a participant in the activity has agreed to assume the associated risks. These entities depend on strong legislation to help enforce waivers. This bill would make it easier for recreation participants to sue and more difficult for recreation providers to secure liability insurance.

With this bill, Vermont would – yet again – be an outlier, making us less competitive with other states. States like New York, Connecticut and Illinois, have proposed model consumer bills like S.105, which have been rejected. On the other hand, New Hampshire and Colorado – states like Vermont, that are highly dependent on recreation – have passed language to enforce waiver forms and strengthen inherent risk laws, moving in the opposite direction of this bill.

While S.105 is intended to protect consumers from unfair terms in standard-form contracts, it will apply to most, if not all, e-commerce transactions, and includes any Vermont business selling goods or services online. E-commerce has proven to be a powerful tool and opportunity for both Vermont businesses and consumers. As we work together to grow the tech industry in Vermont, this legislation will adversely impact these entrepreneurs and inhibit growth and expansion in this important sector.

This bill does not express an intent to address particular types of transactions or particular industries affected. It would discourage the use of certain contract terms without any consideration of legitimate needs to employ them. Rather than directly addressing consumer protections in cases of bad actors or specific consumer abuses, this bill presumes an anti-consumer intent in all instances where an agreement limits certain claims or remedies. And it does it in a way that would be very detrimental to our economy and to the not-

for-profit organizations that enrich our quality of life.

Further, Vermont courts already have the discretion to address the issue of unconscionable terms in contracts. The Vermont Supreme Court has already applied a test in determining whether waiver clauses are enforceable. The decision of the Vermont Supreme Court in *Dalury v. S-K-I, Ltd* stated that "we recognize that no single formula will reach the relevant public policy issues in every factual context… [W]e conclude that ultimately the determination of what constitutes the public interest must be made considering the totality of the circumstances of any given case against the backdrop of current societal expectations," which could be used when evaluating if a waiver clause would be unconscionable under this bill.

Clearly, current law already protects consumers in this arena. We'd therefore be making it more difficult and less appealing for businesses in sectors vital to our economy to do business in Vermont and eroding the ability of not-for-profit organizations to provide programs and services, without significantly improving consumer protections beyond what's already achievable through current law.

As noted, based on the outstanding objections outlined above, I cannot support this piece of legislation and must return them without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-second day of May, 2018 he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 197. An act relating to liability for toxic substance exposures or releases.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. S. 197** to the Senate is as follows:

"May 22, 2018

The Honorable John Bloomer, Jr.
Secretary of the Senate
115 State Street
Montpelier, VT 05633-5401

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.105, *An act relating to consumer justice enforcement* without my signature in the time permitted by the Constitution because of my objections described herein.

I am proud that Vermont is already known as a leader in consumer protection. It is essential, however, that such protections are fair, carefully defined regulations to avoid unintended consequences that disadvantage Vermont consumers and businesses when compared to laws of other states. To have a strong economy that provides Vermonters with good jobs, and ensures we have the revenue needed to invest in vital programs and services, Vermont must be able to compete, not only regionally and nationally, but globally.

Since its passage by the Legislature, my office has heard from a significant number of businesses and non-profits alike, with serious concerns about the detrimental impacts of this bill. This feedback has come from entities ranging from charitable organizations and community groups, to Vermont's outdoor recreation sector (vital to our economy and our state's identity) and our burgeoning tech industry. While I do not believe the Legislature intended to adversely impact such a diverse group of organizations in our state, the unintended consequences of this policy are pervasive and unacceptable.

Vermont's outdoor recreation economy and non-profit organizations, like the YMCA, Run Vermont, and the Vermont Special Olympics who offer recreational services to the community, have voiced opposition to provisions in this bill, noting it will greatly inhibit the use of standard waivers, which are central to daily operations.

The outdoor recreation industry helps to generate $2.6 billion and brings 13 million visitors through our tourism economy. This legislation would hamper the ability of Vermont's outdoor recreation businesses and non-profits to exist, much less grow, and jeopardize the significant tax revenues and direct spending that tourism and outdoor recreation generate.

By weakening the enforceability of waivers and releases, S.105 increases liability exposure for many Vermont businesses and non-profits. Cross country and alpine ski areas, guide services, trail-based organizations, recreational event providers, environmental and educational programs, college outing

groups, land owners, and summer camps all use waivers for protection under the law when a participant in the activity has agreed to assume the associated risks. These entities depend on strong legislation to help enforce waivers. This bill would make it easier for recreation participants to sue and more difficult for recreation providers to secure liability insurance.

With this bill, Vermont would – yet again – be an outlier, making us less competitive with other states. States like New York, Connecticut and Illinois, have proposed model consumer bills like S.105, which have been rejected. On the other hand, New Hampshire and Colorado – states like Vermont, that are highly dependent on recreation – have passed language to enforce waiver forms and strengthen inherent risk laws, moving in the opposite direction of this bill.

While S.105 is intended to protect consumers from unfair terms in standard-form contracts, it will apply to most, if not all, e-commerce transactions, and includes any Vermont business selling goods or services online. E-commerce has proven to be a powerful tool and opportunity for both Vermont businesses and consumers. As we work together to grow the tech industry in Vermont, this legislation will adversely impact these entrepreneurs and inhibit growth and expansion in this important sector.

This bill does not express an intent to address particular types of transactions or particular industries affected. It would discourage the use of certain contract terms without any consideration of legitimate needs to employ them. Rather than directly addressing consumer protections in cases of bad actors or specific consumer abuses, this bill presumes an anti-consumer intent in all instances where an agreement limits certain claims or remedies. And it does it in a way that would be very detrimental to our economy and to the not-for-profit organizations that enrich our quality of life.

Further, Vermont courts already have the discretion to address the issue of unconscionable terms in contracts. The Vermont Supreme Court has already applied a test in determining whether waiver clauses are enforceable. The decision of the Vermont Supreme Court in *Dalury v. S-K-I, Ltd* stated that "we recognize that no single formula will reach the relevant public policy issues in every factual context… [W]e conclude that ultimately the determination of what constitutes the public interest must be made considering the totality of the circumstances of any given case against the backdrop of current societal expectations," which could be used when evaluating if a waiver clause would be unconscionable under this bill.

Clearly, current law already protects consumers in this arena. We'd therefore be making it more difficult and less appealing for businesses in sectors vital to our economy to do business in Vermont and eroding the ability

of not-for-profit organizations to provide programs and services, without significantly improving consumer protections beyond what's already achievable through current law.

As noted, based on the outstanding objections outlined above, I cannot support this piece of legislation and must return them without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

Message from the House No. 91

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on May 22, 2018, he approved and signed bills originating in the House of the following titles:

H. 526. An act relating to regulating notaries public.

H. 554. An act relating to the regulation of dams and the testing of groundwater sources.

H. 562. An act relating to parentage proceedings.

H. 676. An act relating to miscellaneous energy subjects.

H. 728. An act relating to bail reform.

H. 894. An act relating to pensions, retirement, and setting the contribution rates for municipal employees.

H. 912. An act relating to the health care regulatory duties of the Green Mountain Care Board.

The Governor has informed the House that on May 22, 2018, he approved and signed a bill originating in the House of the following title:

H. 910. An act relating to the Open Meeting Law and the Public Records Act.

The Governor has informed the House that on the May 22, 2018, he did not approve and allowed to become law without his signature bill originating in the House of the following title:

H. 636. An act relating to miscellaneous fish and wildlife subjects.

Text of Communication from Governor

The text of the communication to the House from His Excellency, the Governor, setting forth his reasons for refusing to sign and *allowing to become law without his signature,* **House Bill No. 636**, is as follows:

"May 22, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow H.636, *An act relating to miscellaneous fish and wildlife subjects*, to become law without my signature for the reasons stated herein.

While H.636 makes improvements to Vermont's fish and wildlife law, and although it has been improved as it has moved through the legislative process, I cannot sign this law because significant flaws remain.

A section of the bill which requires that trappers report dogs and cats caught accidentally in traps legally set for furbearing species is well intentioned, but it is poorly written and unclear. For instance, the bill does not define whether this provision applies to wild types of cats and dogs, or only to domestic. Given that bobcats can, in season, be legally trapped in Vermont and given that coyotes may also be, this provision is problematic.

In addition, I do not think the proposed ban on coyote hunting contests is necessary, when hunting of coyotes remains legal in Vermont. This provision would make Vermont only the second state, after California, to ban such contests. This bill sends a mixed signal to hunters, farmers and landowners that hunting coyotes is a bad thing when, in fact, that activity is likely a major reason coyotes remain wild and wary of people, which keeps human-coyote conflicts to a minimum. Further, I am concerned that once the legislature has taken this path, it will begin to revisit all other wildlife hunting and fishing competitions in the state. These competitions are enormously popular among sportsmen and encourage our Vermont youth to take part in permitted fishing and hunting activities. In my opinion, this sort of determination is more appropriately considered by the Fish and Wildlife Board.

However, I am reluctant to veto this bill, as it does make significant improvements to fish and wildlife law. For instance, this bill allows the Department of Fish and Wildlife, in limited circumstances, to more easily

correct boundary issues with neighbors who live next door to Department land. It clarifies that wild animals and birds cannot be transported into or within the state without approval of the Department; allows retail outlets and others who sell fish and wildlife licenses to also provide customers with applications for lotteries for doe tags and moose permits; and requires waterfowl hunters have both a State and a Federal duck stamp clear and enforceable.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

The Governor has informed the House that on the May 22, 2018, he did not approve and allowed to become law without his signature bill originating in the House of the following title:

H. 764. An act relating to data brokers and consumer protection.

Text of Communication from Governor

The text of the communication to the House from His Excellency, the Governor, setting forth his reasons for refusing to sign and *allowing to become law without his signature,* **House Bill No. 764**, is as follows:

"May 22, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow H.764, *An act relating to data brokers and consumer protection* to become law without my signature for the reasons stated herein.

Pursuant to Act 66 of 2017, the Department of Financial Regulation (DFR) and the Attorney General's Office (AGO) worked together to study the data broker industry and came up with recommendations to the General Assembly for legislation to protect Vermonters from the potential harms posed by the widespread storage and sale of personal data.

DFR and the AGO came up with several recommendations, which have been incorporated in H.764 and I believe are important to Vermonters. First, the bill prohibits the acquisition of certain personal information by fraudulent means and prohibits the use of certain personal information for criminal or discriminatory purposes.

Second, the bill follows the lead of several other states and prohibits credit reporting agencies from charging a fee to freeze and unfreeze credit reports, which I also understand may take effect on a national level in legislation that would rewrite parts of the 2010 Dodd-Frank Act. I urge Vermonters to use this important tool for protecting their identity and credit information.

The bill also seeks to regulate "data brokers." These are businesses which collect, package and sell data about consumers but have no direct relationship with the consumer. The State will maintain a registry of data brokers, which are required to pay a registration fee and provide certain information about the data broker and whether it permits consumers to "opt-out." With respect to the fee, I am comfortable, after conferring with the Office of the Attorney General, this is no different than any other fee imposed on a regulated entity. This is a new industry; the fee is the standard fee charged by the Secretary of State, Office of Professional Regulation for other regulated businesses and, therefore, is not new.

However, this bill's definition of "data broker" is unusual in that it is both over-broad and underinclusive. It treats responsible corporate citizens which collect and sell publicly-available personal information as part of their business services, such as for data analysis and marketing, the same as it treats irresponsible actors brokering data in a way which may jeopardize the interests of Vermonters. Vermont businesses listed in a state directory could be perceived negatively both inside and outside the State. And at a time when the national dialogue has turned to the use and misuse of data by large companies such as Facebook, this law exempts those companies from its scope, thus giving Vermonters a false sense of security. It may be the case the law will have no impact on the practices it seeks to curb because the State has very few options under the circumstances to enforce registration with the State.

As to the regulation of data brokers, I believe this is a worthy first step to provide Vermonters with a tool to at least identify a few of the unrelated third parties who may hold their personal information, but as this bill moved through the process, constitutional issues were raised. I have concerns this provision may expose the State to litigation risk and expense. I have consulted with the Office of the Attorney General and, while I am assured we are on solid First Amendment footing, again, I believe this bill, as drafted, is overbroad; the definition of "business" is sweeping. As a jurisdictional matter I believe this bill can only apply to data brokers who purchase data from Vermont third parties or sell data to Vermont third parties. In order to avoid unnecessary litigation, I urge the future Legislature in the next Biennium to make the changes necessary to clarify this bill only applies to data broker businesses registered to do business in Vermont.

Lastly, I also believe there needs to be a balance between consumer protection and efficient, fair and targeted regulations for Vermont consumers and businesses that are consistent with the laws of other states. Vermont must be prepared to compete, not only regionally and nationally, but globally. To the extent this bill seeks to protect consumers from data breaches, Vermont already has a robust security breach notification law which requires any holder of personally identifiable information to provide notice to both the affected consumer and the Office of the Attorney General, or, in the case of financial transactions, the Department of Financial Regulation.

However, I will let this bill become law without my signature because, in my view, the provisions to remove the fee for a credit freeze and the additional protections for consumers, outweigh the concerns I have described above.

My hope is that we can continue to assess what additional options the State may have to ensure Vermonters' personal information is protected in a manner that tackles this issue head on, places everyone on a fair and level playing field, and is less fraught with possible constitutional issues.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

The Governor has informed the House that on May 22, 2018, he returned without signature and vetoed a bill originating in the House of the following title:

H. 196. An act relating to paid family leave.

Text of Communication from Governor

The text of the communication to the House from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 196** to the House is as follows:

"May 22, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.196, *An act relating to paid family leave*, without my signature because of my objections described herein:

First, I support the goal of providing Vermonters with a program that allows workers time to take care of family and bond with new children. Over the course of the Biennium, I have repeatedly voiced that I would be – and still am – open to working to create a State-run, voluntary system which provides this type of benefit for individuals who choose to invest a portion of each pay check, while allowing others to opt-out. Unfortunately, the Legislature decided to pursue a program that increases taxes taken out of the paychecks of all Vermonters at a time when we're just starting to confront the crisis of affordability facings families and businesses.

On my first day in office, I signed an Executive Order outlining the strategic priorities of my Administration: to grow the economy, make Vermont more affordable, and protect the most vulnerable. Helping every family to ascend the economic ladder and be more economically secure is central to all three of these outcomes. My Administration is currently measuring our progress in meeting these priorities through key performance measures defined in the State strategic plan, which include job and wage growth by region and the percent of household income spent on housing, healthcare and taxes and fees, among other important metrics.

By taking a strategic, results-based approach we can help Vermont's economy grow faster than the costs of living; make our state measurably more affordable each year for families and businesses; meet our obligations to the most vulnerable; and make additional investments in Vermont's priorities. To achieve these outcomes, however, we need real, evidence-based public policy that regards tax increases as financing options of last resort.

I don't believe H.196 meets this test. Unfortunately, the majority in the Legislature spent no time considering my Administration's point of view, particularly our willingness to collaborate on a voluntary program.

Vermonters Need a Break for Ever-Increasing Taxes

I have been clear since I announced I was running for Governor, and throughout the Biennium, that I cannot support legislation which raises taxes on Vermonters. After years of constantly-increasing taxes and fees, Vermonters need a break. They need the opportunity to keep more of what the earn. While businesses need a stable and predictable environment in which they can invest, grow and create more good jobs.

While the goals of this legislation are admirable, it simply is not responsible to impose a new $16.3 million payroll tax on Vermonters —further exacerbating the crisis of affordability – without even contemplating a voluntary option. Moreover, as I'll detail below, I believe the startup costs of this program, and the payroll taxes required to fund it, are significantly understated.

H.196 Significantly Understates Implementation Costs

As subject-matter experts from the Department of Labor and Department of Taxes testified during the committee process that, to implement this policy well, would require adequate funding to support the design of a new insurance system, similar to building a variation of Vermont Health Connect for paid leave. Despite the guidance of the Departments that would be responsible for implementation and administration of the program, the Legislature funded it at the bare-minimum, creating a program that will likely run a large deficit in the future requiring additional tax dollars. Simply, the $16.3 million in new taxes H.196 would raise, would not be enough to start and operate the program.

Again, according to analysis and testimony from analysts at both the Department of Labor and Department of Taxes, the Legislature's estimations of start-up and ongoing costs are severely understated. Overlooking expert testimony resulted in downplaying the actual startup costs of a complex entitlement program and lower cost projections when presenting the required payroll tax increase. In addition to being a disappointing sleight of hand, underestimating the costs of implementing this program would jeopardize the program's administration and functionality.

Even with the modest assumptions for startup costs, and according to the Vermont Legislative Joint Fiscal Office fiscal note, the paid family leave fund would run a deficit for 4 of the next 5 years. Using just slightly larger cost assumptions run by my Administration (not even the full cost we estimate), the fund is not solvent.

Undoubtedly, in future years, the payroll tax would need to increase substantially to sustain the program conceived in H.196. Essentially, this bill establishes a tax rate which is known to be insufficient and there would be no way to avoid increases. That involuntary rate increase in future years stands in direct conflict with the goal of making Vermont more affordable for working families.

We Must be Pragmatic

We have numerous programs in Vermont that help Vermonters, and each year we have difficult conversations about their sustainability and funding. We must take greater care when creating new programs and fully consider the implementation, sustainability, and future costs to taxpayers and the very people these programs are designed to help.

We must also consider the statewide impacts, as the ability to sustain continually rising costs and higher taxes vary greatly from region to region, county to county and town to town. Most communities in the state have not fully recovered job losses from the Great Recession. Implementing the payroll tax required to fund it would slow the recovery in these areas at this time.

For years, Vermonters have made it clear to me, and to many of their elected officials in the Legislature, they cannot afford new taxes. We cannot continue to make the state less affordable for them and less appealing for families and businesses—even for well-intentioned programs like this one.

In this case, I believe we can craft a voluntary program that avoids the economic disadvantages of higher payroll taxes on already overburdened working Vermonters. I hope to work collaboratively with a future Legislature to consider such a voluntary option, in which individuals could choose to invest in, or opt-out of, and that would offer similar benefits to those envisioned in H.196.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-second day of May 2018 he approved and signed a bill originating in the Senate of the following title:

S. 260. An act relating to funding the cleanup of State waters.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-second day of May 2018 he approved and signed a bill originating in the Senate of the following title:

S. 289. An act relating to protecting consumers and promoting an open Internet in Vermont.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-fifth day of May, 2018 he approved and signed bills originating in the Senate of the following titles:

S. 111. An act relating to privatization contracts.

S. 150. An act relating to automated license plate recognition systems.

S. 166. An act relating to the provision of medication-assisted treatment for inmates.

S. 237. An act relating to providing representation to needy persons concerning immigration matters.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the twenty-sixth day of May, 2018 he approved and signed a bill originating in the Senate of the following title:

S. 173. An act relating to sealing criminal history records when there is no conviction.

Message from the House No. 92

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on May 25, 2018, he approved and signed bills originating in the House of the following titles:

H. 897. An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

H. 608. An act relating to creating an Older Vermonters Act working group.

The Governor has informed the House that on May 28, 2018, he approved and signed bills originating in the House of the following titles:

H. 904. An act relating to miscellaneous agricultural subjects.

H. 576. An act relating to stormwater management.

H. 696. An act relating to establishing a State individual mandate.

H. 707. An act relating to the prevention of sexual harassment.

H. 711. An act relating to employment protections for crime victims.

H. 716. An act relating to approval of the adoption of the charter of the Edward Farrar Utility District and the merger of the Village of Waterbury into the District.

H. 777. An act relating to the Clean Water State Revolving Loan Fund.

H. 780. An act relating to portable rides at agricultural fairs, field days, and other similar events.

H. 901. An act relating to health information technology and health information exchange.

H. 907. An act relating to improving rental housing safety.

H. 919. An act relating to workforce development.

H. 923. An act relating to capital construction and State bonding budget adjustment.

H. 928. An act relating to compensation for certain State employees (Pay Act).

The Governor has informed the House that on the May 28, 2018, he did not approve and allowed to become law without his signature bill originating in the House of the following title:

H. 593. An act relating to miscellaneous consumer protection provisions.

Text of Communication from Governor

The text of the communication to the House from His Excellency, the Governor, setting forth his reasons for refusing to sign and *allowing to become law without his signature,* **House Bill No. 593**, is as follows:

"May 28, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I will allow H.593, *An act relating miscellaneous consumer protection provisions,* to become law without my signature for the reasons stated herein.

First, I'm allowing this bill to become law because my Administration is committed to protecting the most vulnerable. The work on credit protection for minors and other vulnerable individuals, retainage of payment for construction materials and the protections afforded consumers with respect to the use of credit information for personal insurance contained in this bill are important efforts I support.

However, there are elements of this change that should be reconsidered by a future Legislature. For example, this bill permits a representative of a protected consumer to use a birth certificate as documentation that shows authority to act on behalf of the protected consumer. This appears to be a mistake that must be corrected; if intentional, this is very unusual, and could be a dangerous precedent.

Typically, proof of authority requires an official affirmative act, such as a court order, power of attorney, a written, notarized description of authority *in addition to* proper identification (which could conceivably be a birth certificate). It is also important to note that under 12 V.S.A. § 1695 regarding records of births, civil marriages, and deaths, a record of births is not competent evidence in any trial to prove a fact stated therein, except the fact of birth. This bill suggests the mere possession of a birth certificate is evidence of legal authority for another. I would be more comfortable with the concept if the bill was only for the protection of minors, but even then, I am concerned that simple possession of a birth certificate may create more potential risk of harm by bad actors than will be prevented.

Second, while well meaning, the bill's efforts to protect inattentive consumers from automatic renewals risks upsetting the balance between protecting consumers and cultivating a thriving technology sector.

As you know, the State of Vermont is a leader in consumer protection. We have traditionally balanced consumer protection with efficient, fair and specific regulations that are consistent with the laws of other states. In achieving this balance, we must never lose sight of the fact that Vermont's employers and entrepreneurs must compete regionally, nationally and globally in an increasingly competitive economy. Looking at this bill in the context of several other bills you have passed – including S.105, *An act relating to consumer justice enforcement*, and H.764, *An act relating to data brokers and consumer protection* – I am increasingly concerned the Legislature may be

losing sight of this balance. We must not weaken our efforts to attract and retain technology and other types of job creators in the new, and rapidly changing, economy.

For example, while I appreciate the bill's limitations on the auto-renewal of annual contracts, the federal Restore Online Shoppers Confidence Act (ROSCA) already applies to any goods or services sold online and ensures that companies provide clear and conspicuous disclosure of all material terms of a transaction and obtain the customer's express informed consent in order to complete the sign-up and charge the customer. Further, many tech and other businesses such as fitness studios, rely on off-the-shelf third party software for renewal services. This software is not compliant with the double opt-in and notice requirements and will either result in substantial cost (ultimately passed on to consumers) to re-program these services, or third party renewal services will simply refuse to provide these services to Vermont businesses.

Vermont will be the only state with this requirement, again positioning us as a small and unusual outlier in an economic sector that is growing by imposing aggressive state-level regulatory hurdles to those looking to start, relocate to or grow and scale a company here. Fortunately, this section of the bill is not effective until July 1, 2019 and gives a new Legislature the opportunity to develop a greater understanding and make changes necessary to avoid negative unintended consequences for our economy and for consumers.

To be clear, I'm letting this bill become law without my signature because the consumer protections, particularly for the vulnerable, outweigh the potential abuse of the birth certificate provision and the economic impacts of the limitations on the auto-renewal of contracts. However, I believe a future Legislature should reform both – eliminating use of a birth certificate to establish authority to act on behalf of another individual; and modeling our auto-renewal law based on other pro-consumer states, such as California. These changes would better protect Vermonters' personal information, protect vulnerable consumers and keep our technology sector on a level playing field.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

The Governor has informed the House that on May 28, 2018, he returned without signature and vetoed a bill originating in the House of the following title:

H. 911. An act relating to changes in Vermont's personal income tax and education financing system.

Text of Communication from Governor

The text of the communication to the House from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 911** to the House is as follows:

"May 25, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.911, *An act relating to changes in Vermont's personal income tax and education financing system*, without my signature because of my objections described herein.

Please note, the following also addresses objections to H.924, *An act relating to making appropriations in support of government*, as the two bills are inextricably linked and their relationship factors heavily into my decision to return both bills. H.924 will be returned to you in a separate message containing the same objections.

My primary objection to the bills – and the reason that, following the Legislature's decision not to schedule a veto session, I've called the Special Session – is that together they result in an unnecessary and avoidable $33 million increase in statewide property tax rates.

We have, in this fiscal year, approximately $160 million more in revenue than last year. This additional revenue breaks down as follows:

- $82 million more from organic economic growth and federal tax reform;
- $34 million in unanticipated funds from the Attorney General's tobacco settlement; and
- $44 million in surplus revenue recently added to the budget.

Having collected far more revenue from Vermonters than expected, as well as additional revenue from other sources, we do not need to raise statewide property tax rates on Vermonters to fully fund school budgets.

I have been clear as a candidate, and throughout this term in office, that I cannot support legislation which adds or increases taxes on Vermonters. On my first day in office, I signed an Executive Order prioritizing affordability, economic growth, and protecting the most vulnerable.

After years of constantly-increasing taxes and fees, Vermonters need a break. They need the opportunity to keep more of what they earn. At the same time, our businesses need a stable and predictable environment in which they can invest, grow and create more good jobs.

Therefore, I cannot support raising the statewide property tax rates – especially in a year when we have other options for fully funding school budgets. Homeowners, those who rent homes and apartments, employers of all types and sizes – everyone who lives, works and invests in Vermont – deserves a more stable, predictable and affordable property tax system.

Many of the decisions that impact individual property tax bills – and whether they go up, down or stay flat – occur at the local level or are impacted by other economic factors. But at the State level, we can have an impact through setting the statewide rates and establishing a "yield" to determine the resulting education tax rates. As you know, H.911, as presented for my signature, raises both the non-residential rate and the average statewide homestead education tax rate, raising $33 million in additional property taxes for FY19. As the primary mechanism the State uses to influence the property tax burden on Vermonters, I cannot accept an increase to these statewide rates in a year that we have better options.

To be clear: if the Legislature wants to raise statewide property tax rates at a time when we have significant surplus revenue that could be returned to Vermonters, it will have to override a veto.

However, I believe we are much closer to an agreement than the continued political rhetoric indicates. I've detailed how close we are – and how we can very easily reach a true consensus – in more detail further below.

Working Family Taxpayer Protection Act (H.911, Sections 1-9)

When it became clear that the Federal Tax Cuts and Jobs Act had a widespread financial impact on Vermonters, I proposed my Working Family Taxpayer Protection Act in February. The goal of this plan is to give back the net $30 million State personal income tax increase the federal changes would cause to Vermonters. The hardest hit by the federal changes were middle-income families with children.

I am grateful that H.911, as passed, includes nearly every element of my proposal. The major difference is the inclusion of a $20,000 cap on the five percent charitable contribution tax credit; as you may recall, I recommended a five percent credit without a dollar limit. I believe, over time, the Legislature may want to reconsider this cap, given the impact it may have on large charitable contributions to Vermont's non-profit sector.

Nevertheless, the tax credit will provide an incentive to those 90 percent of Vermonters who are not expected to itemize deductions this coming year, and is a new tax advantage to all Vermonters, whether they itemize or not.

Altogether, this portion of H.911 achieves my goal of moderating the tax burden, with an emphasis on low to moderate income Vermonters who receive Social Security. It also promotes charitable giving by reducing the tax liability of those who choose to give. I respect and appreciate the Legislature's work in this area and I will not pursue any changes to the Working Family Protection Act sections of H.911 during the Special Session.

Five-Year Plan to Stabilize Education Tax Rates and Reinvest Savings

Earlier in May, in an effort to reach consensus, I presented a comprehensive five-year plan, built on the many ideas and concepts that have been presented throughout this Biennium. None of the core elements of the proposal were new. The plan would:

- Fully fund the school budgets local voters have approved for next year;
- Close the FY19 Education Fund gap and prevent recurring deficits;
- Stabilize (keep level) or lower statewide property tax rates for five years;
- Generate almost $300 million in total net savings over five years that can be reinvested in systemic changes to create a cradle-to-career continuum of learning. This includes more and better early education, K-12 education, technical education, higher education opportunities;
- Allow education spending to grow sustainably each year based on the average projected increase (the consensus forecast) in grand list value of 3.25 percent; and
- Set Vermont on a stable and predictable five-year trajectory allowing local school districts to take full advantage of the governance changes made under Act 46.

The plan achieves gross savings of over $450 million – as projected by the Administration's analysts and cross-agency policy team – if all the components of the plan are passed as outlined. **It is important to know that three have already been achieved and a fourth was being considered in the Senate Education Committee before adjournment**:

- **Special Education Census Model**: Changes to the method for delivering special education services in Vermont, **as passed in H.897**, *An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support*;

- **Staff-to-Student Ratios**: Savings through natural attrition (vacancies and retirements), which can be achieved while still filling, on average, four of five of those vacancies over the next five years. I want to be very clear, this is not a mandated ratio target. Rather it builds off the incredible efforts of local school boards in developing their FY19 budgets at an aggregate growth rate well below the targets I communicated in November 2017, in anticipation of substantial increases in the statewide property tax rates, if we did nothing.

  I agree with legislators and members of the education community who report that Act 46 will result in progress to staffing ratios more aligned with our enrollment realities and best practices in education management, and I trust that school boards will continue that important work, supported by the help and recommendations of a student-to-staff ratios task force, **as passed in Section 17 of H.911**. I believe we can achieve this goal while improving outcomes for our students and we will likely still retain our position as having the lowest student to staff ratio in the nation;

- **Tax Rate Computation**: Lower the excess spending threshold gradually from 121 percent to 110 percent over the next five years and reduce allowable aggregate exclusions to 50 percent;

- **Property Tax Adjustments**: Decrease the maximum house site value from $500,000 to $400,000 in FY19 and the $250,000 to $200,000 reduction in FY20 (**H.911, Section 14**); and reform the property tax adjustment calculation for new homesteads after July 1, 2018; and
- **Statewide School Employee Health Care Benefit**: Establish a statewide school employee health care contract, as discussed in FY18, endorsed by the Vermont Educational Health Benefits Commission, and discussed during the 2018 legislative session. If stakeholders cannot agree on the statewide negotiation dynamic at this time, the benefit should be put in session law for two years while a viable plan, supported by all stakeholders, is achieved in the next Biennium.

As you can see, we are very close. With a little more constructive dialogue during the Special Session, I am confident we can deliver to Vermonters a full package, informed by the additional perspective below, that meets my goals of affordability and movement towards a cradle-to-career continuum of education.

An additional benefit of this plan is its 5+ year horizon. The rating agencies caution that Vermont's declining demographics are one of Vermont's primary weaknesses, along with it pension liabilities. One agency noted that although

state spending growth on education is "somewhat offset" by our current education funding reliance on property taxes as its source of revenue, it also noted that those taxes "collected by localities on behalf of the state" do not "fully mitigate spending increases... exposing the state to a level of ongoing expenditure growth as reflected in the steadily growing annual state general fund appropriation to the education fund." (Fitch Ratings report, August 11, 2017). The rating agencies applaud Vermont for our ability as a state to manage budget pressures, and they value multi-year management plans. My plan does exactly that.

Below is what remains to be done, from my point of view.

Property Tax Yield, Adjustments and Structure (H.911, Sections 10-16)

My primary objection to the property tax provisions of H.911 are the resulting increases in the average homestead property and non-residential property tax rates. The bill results in an average homestead tax rate of $1.526, a 2.6-cent increase from the 2018 rate. The non-residential rate is set at $1.59, an increase of 5.5 cents from 2018.

I appreciate the work done by the Legislature to reduce the amount needed to close the Education Fund deficit through a combination of one-time money and changes to property tax adjustments that reduced the statewide tax rate increase to $33 million. But again, I will not sign a bill that raises statewide property tax rates mentioned above.

H.911, as passed, achieves $13 million dollars in avoided tax increases in two ways:

- First, it reduces the house site value eligible for a downward property tax adjustment from $500,000 to $400,000, consistent with my proposal, saving approximately $2 million in each of the next five years for a projected five-year savings of almost $10 million. We have no differences on that provision in H.911; and
- Second, the bill as adopted by the conferees achieves $11 million in savings through changes to income sensitivity in FY19 by lowering the eligible house site value from $250,000 to $200,000 for households who earn over $90,000.

I am very concerned about the widespread and immediate impact the $250,000 to $200,000 change will have on some Vermonters. This change may impact as many as 21,000 households immediately, the vast majority of whom have already filed for an adjustment with the Department of Taxes. This seems unreasonable.

If the Legislature pursues this change, I propose it be deferred until next fiscal year. With at least $160 million in additional revenue, we can work together to find the $11 million to offset the Legislature's proposal in FY19 – allowing us time to communicate the change and allowing taxpayers to plan for this change.

My proposal also includes a "go forward" change to the income sensitivity program that will not affect any current Vermont homeowners, and will better focus the program on those living in homes valued near the Vermont average. This is a similar approach used in many pension reforms, which limits the impacts to new employees after a date certain. Vermonters establishing a new homestead after July 1, 2018 would receive property tax adjustments where the maximum house site value used in the computation will be $250,000 minus household income. This system will moderate some of the adjustments going to higher income recipients and those living in homes valued well in excess of the statewide average. There will also be an enhanced benefit for many new homeowners by allowing a deduction of the claimants' exemptions in computing household income, many families will enjoy a greater benefit than the current system.

Finally, the Legislature did not include my proposal to reduce the excess spending threshold and allowed aggregated exclusions gradually over five years beginning in FY20. This step is a cost containment provision that, when implemented gradually over time, will result in concrete savings over the course of the five-year plan. Understanding the Legislature's hesitancy to discuss staff-to-student ratios, this is an additional tool that will potentially help avoid the need to set ratios in statute and give districts the guardrails they need to navigate the additional work necessary to achieve the goals of Act 46.

In summary, while there is a fair amount of detail here, the changes needed to the property tax provisions are limited and straightforward:

- The property tax adjustment change of eligible house site value from $250,000 to $200,000 in Section 14 should be deferred to an effective date of July 1, 2020;
- Reform the property tax adjustment calculation for new homesteads after July 1, 2018; and
- The excess spending threshold could be reduced over time.

I realize there are alternative proposals supported by legislators, which could achieve the same result. I am willing to consider all alternative paths forward if they achieve level property tax rates and contribute to long term cost containment.

Transition to Statewide Health Care Bargaining

Creation of the staff-to-student ratio task force in H.911, coupled with the passage of H.897 – which restructures the delivery of special education services – are key non-tax policy components of a multi-year plan. The final component is to move to a statewide health care benefit for school employees – one that, if achieved last year, would have saved districts up to $26 million in health care costs while bringing certainty and parity to teacher and staff plans.

This change was recommended by the Vermont Educational Health Benefit Commission, created by the Legislature in Act 85 of 2017, which worked diligently over the fall. I believe we all now agree this change is necessary, especially considering the wide disparities and increased costs that resulted from the last round of bargaining at the local level.

I applaud the Vermont-NEA for stepping forward and recognizing the need for this change and the work late in the session by the Senate Education Committee devoted to design and implementation of a statewide negotiated benefit. As I have advocated since the start of the session that this important step should be taken by placing the benefit into law for two years providing time for a viable plan supported by all the stakeholders to be achieved.

Staff-to-Student Ratio Task Force

As mentioned above, I am very pleased that the Legislature created a staff-to-student ratio task force in H.911. There seems to be some lingering misinformation being presented that I am currently championing placing mandated ratio targets in statute. Instead, I have proposed achieving an established staff-to-student ratio over time through sound management of the naturally occurring vacancies, many expected through the final stages of implementation of Act 46, with the help of a task force to develop recommended strategies for schools. It is crucial that this task force also consider that there is no "one size fits all" approach because of our different school sizes and configurations. The task force will provide critical input on how to best achieve optimal target ratios and will inform the work of school districts as they prepare their FY20 budgets and the work of the Legislature next session.

H.924 An Act Relating to Making Appropriations for the Support of Government

In general, I'm pleased to see the Legislature included most of the priorities outlined in my budget proposal in January. While I would have preferred a slightly lower level of spending growth – H.924 grows the General Fund by almost $6 million more than the budget I submitted – and I would have made

different choices on a few specific appropriations as outlined in the Administration's May 8, 2018 letter to the budget conferees, I commend the House and Senate on the body of work they have done.

As was the case last year, however, the budget and yield bill are intrinsically linked. The appropriations made from the budget to the Education Fund are contingent on the tax rates set by the statewide yields. While I do not expect the level of the appropriation to change this year, we can reduce our current dependence on property taxes to fund them. This will require some combination of different decisions on General Fund surplus money and tobacco settlement money than those made in H.924.

Specifically, the $34.5 million in appropriations to Vermont State Teachers Retirement System from both tobacco settlement money and surplus General Fund money should be redirected to the Education Fund. While making an extra payment on the unfunded liability this year will yield long-term savings in avoided interest, Vermonters won't see this savings until 2038 when the final payment is made under the current plan to pay down the debt.

In addition to reversing the transfer of the surplus to retirement, an additional $9.2 million in surplus revenue is available so that the property tax adjustment made in H.911 can be deferred to give taxpayers time to plan for it in FY20. The $7.1 million contingency in FY18, appropriated in the event Medicaid revenues fall short, could be redeployed considering the $10 million of additional drug rebates and the $7 million underspending in claims with less than six weeks to go in the fiscal year. Finally, there is an additional $2.1 million set aside as part of a $3 million contingency should sales tax revenue to the Education Fund fall short in FY18.

To achieve your goals for the Teachers' Retirement Fund, in addition to amending H.924 to reflect the above transfers, the bill could be further amended to provide the surplus be returned to the General Fund as savings accrue and then transferred to the Retirement Fund. This would meet the Legislature's goal of paying down the unfunded liability in the Teachers' Retirement

Fund faster than currently laid out in the Treasurer's amortization schedule and save interest costs in the long run.

Proposal to Amend H.911 and H.924 As-Passed

To summarize, I currently see a consensus path forward with the following actions:

Amend H.911 as follows:

- Defer the effective date of the $250,000 to $200,000 house site value change to FY20;
- Include a reduction of the excess spending threshold over five years; and
- Reform the property tax adjustments for new homesteads after July 1, 2018.

Amend H.924 as follows:

- Reverse the transfer of $34.5 million in surplus funds to the Teachers' Retirement Fund;
- Transfer $43.7 million in surplus funds to the Education Fund in FY19;
- Provide for reimbursement of the surplus funds to the General Fund from the savings achieved through the policy and tax changes reflected in the tax stabilization plan I proposed;
- Transfer those savings to the Teachers' Retirement Fund at the time of reimbursement; and
- Define a health care benefit in session law in the budget, allowing time for the Legislature to complete its work to design and implement a structure for a statewide bargained benefit.

My commitment to reaching an agreement that stabilizes tax rates and improves the operational efficiency of our education system, so we can direct more spending directly toward the education of our kids, is unwavering. Growing operational inefficiency is eroding quality and expanding inequality between our schools – even while taxes and spending have increased to record highs and student enrollment has declined by an average of 3 students per day for 20-years and counting.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Thank you for considering my thoughts on how to achieve a consensus plan that will strengthen our education system without raising property taxes in a year of unprecedented surplus revenue.

Sincerely,

/s/Philip B. Scott
Governor"

The Governor has informed the House that on May 28, 2018, he returned without signature and vetoed a bill originating in the House of the following title:

H. 924. An act relating to making appropriations for the support of government.

Text of Communication from Governor

The text of the communication to the House from His Excellency, the Governor, whereby he vetoed and returned unsigned **House Bill No. 924** to the House is as follows:

"May 25, 2018

The Honorable William M. MaGill
Clerk of the Vermont House of Representatives
115 State Street
Montpelier, VT 05633

Dear Mr. MaGill:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning H.924, *An act relating to making appropriations in support of government*, without my signature because of my objections described herein.

Please note, the following also addresses objections to H.911, *An act relating to changes in Vermont's personal income tax and education financing system*, as the two bills are inextricably linked and their relationship factors heavily into my decision to return both bills. H.911 will be returned to you in a separate message containing the same objections.

My primary objection to the bills – and the reason that, following the Legislature's decision not to schedule a veto session, I've called the Special Session – is that together they result in an unnecessary and avoidable $33 million increase in statewide property tax rates.

We have, in this fiscal year, approximately $160 million more in revenue than last year. This additional revenue breaks down as follows:

- $82 million more from organic economic growth and federal tax reform;
- $34 million in unanticipated funds from the Attorney General's tobacco settlement; and
- $44 million in surplus revenue recently added to the budget.

Having collected far more revenue from Vermonters than expected, as well as additional revenue from other sources, we do not need to raise statewide property tax rates on Vermonters to fully fund school budgets.

I have been clear as a candidate, and throughout this term in office, that I cannot support legislation which adds or increases taxes on Vermonters. On my first day in office, I signed an Executive Order prioritizing affordability, economic growth, and protecting the most vulnerable.

After years of constantly-increasing taxes and fees, Vermonters need a break. They need the opportunity to keep more of what they earn. At the same time, our businesses need a stable and predictable environment in which they can invest, grow and create more good jobs.

Therefore, I cannot support raising the statewide property tax rates – especially in a year when we have other options for fully funding school budgets. Homeowners, those who rent homes and apartments, employers of all types and sizes – everyone who lives, works and invests in Vermont – deserves a more stable, predictable and affordable property tax system.

Many of the decisions that impact individual property tax bills – and whether they go up, down or stay flat – occur at the local level or are impacted by other economic factors. But at the State level, we can have an impact through setting the statewide rates and establishing a "yield" to determine the resulting education tax rates. As you know, H.911, as presented for my signature, raises both the non-residential rate and the average statewide homestead education tax rate, raising $33 million in additional property taxes for FY19. As the primary mechanism the State uses to influence the property tax burden on Vermonters, I cannot accept an increase to these statewide rates in a year that we have better options.

To be clear: if the Legislature wants to raise statewide property tax rates at a time when we have significant surplus revenue that could be returned to Vermonters, it will have to override a veto.

However, I believe we are much closer to an agreement than the continued political rhetoric indicates. I've detailed how close we are – and how we can very easily reach a true consensus – in more detail further below.

Working Family Taxpayer Protection Act (H.911, Sections 1-9)

When it became clear that the Federal Tax Cuts and Jobs Act had a widespread financial impact on Vermonters, I proposed my Working Family Taxpayer Protection Act in February. The goal of this plan is to give back the net $30 million State personal income tax increase the federal changes would cause to Vermonters. The hardest hit by the federal changes were middle-income families with children.

I am grateful that H.911, as passed, includes nearly every element of my proposal. The major difference is the inclusion of a $20,000 cap on the five percent charitable contribution tax credit; as you may recall, I recommended a five percent credit without a dollar limit. I believe, over time, the Legislature may want to reconsider this cap, given the impact it may have on large charitable contributions to Vermont's non-profit sector.

Nevertheless, the tax credit will provide an incentive to those 90 percent of Vermonters who are not expected to itemize deductions this coming year, and is a new tax advantage to all Vermonters, whether they itemize or not.

Altogether, this portion of H.911 achieves my goal of moderating the tax burden, with an emphasis on low to moderate income Vermonters who receive Social Security. It also promotes charitable giving by reducing the tax liability of those who choose to give. I respect and appreciate the Legislature's work in this area and I will not pursue any changes to the Working Family Protection Act sections of H.911 during the Special Session.

Five-Year Plan to Stabilize Education Tax Rates and Reinvest Savings

Earlier in May, in an effort to reach consensus, I presented a comprehensive five-year plan, built on the many ideas and concepts that have been presented throughout this Biennium. None of the core elements of the proposal were new. The plan would:

- Fully fund the school budgets local voters have approved for next year;
- Close the FY19 Education Fund gap and prevent recurring deficits;
- Stabilize (keep level) or lower statewide property tax rates for five years;
- Generate almost $300 million in total net savings over five years that can be reinvested in systemic changes to create a cradle-to-career continuum of learning. This includes more and better early education, K-12 education, technical education, higher education opportunities;
- Allow education spending to grow sustainably each year based on the average projected increase (the consensus forecast) in grand list value of 3.25 percent; and
- Set Vermont on a stable and predictable five-year trajectory allowing local school districts to take full advantage of the governance changes made under Act 46.

The plan achieves gross savings of over $450 million – as projected by the Administration's analysts and cross-agency policy team – if all the components of the plan are passed as outlined. **It is important to know that three have already been achieved and a fourth was being considered in the Senate Education Committee before adjournment**:

- **Special Education Census Model**: Changes to the method for delivering special education services in Vermont, **as passed in H.897**, *An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support*;

- **Staff-to-Student Ratios**: Savings through natural attrition (vacancies and retirements), which can be achieved while still filling, on average, four of five of those vacancies over the next five years. I want to be very clear, this is not a mandated ratio target. Rather it builds off the incredible efforts of local school boards in developing their FY19 budgets at an aggregate growth rate well below the targets I communicated in November 2017, in anticipation of substantial increases in the statewide property tax rates, if we did nothing.
  I agree with legislators and members of the education community who report that Act 46 will result in progress to staffing ratios more aligned with our enrollment realities and best practices in education management, and I trust that school boards will continue that important work, supported by the help and recommendations of a student-to-staff ratios task force, **as passed in Section 17 of H.911**. I believe we can achieve this goal while improving outcomes for our students and we will likely still retain our position as having the lowest student to staff ratio in the nation;

- **Tax Rate Computation**: Lower the excess spending threshold gradually from 121 percent to 110 percent over the next five years and reduce allowable aggregate exclusions to 50 percent;

- **Property Tax Adjustments**: Decrease the maximum house site value from $500,000 to $400,000 in FY19 and the $250,000 to $200,000 reduction in FY20 (**H.911, Section 14**); and reform the property tax adjustment calculation for new homesteads after July 1, 2018; and

- **Statewide School Employee Health Care Benefit**: Establish a statewide school employee health care contract, as discussed in FY18, endorsed by the Vermont Educational Health Benefits Commission, and discussed during the 2018 legislative session. If stakeholders cannot agree on the statewide negotiation dynamic at this time, the benefit should be put in session law for two years while a viable plan, supported by all stakeholders, is achieved in the next Biennium.

As you can see, we are very close. With a little more constructive dialogue during the Special Session, I am confident we can deliver to Vermonters a full package, informed by the additional perspective below, that meets my goals of affordability and movement towards a cradle-to-career continuum of education.

An additional benefit of this plan is its 5+ year horizon. The rating agencies caution that Vermont's declining demographics are one of Vermont's primary weaknesses, along with it pension liabilities. One agency noted that although state spending growth on education is "somewhat offset" by our current

education funding reliance on property taxes as its source of revenue, it also noted that those taxes "collected by localities on behalf of the state" do not "fully mitigate spending increases... exposing the state to a level of ongoing expenditure growth as reflected in the steadily growing annual state general fund appropriation to the education fund." (Fitch Ratings report, August 11, 2017). The rating agencies applaud Vermont for our ability as a state to manage budget pressures, and they value multi-year management plans. My plan does exactly that.

Below is what remains to be done, from my point of view.

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My primary objection to the property tax provisions of H.911 are the resulting increases in the average homestead property and non-residential property tax rates. The bill results in an average homestead tax rate of $1.526, a 2.6-cent increase from the 2018 rate. The non-residential rate is set at $1.59, an increase of 5.5 cents from 2018.

I appreciate the work done by the Legislature to reduce the amount needed to close the Education Fund deficit through a combination of one-time money and changes to property tax adjustments that reduced the statewide tax rate increase to $33 million. But again, I will not sign a bill that raises statewide property tax rates mentioned above.

H.911, as passed, achieves $13 million dollars in avoided tax increases in two ways:

- First, it reduces the house site value eligible for a downward property tax adjustment from $500,000 to $400,000, consistent with my proposal, saving approximately $2 million in each of the next five years for a projected five-year savings of almost $10 million. We have no differences on that provision in H.911; and
- Second, the bill as adopted by the conferees achieves $11 million in savings through changes to income sensitivity in FY19 by lowering the eligible house site value from $250,000 to $200,000 for households who earn over $90,000.

I am very concerned about the widespread and immediate impact the $250,000 to $200,000 change will have on some Vermonters. This change may impact as many as 21,000 households immediately, the vast majority of whom have already filed for an adjustment with the Department of Taxes. This seems unreasonable.

If the Legislature pursues this change, I propose it be deferred until next fiscal year. With at least $160 million in additional revenue, we can work

together to find the $11 million to offset the Legislature's proposal in FY19 – allowing us time to communicate the change and allowing taxpayers to plan for this change.

My proposal also includes a "go forward" change to the income sensitivity program that will not affect any current Vermont homeowners, and will better focus the program on those living in homes valued near the Vermont average. This is a similar approach used in many pension reforms, which limits the impacts to new employees after a date certain. Vermonters establishing a new homestead after July 1, 2018 would receive property tax adjustments where the maximum house site value used in the computation will be $250,000 minus household income. This system will moderate some of the adjustments going to higher income recipients and those living in homes valued well in excess of the statewide average. There will also be an enhanced benefit for many new homeowners by allowing a deduction of the claimants' exemptions in computing household income, many families will enjoy a greater benefit than the current system.

Finally, the Legislature did not include my proposal to reduce the excess spending threshold and allowed aggregated exclusions gradually over five years beginning in FY20. This step is a cost containment provision that, when implemented gradually over time, will result in concrete savings over the course of the five-year plan. Understanding the Legislature's hesitancy to discuss staff-to-student ratios, this is an additional tool that will potentially help avoid the need to set ratios in statute and give districts the guardrails they need to navigate the additional work necessary to achieve the goals of Act 46.

In summary, while there is a fair amount of detail here, the changes needed to the property tax provisions are limited and straightforward:

- The property tax adjustment change of eligible house site value from $250,000 to $200,000 in Section 14 should be deferred to an effective date of July 1, 2020;
- Reform the property tax adjustment calculation for new homesteads after July 1, 2018; and
- The excess spending threshold could be reduced over time.

I realize there are alternative proposals supported by legislators, which could achieve the same result. I am willing to consider all alternative paths forward if they achieve level property tax rates and contribute to long term cost containment.

Transition to Statewide Health Care Bargaining

Creation of the staff-to-student ratio task force in H.911, coupled with the passage of H.897 – which restructures the delivery of special education

services – are key non-tax policy components of a multi-year plan. The final component is to move to a statewide health care benefit for school employees – one that, if achieved last year, would have saved districts up to $26 million in health care costs while bringing certainty and parity to teacher and staff plans.

This change was recommended by the Vermont Educational Health Benefit Commission, created by the Legislature in Act 85 of 2017, which worked diligently over the fall. I believe we all now agree this change is necessary, especially considering the wide disparities and increased costs that resulted from the last round of bargaining at the local level.

I applaud the Vermont-NEA for stepping forward and recognizing the need for this change and the work late in the session by the Senate Education Committee devoted to design and implementation of a statewide negotiated benefit. As I have advocated since the start of the session that this important step should be taken by placing the benefit into law for two years providing time for a viable plan supported by all the stakeholders to be achieved.

Staff-to-Student Ratio Task Force

As mentioned above, I am very pleased that the Legislature created a staff-to-student ratio task force in H.911. There seems to be some lingering misinformation being presented that I am currently championing placing mandated ratio targets in statute. Instead, I have proposed achieving an established staff-to-student ratio over time through sound management of the naturally occurring vacancies, many expected through the final stages of implementation of Act 46, with the help of a task force to develop recommended strategies for schools. It is crucial that this task force also consider that there is no "one size fits all" approach because of our different school sizes and configurations. The task force will provide critical input on how to best achieve optimal target ratios and will inform the work of school districts as they prepare their FY20 budgets and the work of the Legislature next session.

H.924 An Act Relating to Making Appropriations for the Support of Government

In general, I'm pleased to see the Legislature included most of the priorities outlined in my budget proposal in January. While I would have preferred a slightly lower level of spending growth – H.924 grows the General Fund by almost $6 million more than the budget I submitted – and I would have made different choices on a few specific appropriations as outlined in the Administration's May 8, 2018 letter to the budget conferees, I commend the House and Senate on the body of work they have done.

As was the case last year, however, the budget and yield bill are intrinsically linked. The appropriations made from the budget to the Education Fund are contingent on the tax rates set by the statewide yields. While I do not expect the level of the appropriation to change this year, we can reduce our current dependence on property taxes to fund them. This will require some combination of different decisions on General Fund surplus money and tobacco settlement money than those made in H.924.

Specifically, the $34.5 million in appropriations to Vermont State Teachers Retirement System from both tobacco settlement money and surplus General Fund money should be redirected to the Education Fund. While making an extra payment on the unfunded liability this year will yield long-term savings in avoided interest, Vermonters won't see this savings until 2038 when the final payment is made under the current plan to pay down the debt.

In addition to reversing the transfer of the surplus to retirement, an additional $9.2 million in surplus revenue is available so that the property tax adjustment made in H.911 can be deferred to give taxpayers time to plan for it in FY20. The $7.1 million contingency in FY18, appropriated in the event Medicaid revenues fall short, could be redeployed considering the $10 million of additional drug rebates and the $7 million underspending in claims with less than six weeks to go in the fiscal year. Finally, there is an additional $2.1 million set aside as part of a $3 million contingency should sales tax revenue to the Education Fund fall short in FY18.

To achieve your goals for the Teachers' Retirement Fund, in addition to amending H.924 to reflect the above transfers, the bill could be further amended to provide the surplus be returned to the General Fund as savings accrue and then transferred to the Retirement Fund. This would meet the Legislature's goal of paying down the unfunded liability in the Teachers' Retirement

Fund faster than currently laid out in the Treasurer's amortization schedule and save interest costs in the long run.

Proposal to Amend H.911 and H.924 As-Passed

To summarize, I currently see a consensus path forward with the following actions:

Amend H.911 as follows:

- Defer the effective date of the $250,000 to $200,000 house site value change to FY20;
- Include a reduction of the excess spending threshold over five years; and

- Reform the property tax adjustments for new homesteads after July 1, 2018.

Amend H.924 as follows:

- Reverse the transfer of $34.5 million in surplus funds to the Teachers' Retirement Fund;
- Transfer $43.7 million in surplus funds to the Education Fund in FY19;
- Provide for reimbursement of the surplus funds to the General Fund from the savings achieved through the policy and tax changes reflected in the tax stabilization plan I proposed;
- Transfer those savings to the Teachers' Retirement Fund at the time of reimbursement; and
- Define a health care benefit in session law in the budget, allowing time for the Legislature to complete its work to design and implement a structure for a statewide bargained benefit.

My commitment to reaching an agreement that stabilizes tax rates and improves the operational efficiency of our education system, so we can direct more spending directly toward the education of our kids, is unwavering. Growing operational inefficiency is eroding quality and expanding inequality between our schools – even while taxes and spending have increased to record highs and student enrollment has declined by an average of 3 students per day for 20-years and counting.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Thank you for considering my thoughts on how to achieve a consensus plan that will strengthen our education system without raising property taxes in a year of unprecedented surplus revenue.

Sincerely,

/s/Philip B. Scott
Governor"

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirtieth day of May, 2018 he approved and signed bills originating in the Senate of the following titles:

S. 29. An act relating to decedents' estates.

S. 85. An act relating to simplifying government for small businesses.

S. 92. An act relating to prescription drug price transparency and cost containment.

S. 94. An act relating to promoting remote work.

S. 101. An act relating to the conduct of forestry operations.

S. 165. An act relating to preemployment health screenings for hospital employees.

S. 179. An act relating to offender and inmate records.

S. 203. An act relating to systemic improvements of the mental health system.

S. 234. An act relating to adjudicating all teenagers in the Family Division, except those charged with a serious violent felony.

S. 241. An act relating to the makeup and duties of the Emergency Medical Services Advisory Committee.

S. 244. An act relating to extending the repeal date for the guidelines for spousal maintenance awards.

S. 261. An act relating to ensuring a coordinated public health approach to addressing childhood adversity and promoting resilience.

S. 269. An act relating to blockchain business development.

S. 272. An act relating to miscellaneous changes to laws related to motor vehicles.

S. 276. An act relating to rural economic development.

S. 280. An act relating to the Advisory Council on Child Poverty and Strengthening Families.

S. 285. An act relating to universal recycling requirements.

S. 287. An act relating to aquatic nuisance control, Act 250 corrective actions, and beverage container redemption.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirtieth day of May, 2018 he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 222. An act relating to miscellaneous judiciary procedures.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 222** to the Senate is as follows:

"May 30, 2018

The Honorable John Bloomer
Secretary of the Senate
State House
Montpelier, VT 05633

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.222, *An act relating to miscellaneous judiciary procedures*, without my signature because of my objections described herein.

This bill purports to make several technical amendments related to civil and criminal procedure statutes. However, it makes substantive changes to the laws regarding video conferencing of arraignments and other appearances before a Court officer, and modifies regulations for marijuana dispensaries, and sealing and expungement of records.

Of primary concern are the changes to video conferencing of arraignments and other appearances before a Court officer. I understand the Judiciary was quite clear with both the Senate and House Judiciary Committees regarding its desire to proceed with this tool to facilitate Court administration. I am concerned the Legislature has disregarded the obvious separation of powers issue. Chapter II, Section 30 of the Vermont Constitution provides, in relevant part: "The Supreme Court shall have administrative control of all the courts of the State…" The Vermont Supreme Court has held the "Judiciary must control the 'management of the courts' to fulfill its function of providing justice to those who appear before us." Wolfe v. Yudichak, 153 Vt. 235, 255 (1989). One of the necessary aspects of court administration is the discretionary aspect

of allocating judicial resources and this bill removes this tool from the purview of the Judiciary.

In 2015, the Judiciary was asked by the Legislative and Administrative branches to come up with structural savings to address anticipated budget shortfalls. The Judiciary identified the high cost, risk to safety, and scheduling challenges of prisoner transports in Vermont as factors calling for innovation regarding prisoner appearances.

The Judiciary undertook a pilot project to conduct video appearances in the Chittenden County criminal division and associated Department of Corrections facilities. In December of 2017, the pilot project expanded to the Bennington court and Marble Valley Correctional Facility and I understand expansion is currently underway in the Windham court and the Southern State Correctional Facility.

In the interim, these pilot projects have reduced the costs and risks associated with transporting individuals between correctional facilities and the courts. The system has been in effect for almost three years without a single court challenge, and the numbers show since July 1, 2017, when defendants were given the option of in-person or video arraignment, they overwhelmingly chose video. I understand the Judiciary has worked to address the concerns of the defenders regarding their ability to communicate with their clients and made improvements to both the technology and confidentiality in the facilities.

This bill would eliminate the ability of the Judiciary to provide video conferencing as an effective tool for improving efficiencies and allocating scarce resources unless either the Defender General and the Executive Director of the Department of States Attorneys and Sheriffs jointly certify the video conferencing program in use at a facility adequately ensures attorney-client confidentiality and the client's meaningful participation in the proceeding or with the approval of defense counsel, or in the case of an unrepresented defendant, consent. This effectively enables two Executive Branch officers to usurp the authority of the Judiciary to effectively manage Judiciary resources; this constitutes an unacceptable violation of the separation of powers.

Video arraignments have been challenged on a variety of constitutional grounds in a number of states, including New Hampshire, and have been upheld as a reasonable allocation of scarce court resources. The appropriate venue for a constitutional challenge to video conferencing is in the courts of this State, not through the legislative process.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirtieth day of May, 2018 he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 273. An act relating to miscellaneous law enforcement amendments.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 273** to the Senate is as follows:

"May 30, 2018

The Honorable John Bloomer
Secretary of the Senate
State House
Montpelier, VT 05633

Dear Mr. Bloomer:

Pursuant to Chapter II, Section 11 of the Vermont Constitution, I am returning S.273, *An act relating to miscellaneous law enforcement amendments*, without my signature because of my objections described herein.

This bill restructures the Vermont Criminal Justice Training Council and could affect the operation of the Vermont Police Academy in a way which substantially weakens the Council and unnecessarily politicizes this essential link between improving the quality of law enforcement and protecting Vermonters. The Council's purpose is to maintain a uniform standard of recruitment and in-service training and certification of state, county and local law enforcement professionals in the State of Vermont.

Specifically, this bill removes the authority of the Governor to appoint five members to the Council to provide broad representation of the law enforcement community and the public. I, as well as prior Governors, have recognized the importance of the representation of Sheriffs, State's Attorneys

and Police Chiefs on the Council. Unfortunately, this bill eliminates representation of the elected State's Attorneys on the Council.

State's Attorneys are independently elected prosecutors who work closely with the law enforcement community, the defense bar and the courts. The inclusion of the State's Attorneys is critical to the operations of the Council and to the members of the law enforcement community the Council is responsible for training.

As noted, based on the objections outlined above, I cannot support this legislation and must return it without my signature pursuant to Chapter II, Section 11 of the Vermont Constitution.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the thirtieth day of May, 2018 he returned without signature and *vetoed* a bill originating in the Senate of the following title:

S. 281. An act relating to the mitigation of systemic racism.

Text of Communication from Governor

The text of the communication to the Senate from His Excellency, the Governor, whereby he vetoed and returned unsigned **Senate Bill No. 281** to the Senate is as follows:

"May 30, 2018

The Honorable John Bloomer
Secretary of the Senate
State House
Montpelier, VT 05633

Dear Mr. Bloomer:

I support without reservation the goal of this bill to ensure State governance is conducted in an unbiased, open, inclusive and welcoming manner.

Unfortunately, pursuant to Chapter II, Section 11 of the Vermont Constitution, I must return S.281, *An act relating to mitigation of systemic racism*, without my signature because of significant constitutional concerns given separation of powers violations described herein. Importantly, to ensure the intent of the legislation is fulfilled without delay, I have signed Executive Order 04-18. This Executive Order is modeled after S.281 but goes further in our effort to ensure racial, ethnic and cultural diversity, equity and equality – and avoids the unconstitutional provisions included in the bill.

I instructed the Agency of Administration to draft the order modeled after S.281 and to seek input from the Vermont Partnership for Fairness and Diversity and other stakeholders. Specifically, the order establishes the position of Chief Racial Equity and Diversity Officer, to be nominated and vetted by a five-member panel selected in consultation with the Judiciary, the Legislature and the Chair of the Human Rights Commission. The Chief Racial Equity and Diversity Officer will be housed in the Office of the Secretary of Administration. The duties and responsibilities of the Chief Racial Equity and Diversity Officer include those reflected in S.281.

Additionally, Executive Order 04-18 goes beyond what was contemplated in S.281 and mandates training of appointed leaders in all agencies and departments on implicit bias and related issues that contribute to inequity or inequality as well as recruitment for increased racial, ethnic and cultural diversity in State jobs and on boards and commissions. It also directs the Officer to evaluate existing State Executive Orders, which are designed to address equity and diversity issues and recommend updates, modifications or sunset provisions to ensure these Executive Orders and the bodies created therein are effective and getting meaningful results.

It is unfortunate that I must return S.281 when the Legislature and the Administration share the same goals on this critical issue. I appreciate the work of the Legislature in drafting this bill – much of which is adopted in my Executive Order – and the work of many to address the constitutionality concerns during the Legislative process. Unfortunately, during the last days of the session, language was added that would usurp the executive's Constitutional authority to remove a cabinet member responsible for performing an executive function. The new executive branch official contemplated in this bill is both appointed by and accountable to the Governor. The removal power, incidental to the appointment power, is essential for a Governor to take care that the laws be faithfully executed in accordance with the Constitution. The exercise of executive authority by an inter-branch entity over a Governor violates the separation of powers dictated by the Constitution.

While several specific alternatives to the unconstitutional provision were proposed – which included removal with notice to, and consultation with, the Panel; and a term of office and termination by the Governor for cause only – the Legislature passed the bill with the unconstitutional language on the last day of the session and over the clear objection of my Administration.

It is important to note that, to date, the State of Vermont has demonstrated leadership in this area. For example, the Department of Public Safety's Fair and Impartial Policing Initiative, the Agency of Transportation's Office of Civil Rights, and the Agency of Education through partnerships with professional associations in anti-bias efforts. This is important progress, but as we have discussed there is still much more work to do. That's why I felt it was important to issue Executive Order 04-18.

With this Executive Order in place, there will be no delay in important work ahead of us, and the Legislature can take additional time to resolve the unconstitutional separation of powers violations detailed above.

I look forward to continuing our work on this important issue.

Sincerely,

/s/Philip B. Scott
Governor

PBS/kp"

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Jaye Pershing Johnson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the first day of June, 2018 he approved and signed a bill originating in the Senate of the following title:

S. 262. An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access.

Committees Appointed After Final Adjournment

Appointment of Senate Members to Advisory Council on Child Poverty and Strengthening Families

Pursuant to the provisions of Act No. 207, § 1(b)(1)(A) (Acts of 2017)(Adj. Sess.), the President announced the appointment by the President of the following Senators to serve on the Advisory Council on Child Poverty and Strengthening Families during this biennium:

Senator McCormack
Senator Ingram
Senator Soucy

Appointment of Senate Members to Commission on Alzheimer's Disease and Related Disorders

Pursuant to the provisions of 3 V.S.A. § 3085b(b), the President announced the appointment by the President of the following Senator to serve on the Commission on Alzheimer's Disease and Related Disorders during this biennium:

Senator Brock

Appointment of Senate Members to Health Reform Oversight Committee

Pursuant to the provisions of 2 V.S.A. § 691(2)(4)(6)(8), the President announced the appointment by the President of the following Senators to serve on the Health Reform Oversight Committee during this biennium:

Senator Kitchel
Senator Cummings
Senator Ayer
Senator Westman

Appointment of Senate Members to Sunset Advisory Committee

Pursuant to the provisions of 3 V.S.A. § 268(b)(1)(B), the President announced the appointment by the President of the following Senators to serve on the Sunset Advisory Committee during this biennium:

Senator White, Co-Chair
Senator Collamore

Appointment of Senate Members to Joint Technology Oversight Committee

Pursuant to the provisions of 2 V.S.A. § 614(b)(2), the President announced the appointment by the President of the following Senators to serve on the Joint Technology Oversight Committee during this biennium:

Senator Brock
Senator Pearson
Senator Lyons

Appointment of Senate Members to Joint Legislative Child Protection Oversight Committee

Pursuant to the provisions of Act 60 of 2015 Sec. 23(b)(2), the President announced the appointment by the President of the following Senators to serve on the Joint Legislative Child Protection Oversight Committee during this biennium:

Senator Pollina
Senator Flory
Senator Sears

CERTIFICATION

"STATE OF VERMONT

Office of the Secretary of the Senate
Senate Chamber
State House
Montpelier, Vermont 05633

I hereby certify that the foregoing Journal is a true and correct record of the proceedings of the Senate of the State of Vermont for the second year of the biennial session of 2017, often referred to as the adjourned session of 2018.

This was the second year of the seventy-fourth biennial session of the General Assembly, beginning on the third day of January, 2018, and ending on the twelfth day of May, 2018.

Attest:

/s/John H. Bloomer, Jr.

JOHN H. BLOOMER, JR.
Secretary of the Senate"