

House Calendar

Wednesday, April 27, 2016

114th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 PM

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ACTION CALENDAR

Action Postponed Until April 27, 2016

Senate Proposal of Amendment

H. 112

An act relating to access to financial records in adult protective services investigations

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

Sec. 1. 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:

~~(1)(A)~~ The investigative report shall be disclosed only to: the Commissioner or person designated to receive such records; persons assigned by the Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the Office of Professional Regulation when deemed appropriate by the Commissioner; the Secretary of Education when deemed appropriate by the Commissioner; the Commissioner for Children and Families or designee; for purposes of review of expungement petitions filed pursuant to section 4916c of this title; the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation; a law enforcement agency; the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

~~(2)(B)~~ Relevant information may be disclosed to the Secretary of Human Services, or the Secretary's designee, for the purpose of remediating or preventing abuse, neglect, or exploitation; to assist the Agency in its monitoring and oversight responsibilities; and in the course of a relief from

abuse proceeding, guardianship proceeding, or any other court proceeding when the Commissioner deems it necessary to protect the victim, and the victim or his or her representative consents to the disclosure. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

(2) Notwithstanding subdivision (1)(A) of this subsection, financial information made available to an adult protective services investigator pursuant to section 6915 of this title may be used only in a judicial or administrative proceeding or investigation directly related to a report required or authorized under this chapter. Relevant information may be disclosed to the Secretary of Human Services pursuant to subdivision (1)(B) of this subsection, and may also be disclosed to the Commissioner of Financial Regulation when the investigation relates to financial exploitation of a vulnerable adult.

* * *

Sec. 2. 33 V.S.A. § 6915 is added to read:

§ 6915. ACCESS TO FINANCIAL INFORMATION

(a) As used in this chapter:

(1) “A person having custody or control of the financial information” means:

(A) a bank as defined in 8 V.S.A. § 11101;

(B) a credit union as defined in 8 V.S.A. § 30101;

(C) a broker-dealer or investment advisor, as those terms are defined in 9 V.S.A. § 5102; or

(D) a mutual fund as defined in 8 V.S.A. § 3461.

(2) “Capacity” means an individual’s ability to make and communicate a decision regarding the issue that needs to be decided.

(3) “Financial information” means an original or copy of, or information derived from:

(A) a document that grants signature authority over an account held at a financial institution;

(B) a statement, ledger card, or other record of an account held at a financial institution that shows transactions in or with respect to that account;

(C) a check, clear draft, or money order that is drawn on a financial institution or issued and payable by or through a financial institution;

(D) any item, other than an institutional or periodic charge, that is made under an agreement between a financial institution and another person's account held at a financial institution;

(E) any information that relates to a loan account or an application for a loan;

(F) information pertaining to an insurance or endowment policy, annuity contract, contributory or noncontributory pension fund, mutual fund, or security, as defined in 9 V.S.A. § 5102; or

(G) evidence of a transaction conducted by electronic or telephonic means.

(4) "Financial institution" means any financial services provider licensed, registered, or otherwise authorized to do business in Vermont, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(b) A person having custody or control of the financial information of a vulnerable adult shall make the information or a copy of the information available to an adult protective services investigator upon receipt of a court order or receipt of the investigator's written request.

(1) The request shall include a statement signed by the account holder, if he or she has capacity, or the account holder's guardian with financial powers or agent under a power of attorney consenting to the release of the information to the investigator.

(2) If the vulnerable adult lacks capacity and does not have a guardian or agent, or if the vulnerable adult lacks capacity and his or her guardian or agent is the alleged perpetrator, the request shall include a statement signed by the investigator asserting that all of the following conditions exist:

(A) The account holder is an alleged victim of abuse, neglect, or financial exploitation.

(B) The alleged victim lacks the capacity to consent to the release of the financial information.

(C) Law enforcement is not involved in the investigation or has not requested a subpoena for the information.

(D) The alleged victim will suffer imminent harm if the investigation is delayed while the investigator obtains a court order authorizing the release of the information.

(E) Immediate enforcement activity that depends on the information would be materially and adversely affected by waiting until the alleged victim regains capacity.

(F) The Commissioner of Disabilities, Aging, and Independent Living has personally reviewed the request and confirmed that the conditions set forth in subdivisions (A) through (E) of this subdivision (2) have been met and that disclosure of the information is necessary to protect the alleged victim from abuse, neglect, or financial exploitation.

(c) If a guardian refuses to consent to the release of the alleged victim's financial information, the investigator may seek review of the guardian's refusal by filing a motion with the Probate Division of the Superior Court pursuant to 14 V.S.A. § 3062(c).

(d) If an agent under a power of attorney refuses to consent to the release of the alleged victim's financial information, the investigator may file a petition in Superior Court pursuant to 14 V.S.A. § 3510(b) to compel the agent to consent to the release of the alleged victim's financial information.

(e) The investigator shall include a copy of the written request in the alleged victim's case file.

(f) The person having custody or control of the financial information shall not require the investigator to provide details of the investigation to support the request for production of the information.

(g) The information requested and released shall be used only to investigate the allegation of abuse, neglect, or financial exploitation or for the purposes set forth in subdivision 6911(a) (1)(B) of this title and shall not be used against the alleged victim.

(h) The person having custody or control of the financial information shall provide the information to the investigator as soon as possible but, absent extraordinary circumstances, no later than 10 business days following receipt of the investigator's written request or receipt of a court order or subpoena requiring disclosure of the information.

(i) A person who in good faith makes an alleged victim's financial information or a copy of the information available to an investigator in accordance with this section shall be immune from civil or criminal liability for disclosure of the information unless the person's actions constitute gross negligence, recklessness, or intentional misconduct. Nothing in this section shall be construed to provide civil or criminal immunity to a person suspected of having abused, neglected, or exploited a vulnerable adult.

(j) The person having custody or control of the financial information of an alleged victim may charge the Department of Disabilities, Aging, and Independent Living no more than the actual cost of providing the information to the investigator and shall not refuse to provide the information until payment is received. A financial institution shall not charge the Department for the information if the financial institution would not charge if the request for the information had been made directly by the account holder.

Sec. 3. 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.

* * *

(25) Reports or disclosure of financial or other information to the Department of Disabilities, Aging, and Independent Living, pursuant to 33 V.S.A. §§ 6903(b) ~~and~~, 6904, and 6915.

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 access to financial information in adult protective services investigations.

(For text see House Journal March 9, 2016)

The Senate proposes to the House to amend the bill as follows:

In Sec. 1, in subsection (b), by striking out "August 1, 2015" and inserting in lieu thereof August 1, 2016.

(For text see House Journal April 22, 2015)

H. 690

An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants

The Senate proposes to the House to amend the bill as follows:

In Sec. 1, 26 V.S.A. § 3402, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read:

(f) This chapter shall not be construed to limit or restrict in any way the right of a licensed practitioner of a health care profession regulated under this title from performing services within the scope of his or her professional practice.

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

An act relating to the practice of acupuncture by health care professionals acting within their scope of practice.

(For text see House Journal March 16, 2016)

H. 845

An act relating to legislative review of certain report requirements

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

* * * Amendment to 2 V.S.A. § 20(d) Language * * *

Sec. 1. 2 V.S.A. § 20(d) is amended to read:

(d) ~~Unless~~ It is the intent of the General Assembly that, except for reports required by interstate compacts and except as otherwise provided by law, whenever an agency is required by law to submit an annual, biennial, or other periodic report to the General Assembly, that requirement shall no longer be required after five years or after five years from ~~July 1, 2009~~ the last date that the statutory or session law section containing the report was amended, whichever date is later. ~~The~~ In each biennial session, the Legislative Council, pursuant to section 424 of this title, may revise the Vermont Statutes Annotated accordingly shall prepare for the General Assembly's review a list of the reports subject to this subsection. A report requirement shall only expire pursuant to legislative enactment.

* * * Reports Exempt from 2 V.S.A. § 20(d) * * *

Sec. 2. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER 18 YEARS OF AGE; REPORT

(a) An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under 18 years of age shall be subject to a civil penalty of not more than \$100.00 for the first offense and not more than \$500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to

23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

(b)(1) The Department of Liquor Control shall conduct or contract for compliance tests of tobacco licensees as frequently and as comprehensively as necessary to ensure consistent statewide compliance with the prohibition on sales to minors of at least 90 percent for buyers 17 years of age. An individual under 18 years of age participating in a compliance test shall not be in violation of 7 V.S.A. § 1005.

(2) Any violation by a tobacco licensee of subsection 1003(a) of this title and this section after a first sale violation or during a compliance test conducted within six months of a previous violation shall be considered a multiple violation and shall result in the minimum license suspension in addition to any other penalties available under this title. Minimum license suspensions for multiple violations shall be assessed as follows:

- | | |
|-----------------------------|---|
| <u>(A) Two violations</u> | <u>one weekday;</u> |
| <u>(B) Three violations</u> | <u>two weekdays;</u> |
| <u>(C) Four violations</u> | <u>three weekdays;</u> |
| <u>(D) Five violations</u> | <u>three weekend days,</u>
<u>Friday through Sunday.</u> |

(3) The Department shall report to the House Committee on General, Housing and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the Tobacco Evaluation and Review Board annually, on or before January 15, the methodology and results of compliance tests conducted during the previous year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 3. 9 V.S.A. § 4553(b) is amended to read:

(b) The Human Rights Commission shall forward, on or before January 1 of each year, to the Speaker of the House and the President of the Senate an annual report on the status of Commission program operations, the number and type of calls received, complaints filed and investigated, closure of litigated and nonlitigated complaints, public educational activities undertaken, and recommendations for improved human rights advocacy and activities. 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.

Sec. 4. 16 App. V.S.A. chapter 1, § 1-8 is amended to read:

§ 1-8. LEGISLATIVE REPORTS; BOARD OF VISITORS

The corporation hereby created shall make annual reports to the Legislature of this State, of its condition, financially and otherwise, and make and distribute the reports required by the act of Congress, herein referred to, and the Legislature may annually appoint a Board of Visitors, who may annually examine the affairs of the corporation. 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. 5. 24 V.S.A. § 290b(d) is amended to read:

(d) Annually, each sheriff shall furnish the Auditor of Accounts on forms provided by the Auditor a financial report reflecting the financial transactions and condition of the sheriff's department. The sheriff shall submit a copy of this report to the assistant judges of the county. The assistant judges shall prepare a report reflecting funds disbursed by the county in support of the sheriff's department and forward a copy of their report to the Auditor of Accounts. The Auditor of Accounts shall compile the reports and submit one report to the House and Senate Committees on Judiciary. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 6. 32 V.S.A. § 182(a) is amended to read:

(a) In addition to the duties expressly set forth elsewhere by law, the Commissioner of Finance and Management shall:

(1) Prescribe appropriate systems for all State departments and agencies to use in accounting and each department and agency shall keep their accounts in accordance with a system prescribed by the Commissioner. The Commissioner may review and examine any accounting system to determine its compliance with the prescribed system;

(2) Maintain a system of central accounting of income and disbursement so as to enable fiscal officers of the ~~state~~ State at any time to provide an evaluation and analysis of the status of ~~state~~ State finances;

(3) Coordinate the fiscal procedures of the State, including all departments, institutions, and agencies with the controlling accounts kept under this section;

(4) Maintain a system of encumbrance accounting to control expenditures within budget appropriations;

(5) In the Commissioner's discretion, pre-audit receipts, expenditures, and encumbrances;

(6) Draw warrants on the Treasurer for all valid and legal payroll disbursements certified by voucher;

(7) Draw warrants on the Treasurer for all disbursements;

(8) Prepare monthly revenue reports for the Governor, Secretary of Administration, and other officials and for release to the general public, and a comprehensive annual financial report in accordance with generally accepted accounting principles which shall be distributed to the Chairs of the House Committees on Appropriations, on Corrections and Institutions, and on Ways and Means and to the Senate Committees on Appropriations, on Finance, and on Institutions on or before December 31 of each year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

(9) Make available monthly reports of appropriations, expenditures, encumbrances, and balances for all operating departments;

(10) Maintain a standard chart of accounts structure pertaining to appropriation, revenue, and expenditure codes;

(11) ~~{Deleted.}~~ [Repealed.]

(12) Exercise central management of the appropriation act;

(13) Maintain the general control ledger of State accounts;

* * *

Sec. 7. 32 V.S.A. § 434(a)(5) is amended to read:

(5) Annually, the Treasurer shall prepare a report to the House Committee on Ways and Means and the Senate Committee on Finance on the financial activity of the Trust Investment Account. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subdivision.

Sec. 8. 32 V.S.A. § 3205(c) is amended to read:

(c) The Taxpayer Advocate shall prepare an annual report detailing the actions the Taxpayer Advocate has taken to improve taxpayer services and the responsiveness of the Department of Taxes. The report shall identify the problems encountered by taxpayers in interacting with the Department of Taxes and include specific recommendations for administrative and legislative actions to resolve those problems. The report shall identify any problems that span an entire class of taxpayer or specific industry, and propose class- or

industry-wide solutions. The report of the Taxpayer Advocate shall be submitted to the Senate Committee on Finance and the House Committee on Ways and Means ~~no later than~~ on or before January 15th 15 of each year. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

Sec. 9. 33 V.S.A. § 2115 is added to read:

§ 2115. GENERAL ASSISTANCE PROGRAM REPORT

On or before of January 15 of each year, the Commissioner for Children and Families shall submit a written report to the House Committees on Appropriations, on General, Housing and Military Affairs and on Human Services and the Senate Committees on Appropriations and on Health and Welfare containing:

- (1) an evaluation of the General Assistance program during the previous fiscal year;
- (2) any recommendations for changes to the program; and
- (3) a plan for continued implementation of the program.

Sec. 10. 2012 Acts and Resolves No. 162, Sec. E.321(b) is amended to read:

(b) The program may operate in up to 12 districts designated by the ~~secretary of human services~~ Secretary of Human Services. This program will be budget neutral. For each district in which the ~~agency~~ Agency operates the program, it shall establish procedures for evaluating the pilot and its effects. The ~~agency~~ Agency shall report annually to the ~~general assembly~~ General Assembly on its findings from the programs, its recommendations for changes in the general assistance program, and a plan for further implementation of the program. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the required report to be made under this subsection.

* * * Report Requirements Repealed * * *

Sec. 11. 18 V.S.A. § 1553(c) is amended to read:

~~(c) On or before January 15 of each year, the commissioner of health shall submit a report to the house committees on health care and on human services and the senate committee on health and welfare containing at least the following information:~~

- ~~(1) a description of the adverse events reviewed by the panel during the preceding 12 months, including statistics and causes;~~
- ~~(2) corrective action plans to address, in the aggregate, such adverse events; and~~

~~(3) recommendations for system changes and legislation relating to the delivery of health care in Vermont. [Repealed.]~~

Sec. 12. 18 V.S.A. § 4632(a)(5) and (6) is amended to read:

~~(5) The office of the attorney general shall report annually on the disclosures made under this section to the general assembly and the governor on or before October 1. The report shall include:~~

~~(A) Information on allowable expenditures and permitted gifts required to be disclosed under this section, which shall present information in aggregate form by selected types of health care providers or individual health care providers, as prioritized each year by the office; and showing the amounts expended on the Green Mountain Care board established in chapter 220 of this title. In accordance with subdivisions (1)(B), (1)(D), and (2)(A) of this subsection, information on samples and donations to free clinics of prescribed products and of over the counter drugs, nonprescription medical devices, items of nonprescription durable medical equipment, medical food, and infant formula shall be presented in aggregate form.~~

~~(B) Information on violations and enforcement actions brought pursuant to this section and section 4631a of this title. [Repealed.]~~

~~(6) After issuance of the report required by subdivision (5) of this subsection and except Except as otherwise provided in subdivisions (1)(B) and (2)(A) of this subsection, the office of the attorney general Office of the Attorney General shall make all disclosed data used for the report publicly available and searchable through an Internet website.~~

Sec. 13. 32 V.S.A. § 5930z(g) is amended to read:

~~(g) On a regular basis, the Department shall notify the House and Senate Committees on Natural Resources and Energy of solar energy tax credits claimed pursuant to this section, and the The Board shall cause to be transferred from the Clean Energy Development Fund to the General Fund an amount equal to the amount of solar energy tax credits as and when the credits are claimed.~~

Sec. 14. 2000 Acts and Resolves No. 125, Sec. 2(b)(7) as amended by 2009 Acts and Resolves No. 33, Sec. 71 and 2012 Acts and Resolves No. 68, Sec. 3 is further amended to read:

~~(7) Report annually to the house and senate committees on education on the extent of indoor air and hazardous exposure problems in Vermont schools and on the percentage of Vermont schools that have established a school environmental health program or qualified for environmental health certification. [Repealed.]~~

Sec. 15. 2011 Acts and Resolves No. 54, Sec. 5(e) is amended to read:

~~(e) On or before January 15, 2012, and annually thereafter, the department of fish and wildlife shall report to the house committee on fish, wildlife and water resources and the senate committee on natural resources and energy regarding the status of the relevant captive cervidae facility's compliance with:~~

- ~~(1) the requirements of this section; and~~
- ~~(2) the fish and wildlife board's rule governing the importation and possession of animals for taking by hunting. [Repealed.]~~

* * * Reports Expiration Extension * * *

Sec. 16. REPORT REPEAL DELAYED

The reports set forth in this section shall not be subject to review under the provisions of 2 V.S.A. § 20(d) (expiration of required reports) until July 1, 2020:

(1) 10 V.S.A. §§ 21(b)(2) (report on the condition of the EB-5 Special Fund), 1978(e)(3) (Technical Advisory Committee report on potable water supply and wastewater systems), 2609a (income from sites used for communication purposes), and 6604(b) (Agency of Natural Resources recommendations regarding solid waste management);

(2) 13 V.S.A. § 5256 (Defender General summarized activities);

(3) 18 V.S.A. §§ 4474j(b) (Marijuana for Symptom Relief Oversight Committee annual report) and 9375a(b)(4) (final projections for three-year projection of health care expenditures);

(4) 28 V.S.A. § 104(e) (Commissioner of Corrections notification of release of offenders);

(5) 29 V.S.A. §§ 155(c) (deposits and disbursements from Historic Property Stabilization and Rehabilitation Special Fund) and 160(e) (condition of Property Management Revolving Fund); and

(6) 1999 Acts and Resolves No. 49, Sec. 96, as amended by 2012 Acts and Resolves No. 139, Sec. 39 (economic advancement tax incentives awarded under 32 V.S.A. chapter 151, subchapter 11E); 2005 Acts and Resolves No. 56, Sec. 1(b)(2)(B), as amended by 2007 Acts and Resolves No. 65, Sec. 112a (utilization of services and expenses under Choices for Care); 2010 Acts and Resolves No. 110, Sec. 8 (status of river corridor, shoreland, and buffer zoning within Vermont); 2010 Acts and Resolves No. 161, Sec. 20, as amended by 2012 Acts and Resolves 139, Sec. 49 (status of improvements funded by State capital appropriations); 2011 Acts and Resolves No. 59, Sec. 15 (contested cases involving Public Records Act); 2011 Acts and Resolves No. 63, Sec.

E.321.1(a), as amended by 2012 Acts and Resolves No. 139, Sec. 50 (outcomes and measures for Emergency Shelter grants); and 2012 Acts and Resolves No. 113, Sec. 3 (report on Genuine Progress Indicator).

* * * Technical Amendments * * *

Sec. 17. 2 V.S.A. § 263(j) is amended to read:

(j) The Secretary of State shall prepare a list of names and addresses of lobbyists and their employers and the list shall be published at the end of the second legislative week of each regular or adjourned session. Supplemental lists shall be published monthly during the remainder of the legislative session. ~~No later than~~ On or before March 15 of the first year of each legislative biennium, the Secretary of State shall publish no fewer than 500 booklets containing an alphabetical listing of all registered lobbyists, including, at a minimum, a current passport-type photograph of the lobbyist, the lobbyist's business address, telephone, and fax numbers, a list of the lobbyist's clients, and a subject matter index. ~~The provisions of subsection 20(d) (expiration of required reports) of this title shall not apply to the report to be made under this subsection.~~

Sec. 18. 2 V.S.A. § 404(b)(6) is amended to read:

(6) Except when the General Assembly is in session and upon the request of any person provide him or her, on a weekly basis, with a list of all public hearings or meetings scheduled by a council, committee, subcommittee, commission, or study committee of the General Assembly or any cancellations of hearings or meetings thereof previously scheduled. ~~The provisions of subsection 20(d) (expiration of required reports) of this title shall not apply to the report to be made under this subdivision.~~

Sec. 19. 3 V.S.A. § 847(b) is amended to read:

(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. ~~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.~~

Sec. 20. 3 V.S.A. § 2222(c) is amended to read:

(c) The Secretary shall compile, weekly, a list of all public hearings and meetings scheduled by all Executive Branch State agencies, departments, boards, or commissions during the next ensuing week. The list shall be distributed to any person in the State at that person's request. Each Executive Branch State agency, department, board, or commission shall notify the Secretary of all public hearings and meetings to be held and any cancellations

of such hearings or meetings. ~~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.~~

Sec. 21. 4 V.S.A. § 608(e) is amended to read:

(e) On or before the tenth Thursday after the convening of each biennial and adjourned session, the Committee shall report to the General Assembly its recommendation whether the candidates should continue in office, with any amplifying information which it may deem appropriate, in order that the General Assembly may discharge its obligation under ~~section 34 of Chapter II § 34~~ of the Constitution of the State of Vermont. ~~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.~~

Sec. 22. 10 V.S.A. § 6503(a) is amended to read:

(a) The Committee shall report to the General Assembly its recommendation to approve or not to approve the petition for the facility together with such additional information and comment it deems appropriate. ~~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.~~

Sec. 23. 16 V.S.A. § 164(17) is amended to read:

(17) Report annually on the condition of education statewide and on a school by school 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 to determine its strengths and weaknesses. The Secretary shall use the information in the report to determine whether students in each school are provided educational opportunities substantially equal to those provided in other schools pursuant to subsection 165(b) of this title. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

Sec. 24. 16 V.S.A. § 165(a)(2) is amended to read:

(2) The school, at least annually, reports student performance results to community members in a format selected by the school board. In the case of a regional career technical center, the community means the school districts in the service region. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required~~

~~reports) shall not apply to the report to be made under this subdivision.~~ The school report shall include:

* * *

Sec. 25. 16 V.S.A. § 2967(a) is amended to read:

(a) On or before December 15, the Secretary shall publish an estimate, by town school district, city school district, union school district, unified union school district, incorporated school district, and the member school districts of an interstate school district, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in the ensuing school year. ~~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.~~

Sec. 26. 16 V.S.A. § 3862 is amended to read:

§ 3862. REPORTS

~~Notwithstanding the provisions of 2 V.S.A. § 20(d),~~ The Vermont Education and Health Buildings Finance Agency shall prepare and annually submit to the Governor a complete report listing all projects applied for, planned, in progress, and completed, and a complete financial report duly audited and certified by a certified public accountant.

Sec. 27. 24 V.S.A. § 1354 is amended to read:

§ 1354. ACCOUNTS; ANNUAL REPORT

The Supervisor or Supervisors shall maintain an account showing in detail the revenue raised and the expenses necessarily incurred in the performance of the Supervisor's duties. The Supervisor or Supervisors shall prepare an annual fiscal report ~~by~~ on or before July 1 which shall conform to procedural and substantive requirements to be established by the Board of Governors and which, upon approval by the Board of Governors, shall be distributed to the residents of the gores. ~~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. 28. 24 V.S.A. § 4753b(b) is amended to read:

(b) The Commissioner shall report receipt of a grant under this section to the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions and the Joint Fiscal Committee. ~~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.~~

Sec. 29. 26 V.S.A. § 3105(d) is amended to read:

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation, the Office of Professional Regulation shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the appropriate House or Senate Committee 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.~~

Sec. 30. 29 V.S.A. § 152(a)(25) is amended to read:

(25) Transfer any unexpended project balances from previous capital construction acts for the purpose of emergency projects not authorized in a capital construction act in an amount not to exceed \$100,000.00; provided the Commissioner shall send timely written notice of such expenditures to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

Sec. 31. 32 V.S.A. § 166 is amended to read:

§ 166. PAYMENTS TO TOWNS; RETURNS BY COMMISSIONER OF
FINANCE AND MANAGEMENT

On or before January 10 of each year, the Commissioner of Finance and Management shall transmit to the auditors of each town a statement showing the amount of money paid by the State to the town and the purpose for which paid during the year ending December 31 preceding the date of such statement, the date of such payments and purpose for which made, unless the Commissioner of Finance and Management is requested to send such statement at some other date to conform to the fiscal year of such municipality. ~~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. 32. 32 V.S.A. § 311(b) is amended to read:

(b) At the request of the House or Senate Committee on Government Operations or on Appropriations, the State Treasurer, and the Commissioner of Finance and Management shall present to the requesting committees the recommendations submitted under 3 V.S.A. § 471(n) and 16 V.S.A. § 1942(r). ~~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.~~

Sec. 33. 32 V.S.A. § 704(i) is amended to read:

(i) ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the plan to be made under this section. [Repealed.]~~

Sec. 34. 32 V.S.A. § 3101(b)(11) is amended to read:

(11) From time to time prepare and publish statistics reasonably available with respect to the operation of this title, including amounts collected, classification of taxpayers, tax liabilities, and such other facts as the Commissioner or the General Assembly considers pertinent. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

Sec. 35. 2009 Acts and Resolves No. 43, Sec. 49 as amended by 2014 Acts and Resolves No. 142, Sec. 76 is further amended to read:

Sec. 49. CLOSING OF CORRECTIONAL FACILITIES; APPROVAL

The Secretary of Administration shall not plan to close or significantly reduce operations at any correctional facility unless approval to proceed with such closing or reduction plans is granted by both the ~~Joint Committee on Corrections Oversight~~ Joint Legislative Justice Oversight Committee and the Joint Fiscal Committee. Any plan submitted to the committees shall include an analysis of the regional impact, including how the increased transportation costs will be funded. ~~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. 36. 2014 Acts and Resolves No. 142, Sec. 112 as amended by 2015 Acts and Resolves No. 23, Sec. 65 is further amended to read:

Sec. 112. REPORT REPEAL DELAYED

The reports set forth in this section shall not be subject to expiration under the provisions of 2 V.S.A. § 20(d) (expiration of required reports) until July 1, 2018:

* * *

(4) 10 V.S.A. §§ 291 (Entrepreneurs' ~~seed capital fund~~ Seed Capital Fund report), 323 (Vermont Housing ~~And~~ and Conservation Trust Fund report), 329 (The Sustainable Jobs Fund Program report), 580(b) (25 by 25 ~~state goal~~ State Goal report), 685(g) (Vermont Community Development Board report), 1196 (Connecticut River Watershed Advisory Commission report), 1942 (Underground Storage Tank Assistance Program report), and 1961(a)(4) (Vermont Citizens Advisory Committee on Lake Champlain's Future report), ~~and 7563 (ANR report on federal laws relating to collection and recycling of electronic devices).~~

* * *

(6) 18 V.S.A. §§ 1756 (lead poisoning report), 7402 (Commissioner of Mental Health report), 9505(9) (Vermont Tobacco Evaluation and Review Board ~~conflict of interest policy report~~ recommendations), and 9507(a) (Vermont Tobacco Evaluation and Review Board report).

* * *

* * * Repeal * * *

Sec. 37. REPEAL

The following are repealed:

(1) 1997 Acts and Resolves No. 58, Sec. 13 (tobacco sales to minors compliance testing);

(2) 2012 Acts and Resolves No. 143, Sec. 40 (calculation of dollar equivalent); and

(3) 2014 Acts and Resolves No. 142, Sec. 113 (Legislative Council report repeal authority).

* * * Effective Date * * *

Sec. 38. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(For text see House Journal February 12, 2016)

ACTION CALENDAR

Third Reading

S. 189

An act relating to foster parents' rights and protections

S. 215

An act relating to the regulation of vision insurance plans

Amendment to be offered by Rep. Dame of Essex to S. 215

That the House proposal of amendment be amended in Sec. 1, 8 V.S.A. § 4088j, by striking out subdivision (e)(4)(A) in its entirety and inserting in lieu thereof a new subdivision (e)(4)(A) to read as follows:

(4)(A) A vision care plan shall not limit an optometrist's or ophthalmologist's choice of or relationship with optical laboratories or sources and suppliers of services or materials if the source, supplier, or laboratory selected by the optometrist or ophthalmologist offers the services or materials

at a lower cost than the source, supplier, or laboratory selected by the vision care plan.

Amendment to be offered by Rep. Dame of Essex to S. 215

That the House proposal of Amendment be amended in Sec. 1, 8 V.S.A. § 4088j, in subdivision (e)(4), by striking out subdivision (B) in its entirety and by deleting the subdivision (A) designation

S. 216

An act relating to prescription drug formularies

S. 230

An act relating to improving the siting of energy projects

Amendment to be offered by Rep. Masland of Thetford to S. 230

That the report of the Committee on Natural Resources be amended as follows:

First: In Sec. 13, 30 V.S.A. § 8010, in subsection (c) before the ellipsis, by inserting subdivision (1) to read as follows:

(1) The rules shall establish and maintain a net metering program that:

* * *

(H) allows a customer to retain ownership of the environmental attributes of energy generated by the customer's net metering system and of any associated tradeable renewable energy credits or to transfer those attributes and credits to the interconnecting retail provider, and:

(i) if the customer retains the attributes and the option to sell them to another person, reduces the value of the credit provided under this section for electricity generated by the customer's net metering system by an appropriate amount;

(ii) if the customer retains the attributes and elects to retire them:

(I) requires the customer to agree, as a condition of approval, not to sell them to any other person; and

(II) requires the customer to file an annual affidavit with the Board and the interconnection provider, on a form prescribed by the Board, certifying under oath that the customer has retired and has not sold the attributes; and

~~(ii)~~(iii) if the customer transfers the attributes to the interconnecting provider, requires the provider to retain them for application toward compliance with sections 8004 and 8005 of this title.

Second: After Sec. 14, by inserting a reader guide and a Sec. 14a to read:

* * * Net Metering Systems; Renewable Energy Standard * * *

Sec. 14a. 30 V.S.A. § 8005(a)(2)(C) is amended to read:

(C) Required amounts. The required amounts of distributed renewable generation shall be one percent of each retail electricity provider's annual retail electric sales during the year beginning January 1, 2017, increasing by an additional three-fifths of a percent each subsequent January 1 until reaching 10 percent on and after January 1, 2032. However, each year a provider's required amount under this subdivision shall be reduced by the prior year's amount of electric generation represented by affidavits filed under subdivision 8010(c)(1)(H) of this section for net metering systems in the provider's service territory that retain and retire environmental attributes.

Third: In Sec. 16 (effective dates), in subdivision (2), after the first sentence, by inserting the following:

Notwithstanding any contrary provision of 1 V.S.A. § 214, Sec. 13 shall apply to the Public Service Board process under 2014 Acts and Resolves No. 99, Sec. 5.

Amendment to be offered by Reps. Lefebvre of Newark, Beyor of Highgate, Browning of Arlington, Krebs of South Hero, McFaun of Barre Town, Troiano of Stannard, Willhoit of St. Johnsbury, and Young of Glover to S. 230

That the House proposal of Amendment be amended in Sec. 6, 24 V.S.A. § 4352, after subsection (i) (Commissioner; consultation), by inserting a subsection (j) to read:

(j) Capacity needs of planning area. Notwithstanding any contrary provision of this section, a determination of whether a municipal or regional plan meets the requirements of subsection (c) of this section shall include consideration of:

(1) the capacity and energy produced by electric generation facilities already sited in the area to which the plan applies;

(2) the amount of that capacity and energy produced by renewable electric generation; and

(3) the relationship of the capacity and energy described in subdivisions (1) and (2) of this subsection to the area's peak demand and average energy consumption.

Amendment to be offered by Rep. Pearson of Burlington to S. 230

That the House proposal of amendmente amended in Sec. 13, 30 V.S.A. § 8010, in subsection (c), in subdivision (3), by striking out subdivision (C) in its entirety and inserting in lieu thereof a new subdivision (C) to read:

(C) The rules shall seek to simplify the application and review process as appropriate; and, including simplifying the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system.

Favorable

H. 886

An act relating to approval of amendments to the charter of the Town of Brattleboro

Rep. Lewis of Berlin, for the Committee on **Government Operations**, recommends the bill ought to pass.

(**Committee Vote: 9-0-2**)

Action Postponed Until April 29, 2016

Senate Proposal of Amendment

H. 280

An act relating to amending the State Board of Education rules on school lighting requirements

Action Postponed Until May 2, 2016

Favorable with Amendment

H. 866

An act relating to prescription drug manufacturer cost transparency

NOTICE CALENDAR
Favorable with Amendment

S. 10

An act relating to the State DNA database

Rep. Burditt of West Rutland, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended as follows:

That the bill be amended in Sec. 1, 20 V.S.A. § 1932, in subdivision (12), by striking out subdivision (D) in its entirety and inserting in lieu thereof a new subdivision (D) to read as follows:

(D) a misdemeanor violation of chapter 28 of this title, relating to abuse, neglect, and exploitation of vulnerable adults;

(Committee vote: 6-4-1)

(For text see Senate Journal February 25, 2016)

S. 91

An act relating to procedures of the Judicial Nominating Board and qualifications of candidates for the positions of Justice, judge, magistrate, and Chair and member of the Public Service Board

Rep. LaLonde of South Burlington, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, 4 V.S.A. § 601(d), by striking out “ ~~shall~~ may” and inserting in lieu thereof “shall”

Second: In Sec. 2, 4 V.S.A. § 602, in subdivision (c)(1), by adding a second sentence to read as follows:

The Board may make exceptions to the five-year requirement for absences from practice for reasons including family, military, academic, or medical leave.

(Committee vote: 10-0-1)

(For text see Senate Journal March 16, 2016)

S. 154

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

Rep. Rachelson of Burlington, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds the following:

- (1) Stalking is a serious problem in Vermont and nationwide.
- (2) Stalking involves severe intrusions on the victim's personal privacy and autonomy.
- (3) Stalking causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others even in the absence of express threats of physical harm.
- (4) Stalking conduct often becomes increasingly violent over time.
- (5) There is a strong connection between stalking and domestic violence and sexual assault.

Sec. 2. 12 V.S.A. § 5131 is amended to read:

§ 5131. DEFINITIONS

As used in this chapter:

~~(1)(A) "Course of conduct" means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose~~ two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person's property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of "course of conduct."

(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.

~~(2) "Following" means maintaining over a period of time a visual or physical proximity to another person in such manner as would cause a reasonable person to have fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death. [Repealed.]~~

(3) ~~“Lying in wait” means hiding or being concealed for the purpose of attacking or harming another person.~~

(4) ~~“Nonphysical contact” includes telephone calls, mail, e-mail, social media commentary or comment, or other electronic communication, fax, and written notes.~~

(4) “Reasonable person” means a reasonable person in the victim’s circumstances.

(5) “Sexually assaulted the plaintiff” means that the defendant engaged in conduct that meets elements of lewd and lascivious conduct as defined in 13 V.S.A. § 2601, lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602, sexual assault as defined in 13 V.S.A. § 3252, aggravated sexual assault as defined in 13 V.S.A. § 3253, use of a child in a sexual performance as defined in 13 V.S.A. § 2822, or consenting to a sexual performance as defined in 13 V.S.A. § 2823 and that the plaintiff was the victim of the offense.

(6) ~~“Stalk” means to engage purposefully in a course of conduct which consists of following or lying in wait for a person, or threatening behavior directed at a specific person or a member of the person’s family, and:~~

~~(A) serves no legitimate purpose; and~~

~~(B) that the person engaging in the conduct knows or should know would cause a reasonable person to:~~

~~(A) fear for his or her safety or the safety of a family member; or~~

~~(B) would cause a reasonable person suffer substantial emotional distress as evidenced by:~~

~~(i) a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death; or~~

~~(ii) significant modifications in the person’s actions or routines, including moving from an established residence, changes to established daily routes to and from work that cause a serious disruption in the person’s life, changes to the person’s employment or work schedule, or the loss of a job or time from work.~~

(7) “Stay away” means to refrain from knowingly:

(A) initiating or maintaining a physical presence near the plaintiff;

(B) engaging in nonphysical contact with the plaintiff directly or indirectly; or

(C) engaging in nonphysical contact with the plaintiff through third parties who may or may not know of the order.

~~(8) "Threatening behavior" means acts which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including verbal threats,; written, telephonic, or other electronically communicated threats,; vandalism,; or physical contact without consent. [Repealed.]~~

Sec. 3. 12 V.S.A. § 5133 is amended to read:

§ 5133. REQUESTS FOR AN ORDER AGAINST STALKING OR SEXUAL ASSAULT

(a) A person, other than a family or household member as defined in 15 V.S.A. § 1101(2), may seek an order against stalking or sexual assault on behalf of ~~him~~ him- or herself or his or her children by filing a complaint under this chapter. A minor 16 years of age or older may file a complaint under this chapter seeking relief on his or her own behalf. The plaintiff shall submit an affidavit in support of the order.

(b) Except as provided in section 5134 of this title, the court shall grant the order only after notice to the defendant and a hearing. The plaintiff shall have the burden of proving by a preponderance of the evidence that the defendant stalked or sexually assaulted the plaintiff.

(c) In a hearing under this chapter, neither opinion evidence of nor evidence of the reputation of the plaintiff's sexual conduct shall be admitted. Evidence of prior sexual conduct of the plaintiff shall not be admitted; provided, however, where it bears on the credibility of the plaintiff or it is material to a fact at issue and its probative value outweighs its private character, the court may admit any of the following:

(1) ~~Evidence~~ evidence of the plaintiff's past sexual conduct with the defendant,;

(2) ~~Evidence~~ evidence of specific instances of the plaintiff's sexual conduct showing the source of origin of semen, pregnancy, or disease,; or

(3) ~~Evidence~~ evidence of specific instances of the plaintiff's past false allegations of violations of 13 V.S.A. chapter 59 or 72.

(d)~~(4)~~ If the court finds by a preponderance of evidence that the defendant has stalked or sexually assaulted the plaintiff, or has been convicted of stalking or sexually assaulting the plaintiff, the court shall order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other ~~such~~ order it deems necessary to protect the plaintiff or the plaintiff's children, or both.

~~(2) If the court finds by a preponderance of evidence that the defendant has sexually assaulted the plaintiff and there is a danger of the defendant further harming the plaintiff, the court shall order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other such order it deems necessary to protect the plaintiff or the plaintiff's children, or both. The court may consider the defendant's past conduct as relevant evidence of future harm.~~

(e) Relief shall be granted for a fixed period, at the expiration of which time the court may extend any order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff or the plaintiff's children, or both. It is not necessary for the court to find that the defendant stalked or sexually assaulted the plaintiff during the pendency of the order to extend the terms of the order. The court may modify its order at any subsequent time upon motion by either party and a showing of a substantial change in circumstance.

* * *

Sec. 4. 13 V.S.A. § 1021 is amended to read:

§ 1021. DEFINITIONS

(a) For the purpose of As used in this chapter:

* * *

~~(4) "Course~~ (b) As used in this subchapter, "course of conduct" means a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

Sec. 5. 13 V.S.A. chapter 19, subchapter 7 is amended to read:

Subchapter 7. Stalking

§ 1061. DEFINITIONS

As used in this subchapter:

(1)(A) ~~"Stalk" means to engage in a course of conduct which consists of following, lying in wait for, or harassing, and:~~

~~(A) serves no legitimate purpose; and~~

~~(B) would cause a reasonable person to fear for his or her physical safety or would cause a reasonable person substantial emotional distress.~~

~~(2) "Following" means maintaining over a period of time a visual or physical proximity to another person in such manner as would cause a~~

reasonable person to have a fear of unlawful sexual conduct, unlawful restraint, bodily injury, or death.

~~(3) “Harassing” means actions directed at a specific person, or a member of the person’s family, which would cause a reasonable person to fear unlawful sexual conduct, unlawful restraint, bodily injury, or death, including verbal threats, written, telephonic, or other electronically communicated threats, vandalism, or physical contact without consent~~ “Course of conduct” means two or more acts over a period of time, however short, in which a person follows, monitors, surveils, threatens, or makes threats about another person, or interferes with another person’s property. This definition shall apply to acts conducted by the person directly or indirectly, and by any action, method, device, or means. Constitutionally protected activity is not included within the meaning of “course of conduct.”

(B) As used in subdivision (A) of this subdivision (1), threaten shall not be construed to require an express or overt threat.

~~(4) “Lying in wait” means hiding or being concealed for the purpose of attacking or harming another person.~~

(2) “Emotional distress” means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(3) “Reasonable person” means a reasonable person in the victim’s circumstances.

(4) “Stalk” means to engage purposefully in a course of conduct directed at a specific person that the person engaging in the conduct knows or should know would cause a reasonable person to fear for his or her safety or the safety of another or would cause a reasonable person substantial emotional distress.

§ 1062. STALKING

Any person who intentionally stalks another person shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

§ 1063. AGGRAVATED STALKING

(a) A person commits the crime of aggravated stalking if the person intentionally stalks another person, and:

(1) such conduct violates a court order that prohibits stalking and is in effect at the time of the offense; ~~or~~

(2) has been previously convicted of stalking or aggravated stalking; ~~or~~

(3) has been previously convicted of an offense an element of which involves an act of violence against the same person; ~~or~~

(4) the person being stalked is under ~~the age of~~ 16 years of age; or

(5) had a deadly weapon, as defined in section 1021 of this title, in his or her possession while engaged in the act of stalking.

(b) A person who commits the crime of aggravated stalking shall be imprisoned not more than five years or be fined not more than \$25,000.00, or both.

(c) Conduct constituting the offense of aggravated stalking shall be considered a violent act for the purposes of determining bail.

§ 1064. DEFENSES

In a prosecution under this subchapter, it shall not be a defense that the defendant was not provided actual notice that the course of conduct was unwanted.

Sec. 6. 13 V.S.A. § 1028 is amended to read:

§ 1028. ASSAULT OF ~~LAW ENFORCEMENT OFFICER, FIREFIGHTER, EMERGENCY MEDICAL PERSONNEL MEMBER, OR HEALTH CARE WORKER~~ PROTECTED PROFESSIONAL; ASSAULT WITH BODILY FLUIDS

(a) A person convicted of a simple or aggravated assault against a ~~law enforcement officer, a firefighter, a health care worker, or a member of emergency medical personnel as defined in 24 V.S.A. § 2651(6)~~ protected professional as defined in subdivision (d)(1) of this section while the ~~officer, firefighter, health care worker, or emergency medical personnel member~~ protected professional is performing a lawful duty, or with the intent to prevent the protected professional from performing his or her lawful duty, in addition to any other penalties imposed under sections 1023 and 1024 of this title, shall:

(1) for the first offense, be imprisoned not more than one year;

(2) for the second offense and subsequent offenses, be imprisoned not more than 10 years.

(b)(1) No person shall intentionally cause blood, vomitus, excrement, mucus, saliva, semen, or urine to come in contact with a ~~person designated in subsection (a) of this section~~ protected professional while the person is performing a lawful duty.

(2) A person who violates this subsection shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

* * *

(d) ~~For purposes of~~ As used in this section:

(1) “Protected professional” shall mean a law enforcement officer, a firefighter, a health care worker, an employee of the Family Services Division of the Department for Children and Families, or any emergency medical personnel as defined in 24 V.S.A. § 2651(6).

(2) “Health care facility” shall have the same meaning as defined in 18 V.S.A. § 9432(8); ~~and.~~

(3) “Health care worker” means an employee of a health care facility or a licensed physician who is on the medical staff of a health care facility who provides direct care to patients or who is part of a team-response to a patient or visitor incident involving real or potential violence.

(e) This section shall not apply to an individual under 18 years of age residing in a residential rehabilitation facility.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

and that after passage the title of the bill be amended to read: “An act relating to stalking and enhanced penalties for assault”

(Committee vote: 7-3-1)

(For text see Senate Journal February 19, March 9, 2016)

S. 169

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

Rep. Connor of Fairfield, for the Committee on **Agriculture & Forest Products**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Farm-to-School * * *

Sec. 1. 6 V.S.A. chapter 211 is amended to read:

CHAPTER 211. THE ROZO MCLAUGHLIN
FARM-TO-SCHOOL PROGRAM

§ 4719. PURPOSE AND STATE GOAL

(a) Purpose. It is the purpose of this chapter to establish a farm-to-school program to:

(1) encourage Vermont residents in developing healthy and lifelong habits of eating nutritious local foods;

(2) maximize use by Vermont schools of fresh and locally grown, produced, or processed food;

(3) work with partners to establish a food, farm, and nutrition education program that educates Vermont students regarding healthy eating habits through the use of educational materials, classes, and hands-on techniques that inform students of the connections between farming and the foods that students consume;

(4) increase the size and stability of direct sales markets available to farmers; and

(5) increase participation of Vermont students in school meal programs by increasing the selection of available foods.

(b) State Farm to School Network goal. It is the goal of the Farm-to-School Program to establish a food system that by 2025:

(1) engages 75 percent of Vermont schools in an integrated food system education program that incorporates community-based learning; and

(2) purchases 50 percent of food from local or regional food sources.

§ 4720. DEFINITIONS

As used in this chapter, “Farm-to-School Program” means an integrated food, farm, and nutrition education program that utilizes community-based learning opportunities to connect schools with nearby farms to provide students with locally produced fresh fruits and vegetables, dairy and protein products, and other nutritious, locally produced foods in child nutrition programs; help children develop healthy eating habits; provide nutritional and agricultural education in the classroom, cafeteria, and school community; and improve farmers’ incomes and direct access to markets.

§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont’s agricultural economy.

(b) A school, a school district, a consortium of schools, ~~or~~ a consortium of school districts, or licensed childcare providers may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in the School ~~Food Service~~ Nutrition Program;

(2) fund items, including local ~~farm~~ food products, gardening supplies, field trips to farms, gleaning on farms, and stipends to visiting farmers, that will help teachers to use hands-on educational techniques to teach children about nutrition and farm-to-school connections; and

(3) ~~provide fund~~ professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, school nutrition personnel, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools in developing a farm-to-school program.

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, ~~food service workers~~ school nutrition staff, and educators, and farm-to-school technical service providers jointly shall ~~jointly~~ adopt ~~rules~~ procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools ~~and~~ school districts and licensed child care providers that are developing farm-to-school connections and education that indicate a willingness to make changes to their school or childcare nutrition programs that increase student access and participation and that are making progress toward the implementation of the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, ~~dated November 2005~~ updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than \$15,000.00.

§ 4722. FARM ASSISTANCE; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Secretary of Agriculture, Food and Markets shall work with existing programs and organizations to develop and implement educational

opportunities for farmers to help them to increase their markets through selling their products to schools, licensed child care providers, and State government agencies ~~and participating in the federal food commodities program, including the federal Department of Defense Fresh Program, and selling to regulated child care programs participating in the Adult and Child Food Program that~~ operate or participate in child nutrition programs.

(b) ~~For the purposes of this section and section 4723 of this title, the Secretary may provide funds to one or more technical assistance providers to provide farm to school education and teacher training to more school districts and to assist the Secretaries of Agriculture, Food and Markets and of Education to carry out farmer and food service worker training.~~ The Secretary of Agriculture, Food and Markets shall work with distributors that sell products to schools, licensed child care providers, and State government agencies to increase the availability of local products.

§ 4723. PROFESSIONAL DEVELOPMENT FOR FOOD SERVICE PERSONNEL

(a) The Secretary of Education, in consultation with the Secretary of Agriculture, Food and Markets, the Commissioner of Health, and farm-to-school organizations and partners, shall offer ~~expanded regional training sessions~~ professional development opportunities for public school food service and child care personnel and child care resource development specialists ~~as funds are made available~~. Training shall include information about strategies for ~~purchasing~~ procuring, processing, and serving locally grown foods, especially with regard to federal procurement program requirements, as well as information about nutrition, obesity prevention, coping with severe food allergies, universal recycling, and food service operations. The Secretary of Education may use a portion of the funds appropriated for this training session to pay a portion of or all expenses for attendees and to develop manuals or other materials to help in the training.

(b) The Secretary of Education shall ~~train people as funds are made available to,~~ with existing programs and organizations, provide training related to procurement of local food and technical assistance to school food service and child care personnel and use a portion of the funds appropriated for this purpose to enable the trained people to provide technical assistance at the school and school district levels.

(c) Training provided under this section shall promote the policies established in the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agencies of Agriculture, Food and Markets and of Education and the Department of Health, ~~dated November 2005~~ updated in June 2015, or the guidelines' successor.

§ 4724. ~~LOCAL FOODS COORDINATOR~~ FOOD SYSTEMS ADMINISTRATOR

(a) The position of ~~local food coordinator~~ Food Systems Administrator is established in the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets for the purpose of assisting Vermont producers ~~to increase~~ in increasing their access to commercial markets and institutions, including schools, ~~state~~ licensed child care providers, State and municipal governments, and hospitals.

(b) The duties of the ~~local foods coordinator~~ Food Systems Administrator shall include:

(1) working with institutions, schools, licensed child care providers, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets, and coordinating with interested parties to access funding or create matchmaking opportunities across the supply chain that increase participation in those programs;

(3) encouraging and facilitating ~~the enrollment of state employees~~ State employee access and awareness of opportunities for purchasing local food, including: enrollment in a local community supported agriculture (CSA) organization, purchasing from local farm stands, and participation in a farmers' market;

(4) developing a database of producers and potential purchasers and enhancing the ~~agency's website~~ Agency and partners' ability to improve and support local foods coordination through the use of information technology; and

(5) providing technical support to local communities with their food security efforts.

(c) The ~~local foods coordinator~~ Food Systems Administrator, working with the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services pursuant to rules adopted under 29 V.S.A. § 152(14), shall:

(1) encourage and facilitate ~~CSA enrollment~~ awareness of and opportunities to procure healthy local foods by ~~state~~ State employees through the use of approved advertisements and solicitations on ~~state-owned~~ State-owned property; and

(2) implement guidelines for the appropriate use of ~~state~~ State property for employee participation in CSA organizations, including reasonable restrictions on the time, place, and manner of solicitations, advertisements, deliveries, and related activities to ensure the safety and welfare of ~~state~~ State property and its occupants.

(d) The ~~local foods coordinator~~ Food Systems Administrator shall administer a local foods grant program, the purpose of which shall be to provide grants to allow Vermont producers to increase their access to commercial and institutional markets.

Sec. 2. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

(a) When the cost exceeds \$15,000.00. A school board or supervisory union board shall publicly advertise or invite three or more bids from persons deemed capable of providing items or services if costs are in excess of \$15,000.00 for any of the following:

- (1) the construction, purchase, lease, or improvement of any school building;
- (2) the purchase or lease of any item or items required for supply, equipment, maintenance, repair, or transportation of students; or
- (3) a contract for transportation, maintenance, or repair services.

* * *

(e) Application of this section. Any contract entered into or purchase made in violation of the provisions of this section shall be void; provided, however, that:

* * *

(4) nothing in this section shall be construed to prohibit a school board from awarding a school nutrition contract after using any method of bidding or requests for proposals permitted under federal law for award of the contract. Notwithstanding the monetary amount in subsection (a) of this section for which a school board is required to advertise publicly or invite three or more bids or requests for proposal, a school board is required to publicly advertise or invite three or more bids or requests for proposal for purchases made from the nonprofit school food service account for purchases in excess of \$25,000.00, unless a municipality sets a lower threshold for purchases from the nonprofit school food service account;

* * *

* * * Shelter of Dogs and Cats * * *

Sec. 3. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

(1) “Animal” means all living sentient creatures, not human beings.

* * *

(11) “Livestock” means cattle, bison, horses, sheep, goats, swine, cervidae, ratites, and camelids.

* * *

(13) “Livestock and poultry husbandry practices” means the raising, management, and using of animals to provide humans with food, fiber, or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

* * *

(15) “Living space” means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing and that provides protection from the elements. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) “Adequate food” means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted ~~agricultural or veterinarian~~ veterinary practices or livestock and poultry husbandry practices.

(17) “Adequate water” means ~~fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water~~ potable water that is either accessible to the animal at all times or is provided at suitable intervals for the species and in sufficient quantity for the health of the animal. In no event shall

the interval when water is provided exceed 24 hours. Snow or ice is not an adequate water source unless provided in accordance with livestock and poultry husbandry practices.

(18) “Adequate shelter” means shelter ~~which~~ that protects the animal from injury and environmental hazards.

(19) “Enclosure” means any structure, fence, device, or other barrier used to restrict an animal or animals to a limited amount of space.

(20) “Livestock guardian dog” means a purpose-bred dog that is:

(A) specifically trained to live with livestock without causing them harm while repelling predators;

(B) being used to live with and guard livestock; and

(C) acclimated to local weather conditions.

Sec. 4. 13 V.S.A. § 365 is amended to read:

§ 365. SHELTER OF ANIMALS

(a) Adequate shelter. All livestock and animals ~~which~~ that are to be predominantly maintained ~~out of doors must~~ in an outdoor area shall be provided with adequate shelter to prevent direct exposure to the elements.

(b) Shelter for livestock.

(1) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained ~~out of doors~~ in an outdoor area shall be provided. The building opening size and height ~~must~~ shall, at a minimum, extend one foot above the withers of the largest animal housed and ~~must~~ shall be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall, or stanchion ties, or other housing under control of the ~~department of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, livestock may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with livestock and poultry husbandry practices, and are provided sufficient food, water, shelter, and proper ventilation.

(c) Minimum size of living space; dogs and cats.

(1) A dog, whether chained or penned, shall be provided an adequate living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs that is large enough to allow the dog, in a normal manner, to turn about freely, stand, sit, and lie down. A dog shall be presumed to have adequate living space if provided with the floor space in square footage calculated according to the following formula: Floor space in square feet = (length of dog in inches + 6) × (length of dog in inches + 6) ÷ 144. The length of the dog in inches shall be measured from the tip of the nose of the dog to the base of its tail.

(2) The specifications required by subdivision (c)(1) of this section shall apply to be required for each dog, regardless of whether the dog is housed individually or with other animals.

(3)(A) A cat over the age of two months shall be provided adequate living space that is large enough to allow the cat, in a normal manner, to turn about freely, stand, sit, and lie down. A cat shall be presumed to have adequate living space if provided with:

(i) floor space, including raised resting platforms, of at least nine square feet; and

(ii) a primary structure of at least 24 inches in height.

(B) The requirements of this subdivision (c)(3) shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(4)(A) Each female dog with nursing puppies shall be provided the living space required under subdivision (1) of this subsection (c) plus sufficient additional floor space to allow for a whelping box and the litter, based on the size or the age of the puppies. When the puppies discontinue nursing, the living space requirements of subdivisions (1) and (2) of this subsection shall apply for all dogs housed in the same living space.

(B) Each female cat with nursing kittens shall be provided the living space required under subdivision (3) of this subsection (c) plus sufficient additional floor space to allow for a queening box and the litter, based on the size or the age of the kittens. When the kittens discontinue nursing, the living space requirements of subdivision (3) of this subsection shall apply for all cats housed in the same living space.

(5) Dogs or cats that are housed in the same primary living space or enclosure shall be compatible, as determined by observation, provided that:

(A) Females in heat (estrus) shall not be housed in the same primary living space or enclosure with males, except for breeding purposes.

(B) A dog or cat exhibiting a vicious or overly aggressive disposition shall be housed separately from other dogs or cats.

(6) All dogs or cats shall have access to adequate water and adequate food.

(d) Daily exercise; dogs or cats. A dog or cat confined in a living space shall be permitted outside the ~~eage, crate, or structure~~ living space for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) Shelter for dogs maintained outdoors in enclosures.

(1) A Except as provided in subdivision (2) of this subsection, a dog or dogs maintained out of doors must outdoors in an enclosure shall be provided with suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain and other environmental hazards throughout the year a primary one or more shelter structure structures. A shelter structure shall:

(A) Provide each dog housed in the structure sufficient space to, in a normal manner, turn about freely, stand, sit, and lie down.

(B) Be structurally sound and constructed of suitable, durable material.

(C) Have four sides, a roof, and a ground or floor surface that enables the dog to stay clean and dry.

(D) Have an entrance or portal large enough to allow each dog housed in the shelter unimpeded access to the structure, and the entrance or portal shall be constructed with a windbreak or rainbreak.

(E) Provide adequate protection from cold and heat, including protection from the direct rays of the sun and the direct effect of wind, rain, or snow. Shivering due to cold is evidence of inadequate shelter for any dog.

(F) Contain clean, dry bedding material if the ambient temperature is below 50 degrees Fahrenheit.

(2) A shelter structure is not required for a healthy livestock guardian dog that is maintained outdoors in an enclosure.

(3) If multiple dogs are maintained outdoors in an enclosure at one time:

(A) Each dog will be provided with an individual structure, or the structure or structures provided shall be cumulatively large enough to contain all of the dogs at one time.

(B) A shelter structure shall be accessible to each dog in the enclosure.

(4) The following categories of dogs shall not be maintained outdoors in an enclosure when the ambient temperature is below 50 degrees Fahrenheit:

(A) dogs that are not acclimated to the temperatures prevalent in the area or region where they are maintained;

(B) dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort; and

(C) sick or infirm dogs or dogs that cannot regulate their own body temperature.

(5) Metal barrels, cars, refrigerators, freezers, and similar objects shall not be used as a shelter structure for a dog maintained in an outdoor enclosure.

(6) In addition to the shelter structure, one or more separate outdoor areas of shade shall be provided, large enough to contain all the animals and protect them from the direct rays of the sun.

(f) Tethering of dog.

(1) ~~A~~ Except as provided under subdivision (2) of this subsection, a dog ~~chained to a shelter must~~ maintained outdoors on a tether shall be on a tether chain or trolley and cable system that is, in its entirety, at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(2) A dog regularly used in training or participation in competitive or recreational sled dog activities and housed outdoors in close proximity with other dogs may, if necessary for the safety of the dog, be maintained on a tether at least two times the length of the dog, as measured from the tip of its nose to the base of its tail.

(3) A tether used for any dog shall be attached to both the dog and the anchor using swivels or similar devices that prevent the tether from becoming entangled or twisted. The tether shall be attached to a well-fitted collar or harness on the dog. The tether shall be of a size and weight that will not cause discomfort to a tethered dog. A choke collar shall not be used as part of a tethering method. The tether system shall function properly regardless of snow depth.

~~(g) A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals. [Repealed.]~~

~~(h) Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter, and proper ventilation. [Repealed.]~~

(i) Violations. Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

~~(j) Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out of doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices. [Repealed.]~~

* * * State Vegetable * * *

Sec. 5. 1 V.S.A. § 519 is added to read:

§ 519. STATE VEGETABLE

The State Vegetable shall be the Gilfeather turnip.

* * * Effective Date * * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

and that after passage the title of the bill be amended to read: “An act relating to miscellaneous agricultural subjects”

(Committee vote: 10-0-1)

(For text see Senate Journal March 18, 2016)

S. 183

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

Rep. Conquest of Newbury, for the Committee on **Judiciary**, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. § 2660 is added to read:

§ 2660. STATEMENT OF LEGISLATIVE INTENT

(a) The creation of a permanent guardianship for minors provides the opportunity for a child, whose circumstances make returning to the care of the parents not reasonably possible, to be placed in a stable and nurturing home for the duration of the child's minority. The creation of a permanent guardianship offers the additional benefit of permitting continued contact between a child and the child's parents.

(b) The Family Division of the Superior Court is not required to address and rule out each of the other potential disposition options once it has concluded that termination of parental rights is in a child's best interests.

Sec. 2. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

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

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

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

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

~~(A) a relative; or~~

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. 14 V.S.A. § 2665 is amended to read:

§ 2665. REPORTS

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

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

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

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

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

Sec. 4. 14 V.S.A. § 2666(b) is amended to read:

(b) Where the permanent guardianship is terminated by the ~~probate division of the superior court~~ Probate Division of the Superior Court order or the death of the permanent guardian, the custody and guardianship of the child shall not revert to the parent, but to the ~~commissioner for children and families~~ Commissioner for Children and Families as if the child had been abandoned. If a successor permanent guardian has been named in the initial permanent guardianship order, custody shall transfer to the successor guardian, without reverting first to the Commissioner. The Probate Division of the Superior Court shall notify the Department when custody transfers to the Commissioner or the successor guardian.

Sec. 5. 33 V.S.A. § 5124 is amended to read:

§ 5124. POSTADOPTION CONTACT AGREEMENTS

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

(1) the child is in the custody of:

(A) the Department for Children and Families; or

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

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

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

* * *

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

* * *

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

* * *

Sec. 6. 33 V.S.A. § 5318 is amended to read:

§ 5318. DISPOSITION ORDER

(a) Custody. At disposition, the Court shall make such orders related to legal custody for a child who has been found to be in need of care and supervision as the Court determines are in the best interest of the child, including:

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

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

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

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

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

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

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

* * *

(f) Conditions. Conditions shall include protective supervision with the Department if such a condition is not in place under the terms of an existing temporary care or conditional custody order. Protective supervision shall remain in effect for the duration of the order to allow the Department to take reasonable steps to monitor compliance with the terms of the conditional custody order.

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

§ 5320. POSTDISPOSITION REVIEW HEARING

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

Sec. 8. 33 V.S.A. § 5232 is amended to read:

§ 5232. DISPOSITION ORDER

* * *

(b) In carrying out the purposes outlined in subsection (a) of this section, the Court may:

(1) Place the child on probation subject to the supervision of the Commissioner, upon such conditions as the Court may prescribe. The length

of probation shall be as prescribed by the Court or until further order of the Court.

(2) Order custody of the child be given to the custodial parent, guardian, or custodian. For a fixed period of time following disposition, the Court may order that custody be subject to such conditions and limitations as the Court may deem necessary and sufficient to provide for the safety of the child and the community. Conditions may include protective supervision for up to ~~one year~~ six months following the disposition order unless further extended by court order. The Court shall ~~schedule regular~~ hold review hearings pursuant to section 5320 of this title to determine whether the conditions continue to be necessary.

(3) Transfer custody of the child to a noncustodial parent, relative, or person with a significant connection to the child. The Court may order that custody be subject to such conditions and limitations as the Court may deem necessary and sufficient to provide for the safety of the child and community, including protective supervision, for up to six months unless further extended by court order. The Court shall hold review hearings pursuant to section 5320 of this title to determine whether the conditions continue to be necessary.

(4) Transfer custody of the child to the Commissioner.

(5) Terminate parental rights and transfer custody and guardianship to the Department without limitation as to adoption.

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

(7) 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 subdivision shall not require the Court to place the child on probation. 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 shall return to the Court for disposition.

* * *

Sec. 9. 33 V.S.A. § 5258 is amended to read:

§ 5258. POSTDISPOSITION REVIEW AND PERMANENCY REVIEW

FOR DELINQUENTS IN CUSTODY

Whenever custody of a delinquent child is transferred to the Commissioner or the Court orders conditional custody of a child, the custody order of the

Court shall be subject to a postdisposition review hearing pursuant to section 5320 of this title and permanency reviews pursuant to section 5321 of this title. At the permanency review, the Court shall review the permanency plan and determine whether the plan advances the permanency goal recommended by the Department. The Court may accept or reject the plan, but may not designate a particular placement for a child in the Department's legal custody. Any conditional custody order shall be subject to review pursuant to section 5258a of this title.

Sec. 10. 33 V.S.A. § 5258a is added to read:

§ 5258a. DURATION OF CONDITIONAL CUSTODY ORDERS

POSTDISPOSITION

(a) Conditional custody orders to parents. Whenever the court issues a conditional custody order transferring custody to a parent either at or following disposition, the presumptive duration of the order shall be no more than six months from the date of the disposition order or the conditional custody order, whichever occurs later, unless otherwise extended by the court after hearing. At least 14 days prior to the termination of the order, any party may file a request to extend the order pursuant to subsection 5113(b) of this title. Upon such motion, the Court may extend the order for an additional period of time not to exceed six months. Prior to vacating the conditional custody order, the court may schedule a hearing on its own motion to review the case prior to discharging the conditions. If a motion to extend is not filed, the court shall issue an order vacating the conditions and transferring full custody to the parent without conditions.

(b) Custody orders to nonparents.

(1) When the court at disposition issues an order continuing or transferring legal custody with a nonparent pursuant to subdivision 5232(b)(3) of this title, the court shall set the matter for a hearing six months from the date of disposition or custody order whichever occurs later. At the hearing, the court shall determine whether it is in the best interests of the child to:

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

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

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

(2) If, after hearing, the court determines that reasonable progress has been made toward reunification and that reunification is in the best interests of the child but will require additional time, the court may extend the current

order for a period not to exceed six months and set the matter for further hearing.

Sec. 11. 33 V.S.A. § 5320a is added to read:

§ 5320a. DURATION OF CONDITIONAL CUSTODY ORDERS

POSTDISPOSITION

(a) Conditional custody orders to parents. Whenever the Court issues a conditional custody order transferring custody to a parent either at or following disposition, the presumptive duration of the order shall be no more than six months from the date of the disposition order or the conditional custody order, whichever occurs later, unless otherwise extended by the court after hearing. At least 14 days prior to the termination of the order, any party may file a request to extend the order pursuant to subsection 5113(b) of this title. Upon such motion, the Court may extend the order for an additional period of time not to exceed six months. Prior to vacating the conditional custody order, the Court may schedule a hearing on its own motion to review the case prior to discharging the conditions. If a motion to extend is not filed, the court shall issue an order vacating the conditions and transferring full custody to the parent without conditions.

(b)(1) Custody orders to nonparents. When the court at disposition issues an order continuing or transferring legal custody with a nonparent pursuant to subdivision 5318(a)(2) or (a)(7) of this title, the court shall set the matter for a hearing six months from the date of disposition or custody order, whichever occurs later. At the hearing, the court shall determine whether it is in the best interests of the child to:

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

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

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

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

Sec. 12. 33 V.S.A. § 5125 is added to read:

§ 5125. REINSTATEMENT OF PARENTAL RIGHTS

(a) Petition for reinstatement.

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

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

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

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

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

(c) Hearing.

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

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

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

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

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

(E) the child is not likely to be adopted; and

(F) reinstatement of parental rights is in the best interests of the child.

(2) Upon a finding by clear and convincing evidence that all conditions set forth in subdivision (1) of this subsection exist and that reinstatement of parental rights is in the child's best interest, the court shall issue a conditional

custody order for up to six months transferring temporary legal custody of the child to the parent, subject to conditions as the court may deem necessary and sufficient to ensure the child's safety and well-being. The court may order the Department to provide transition services to the family as appropriate. If during this time period the child is removed from the parent's temporary conditional custody due to allegations of abuse or neglect, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(d) Final order. After the child is placed with the parent for up to six months pursuant to subsection (c) of this section, the court shall hold a hearing to determine if the placement has been successful. The court shall enter a final order of reinstatement of parental rights upon a finding by a preponderance of the evidence that placement continues to be in the child's best interest.

(e) Effect of reinstatement. Reinstatement of parental rights does not vacate or otherwise affect the validity of the original order terminating parental rights. Reinstatement restores a parent's legal rights to his or her child, including all rights, powers, privileges, immunities, duties, and obligations that were terminated by the court in the termination of parental rights order. Such reinstatement shall be a recognition that the parent's and child's situations have changed since the time of the termination of parental rights, and reunification is appropriate. An order reinstating the legal parent and child relationship as to one parent of the child has no effect on the legal rights of any other parent whose rights to the child have been terminated by the court; or the legal sibling relationship between the child and any other children of the parent. A parent whose rights are reinstated pursuant to this section is not liable for child support owed to the Department during the period from termination of parental rights to reinstatement.

Sec. 13. JUDICIARY COMMISSION ON CHILD ABUSE AND NEGLECT

(a) The General Assembly recognizes that the increasing burden of substance abuse in Vermont has deteriorated families, resulting in a tremendous increase in children in need of supervision (CHINS) and termination of parental rights (TPR) filings in courts throughout the State. The General Assembly also recognizes that the allocation of resources in judicial proceedings devoted to CHINS and TPR cases, including attorney time, Department for Children and Families staff time, judge time, court staff time, and operating expenses are controlled to a great degree by statute and do not always allow flexibility to meet Vermont's constitutional responsibilities to children and families in an efficient and effective manner. The General Assembly also recognizes that technology and other resources provide opportunities to increase efficiency in processing cases, while improving

timely access to judicial proceedings for families and children in need. The General Assembly also recognizes that an effort to evaluate reform measures with input from all interested parties involved in the processing of these cases will improve access to justice.

(b) In order to develop specific proposals for consideration by the General Assembly, the General Assembly requests the Supreme Court, subject to the availability of funding to provide dedicated staff and research support, to appoint and convene a Commission on Judicial Operations in CHINS and TPR cases to consist of members representing Judicial, Legislative, and Executive Branches of government and persons representing the citizens of Vermont in a number to be determined by the Court. The Chief Justice shall appoint the Chair of the Commission, who shall be independent of the Vermont Judicial System. The Commission shall expire on June 30, 2017. The Commission shall from time to time make recommendations by report to the Senate and House Committees on Judiciary and on Appropriations, the House Committee on Human Services, and the Senate Committee on Health and Welfare. On or before January 15, 2017, the Commission shall submit an interim report to those committees with specific proposals regarding subdivisions (1)–(6) of this subsection with accompanying draft legislation to implement those proposals and a final report on or before May 1, 2017, which shall address all the following areas:

(1) achieving adequate dedicated court staff, attorney, Department, guardian ad litem, and judge resources;

(2) business reprocessing of child protection and parental rights procedures, laws and rules to minimize extra operational steps involved in processing CHINS and TPR cases;

(3) the use of technology such as video to increase litigant access and reduce unnecessary expense to litigants, including transportation, lost work time, lost school time, and any other measure suitable in the judgment of the Commission, while improving access and maintaining quality adjudication;

(4) alternative hearing space recommendations, including Saturday and weekday evening hearings and mobile courtrooms;

(5) flexibility in the use of resources to respond to the elastic, changeable demands for judicial and legal services in CHINS cases; and

(6) any other ideas for the efficient and effective delivery of judicial services in CHINS cases.

Sec. 14. EFFECTIVE DATES

This act shall take effect on September 1, 2016, except for this section and Sec. 5 (postadoption contact agreements), which shall take effect on July 1, 2016.

(Committee vote: 7-3-1)

(For text see Senate Journal March 11, 15, 16)

Favorable

H.R. 18

House resolution to amend the Rules and Orders of the House of Representatives related to individual members' paid and volunteer staff

Rep. Donahue of Northfield, for the Committee on **Rules**, recommends the bill ought to pass.

(Committee Vote: 6-0-1)

Senate Proposal of Amendment

H. 74

An act relating to safety protocols for social and mental health workers

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

Sec. 1. 33 V.S.A. chapter 82 is added to read:

CHAPTER 82. SAFETY PROVISIONS FOR WORKERS

§ 8201. SAFETY POLICIES FOR EMPLOYEES DELIVERING DIRECT SOCIAL SERVICES

(a)(1) The Secretary of Human Services, in consultation with each department of the Agency, shall establish and maintain a written workplace violence prevention and crisis response policy that meets or exceeds the requirements of this chapter in place for the benefit of employees delivering direct social services.

(2) The Secretary shall ensure that its contracts with providers whose employees deliver direct social services and that are administered or designated but not otherwise licensed by a department of the Agency include the requirement that providers establish and maintain a written workplace violence prevention and crisis response policy that meets or exceeds the requirements of this chapter in place for the benefit of employees delivering direct social services.

(b) A written workplace violence prevention and crisis response policy prepared with input from employees delivering direct social services shall minimally include the following:

(1) measures the program intends to take to respond to an incident of or credible threat of workplace violence against employees delivering direct social services;

(2) a system for centrally recording all incidents of or credible threats of workplace violence against employees delivering direct social services;

(3) a training program to educate employees delivering direct social services about workplace violence and ways to reduce the risks; and

(4) the development and maintenance of a violence prevention and response committee that includes employees delivering direct social services to monitor ongoing compliance with the violence prevention and crisis response policy and to assist employees delivering direct social services.

(c) In preparing the written violence prevention and crisis response policy required by this section, the Secretary and providers identified in subdivision (a)(2) of this section shall consult the U.S. Occupational Safety and Health Administration's Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers as amended.

(d) A written workplace violence prevention and crisis response policy shall be evaluated annually and updated as necessary by the violence and prevention response committee and provided to employees delivering direct social services.

(e) The requirements of this section shall neither be construed as a waiver of sovereign immunity by the State, nor as creating any private right of action against the State for damages resulting from failure to comply with this section.

Sec. 2. 18 V.S.A. § 7114 is added to read:

§ 7114. SAFETY POLICIES FOR EMPLOYEES DELIVERING DIRECT SOCIAL SERVICES

(a) The Secretary of Human Services, in consultation with each department of the Agency, shall establish and maintain a workplace violence prevention and crisis response policy for the benefit of employees delivering direct social services pursuant to 33 V.S.A. § 8201.

(b) The Secretary shall ensure that its contracts with providers described in 33 V.S.A. § 8201(a)(2) require the providers to establish and maintain a written workplace violence prevention and crisis response policy for the

benefit of employees delivering direct social services pursuant to 33 V.S.A. § 8201.

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2017.

And that after passage the title of the bill be amended to read: “An act relating to safety policies for employees delivering direct social services”

(For text see House Journal March 17, 2016)

H. 183

An act relating to security in the Capitol Complex

The Senate proposes to the House to amend the bill as follows:

In Sec. 1, 2 V.S.A. chapter 30, § 991, in subsection (b), subdivision (2), by striking out subsection (b), subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) In the first year, the Chair of the House Committee on Corrections and Institutions shall serve as Chair of the Committee and the Chair of the Senate Committee on Institutions shall serve as Vice Chair. Annually thereafter, the offices of Chair and Vice Chair shall rotate between the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

(For text see House Journal March 17, 2016)

H. 367

An act relating to miscellaneous revisions to the municipal plan adoption, amendment, and update process

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

Sec. 1. 24 V.S.A. § 4350 is amended to read:

§ 4350. REVIEW AND CONSULTATION REGARDING MUNICIPAL PLANNING EFFORT

(a) A regional planning commission shall consult with its municipalities with respect to the municipalities’ planning efforts, ascertaining the municipalities’ needs as individual municipalities and as neighbors in a region, and identifying the assistance that ought to be provided by the regional planning commission. As a part of this consultation, the regional planning commission, after public notice, shall review the planning process of its member municipalities at least twice during an eight-year period, or more

frequently on request of the municipality, and shall so confirm when a municipality:

(1) is engaged in a continuing planning process that, within a reasonable time, will result in a plan ~~which~~ that is consistent with the goals contained in section 4302 of this title; ~~and~~

(2) is engaged in a process to implement its municipal plan, consistent with the program for implementation required under section 4382 of this title; and

(3) is maintaining its efforts to provide local funds for municipal and regional planning purposes.

(b)(1) As part of the consultation process, the commission shall consider whether a municipality has adopted a plan. In order to obtain or retain confirmation of the planning process ~~after January 1, 1996~~, a municipality must have an approved plan. A regional planning commission shall review and approve plans of its member municipalities, when approval is requested and warranted. Each review shall include a public hearing which is noticed at least 15 days in advance by posting in the office of the municipal clerk and at least one public place within the municipality and by publication in a newspaper or newspapers of general publication in the region affected. The commission shall approve a plan if it finds that the plan:

(A) is consistent with the goals established in section 4302 of this title;

(B) is compatible with its regional plan;

(C) is compatible with approved plans of other municipalities in the region; and

(D) contains all the elements included in subdivisions 4382(a)(1)-(10)(12) of this title.

~~(2) Prior to January 1, 1996, if a plan contains all the elements required by subdivisions 4382(a)(1)-(10) and is submitted to the regional planning commission for approval but is not approved, it shall be conditionally approved.~~

~~(e)(2)~~ A commission shall give approval or disapproval to a municipal plan or amendment within two months of its receipt following a final hearing held pursuant to section 4385 of this title. The fact that the plan is approved after the deadline shall not invalidate the plan. If the commission disapproves the plan or amendment, it shall state its reasons in writing and, if appropriate, suggest acceptable modifications. Submissions for approval that follow a disapproval shall receive approval or disapproval within 45 days.

~~(d)~~(3) The commission shall file any adopted plan or amendment with the Department of Housing and Community Development within two weeks of receipt from the municipality. Failure on the part of the commission to file the plan shall not invalidate the plan.

(c) In order to retain confirmation of the planning process, a municipality shall document that it has reviewed and is actively engaged in a process to implement its adopted plan.

(1) When assessing whether a municipality has been actively engaged in a process to implement its adopted plan, the regional planning commission shall consider the activities of local boards and commissions with regard to the preparation or adoption of bylaws and amendments; capital budgets and programs; supplemental plans; or other actions, programs, or measures undertaken or scheduled to implement the adopted plan. The regional planning commission shall also consider factors that may have hindered or delayed municipal implementation efforts.

(2) The consultation may include guidance by the regional planning commission with regard to resources and technical support available to the municipality to implement its adopted plan and recommendations by the regional planning commission for plan amendments and for updating the plan prior to readoption under section 4387 of this title.

~~(e)~~(d) During the period of time when a municipal planning process is confirmed:

(1) The municipality's plan will not be subject to review by the Commissioner of Housing and Community Development under section 4351 of this title.

(2) State agency plans adopted under 3 V.S.A. chapter 67 shall be compatible with the municipality's approved plan. ~~This provision shall not apply to plans that are conditionally approved under this chapter.~~

(3) The municipality may levy impact fees on new development within its borders, according to the provisions of chapter 131 of this title.

(4) The municipality shall be eligible to receive additional funds from the municipal and regional planning fund.

~~(f)~~(e) Confirmation and approval decisions under this section shall be made by majority vote of the commissioners representing municipalities, in accordance with the bylaws of the regional planning commission.

Sec. 2. 24 V.S.A. § 4385 is amended to read:

§ 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY

LEGISLATIVE BODY

* * *

(d) Plans may be reviewed from time to time and may be amended in the light of new developments and changed conditions affecting the municipality. An amendment to a plan does not affect or extend the plan's expiration date.

Sec. 3. 24 V.S.A. § 4387 is amended to read:

§ 4387. READOPTION OF PLANS

(a) All plans, including all prior amendments, shall expire every ~~five~~ eight years unless they are readopted according to the procedures in section 4385 of this title.

(b)(1) A municipality may readopt any plan that has expired or is about to expire. Prior to any readoption, the planning commission shall review and update the information on which the plan is based, and shall consider this information in evaluating the continuing applicability of the plan. In its review, the planning commission shall:

(A) consider the recommendations of the regional planning commission provided pursuant to subdivision 4350(c)(2) of this title;

(B) engage in community outreach and involvement in updating the plan;

(C) consider consistency with the goals established in section 4302 of this title;

(D) address the required plan elements under section 4382 of this title;

(E) evaluate the plan for internal consistency among plan elements, goals, objectives, and community standards;

(F) address compatibility with the regional plan and the approved plans of adjoining municipalities; and

(G) establish a program and schedule for implementing the plan.

(2) The readopted plan shall remain in effect for the ensuing ~~five~~ eight years unless earlier readopted.

(c) Upon the expiration of a plan, all bylaws and capital budgets and programs then in effect shall remain in effect, but shall not be amended until a plan is in effect.

(d) The fact that a plan has not been approved shall not make it inapplicable, except as specifically provided by this chapter. Bylaws, capital

budgets, and programs shall remain in effect, even if the plan has not been approved.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016. The eight-year expiration date for municipal plans applies to plans adopted or readopted on or after July 1, 2015. Plans adopted or readopted before July 1, 2015 shall expire in accordance with section 4387 of this title as it existed on the date of adoption or readoption.

(For text see House Journal April 2, 2015)

H. 610

An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs

In Sec. 38, Report on Loans to Private Entities for Water Pollution Abatement and Control Facilities and Public Water Supply Systems, in subsection (a), by striking out “Committee on Institutions” and inserting in lieu thereof Committees on Institutions and on Natural Resources and Energy.

(For text see House Journal March 17, 2016)

H. 629

An act relating to a study committee to examine laws related to the administration and issuance of vital records

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 1, in subsection (a), by striking out subdivisions (1)–(5) in their entirety and inserting in lieu thereof the following:

(1) the Commissioner of Health or designee, who shall serve as Chair of the Committee;

(2) the State Archivist or designee;

(3) a Probate judge appointed by the Chief Justice of the Vermont Supreme Court;

(4) two town clerks appointed by the Vermont Municipal Clerks’ and Treasurers’ Association.

Second: In Sec. 1, in subsection (c), by striking out the second sentence in its entirety and inserting in lieu thereof the following: The Committee may consult with and shall have the assistance of the Office of Legislative Council.

Third: In Sec. 1, in subsection (e), by striking out subdivisions (1)–(3) in their entirety and inserting in lieu thereof the following:

(1) The Chair shall call the first meeting of the Committee to occur on or before June 15, 2016.

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

Fourth: In Sec. 1, by striking out subsection (g) in its entirety
(For text see House Journal March 17, 2016)

H. 873

An act relating to making miscellaneous tax changes

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

* * * Tax Administration * * *

Sec. 1. 32 V.S.A. § 3102(e) is amended to read:

(e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information:

* * *

(3) To any officer, employee, or agent of any other state or Vermont municipality that administers its own local option sales tax or meals and rooms tax or gross receipts tax under its charter, provided that the information will be used by that state or municipality for tax administration and that state or municipality grants substantially similar disclosure privileges to this State and provides for the secrecy of records in terms substantially similar to those provided by this section.

* * *

(17) To the Department of Financial Regulation, if such return or return information relates to the tax on premiums of captive insurance companies contained in 8 V.S.A. chapter 141.

(18) To the Vermont Student Assistance Corporation if such return or return information is necessary to verify eligibility for the matching allocation required by 16 V.S.A. § 2880d(c).

Sec. 2. 32 V.S.A. § 3208 is amended to read:

§ 3208. ADMINISTRATIVE GARNISHMENT

(a) Notwithstanding other statutes which provide for levy or execution, trustee process, or attachment, the Commissioner may garnish a taxpayer's

earnings pursuant to this section to satisfy amounts collectible by the Commissioner under this title, subject to the exemptions provided in 12 V.S.A. § 3170(a) and (b)(1).

* * *

(e) If, after 15 days, the taxpayer has not petitioned for a hearing, a notice of garnishment shall direct an employer to transmit a specified portion of the taxpayer's disposable earnings to the Commissioner from each periodic payment that is due to the taxpayer until the taxpayer's obligation is paid in full. The notice shall identify the taxpayer by Social Security number. An employer is immune from any liability due to compliance with the Commissioner's notice of garnishment.

* * * Use Value Appraisals * * *

Sec. 3. 32 V.S.A. § 3754(b) is amended to read:

(b) Annually ~~in August~~ on or before October 15, the Board shall hold a public hearing and such other hearings as they deem necessary to receive public testimony on the criteria and values for use value appraisals in the coming tax year and on the administration of this subchapter.

Sec. 4. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

* * *

(f) On or before September 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

Sec. 5. 32 V.S.A. § 3757(d) is amended to read:

(d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the Commissioner who shall remit to the municipality the lesser of one-half the tax paid or \$2,000.00. The Director shall deposit three-quarters of the remainder of the tax paid in the Education Fund, and one-quarter of the remainder of the tax paid in the General Fund. The Commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out

the form and shall sign it under the penalty of perjury. After receipt of ~~payment~~ the completed and signed form, the Commissioner shall furnish the owner with one copy, shall retain one copy, and shall forward one copy to the local assessing officials, one copy to the register of deeds of the municipality in which the land is located, and one copy to the Secretary of Agriculture, Food and Markets if the land is agricultural land and in all other cases to the Commissioner of Forests, Parks and Recreation.

* * * Property Tax * * *

Sec. 6. 32 V.S.A. § 4041a is amended to read:

§ 4041a. REAPPRAISAL

(a) A municipality shall be paid \$8.50 per grand list parcel per year, from the equalization and reappraisal account within the education fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list. ~~Additionally, a municipality shall be paid \$3.65 per grand list parcel for the first 100 parcels \$0.20 for each of the next 100 parcels, and \$0.01 for each parcel in excess of 200 from the equalization and reappraisal account within the education fund, to be used only for costs to acquire assessment education provided under section 3436 of this title.~~

(b) If the Director of Property Valuation and Review determines that a municipality's education grand list is at a common level of appraisal below 80 percent or has a coefficient of dispersion greater than 20, the municipality shall reappraise its education grand list properties. If the Director orders a reappraisal, the Director shall send the municipality written notice of the decision. The municipality shall be given 30 days to contest the finding under procedural rules adopted by the Director, to develop a compliance plan, or both. If the Director accepts a proposed compliance plan submitted by the municipality, the Director shall not order commencement of the reappraisal until the municipality has had one year to carry out that plan.

(c) If a municipality fails to submit an acceptable plan or fails to carry out the plan, pursuant to subsection (b) of this section, the State shall withhold the education, transportation, and other funds from the municipality until the Director certifies that the town has carried out that plan.

(d) A sum not to exceed \$100,000.00 each year shall be paid from the equalization and reappraisal account within the Education Fund to the Division of Property Valuation and Review for the purpose of providing assessment education for municipal assessing officials. The Director is authorized to establish guidelines and requirements for education programs to be provided using the funds described in this section. Education programs provided using

funds described in this section shall be provided at no cost or minimal cost to the municipal assessing officials. In addition to providing the annual education programs as described in this section, up to 20 percent of the amount available for education programs may be reserved as a scholarship fund to permit municipal assessing officials to attend national programs providing education opportunities on advanced assessment topics. All applications for scholarships shall be submitted to and approved by the Director.

~~(d)~~(e) The Director shall adopt rules necessary for administration of this section.

Sec. 7. 32 V.S.A. § 4465 is amended to read:

§ 4465. APPOINTMENT OF PROPERTY TAX VALUATION HEARING OFFICER; OATH; PAY

* * *

Sec. 8. 32 V.S.A. § 4467 is amended to read:

§ 4467. DETERMINATION OF APPEAL

Upon appeal to the Director or the Court, the hearing officer or Court shall proceed de novo and determine the correct valuation of the property as promptly as practicable and to determine a homestead and a housesite value if a homestead has been declared with respect to the property for the year in which the appeal is taken. The hearing officer or Court shall take into account the requirements of law as to valuation, and the provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th Amendment to the Constitution of the United States. If the hearing officer or Court finds that the listed value of the property subject to appeal does not correspond to the listed value of comparable properties within the town, the hearing officer or Court shall set said property in the list at a corresponding value. The findings and determinations of the hearing officer shall be made in writing and shall be available to the appellant. If the appeal is taken to the Director, the hearing officer ~~shall~~ may inspect the property prior to making a determination, unless one of the parties requests an inspection, in which case the hearing officer shall inspect the property prior to making a determination. Within 10 days of the appeal being filed with the Director, the Director shall notify the property owner in writing of his or her option to request an inspection under this section.

Sec. 9. TAX INCREMENT FINANCING DISTRICT AUDITS

Notwithstanding 32 V.S.A. § 5404a(1)(2), the first audit of the Milton Town Core Tax Financing District conducted by the State Auditor of Accounts shall

be delayed one year to allow for completion of the first annual municipal audit that includes procedures required by 24 V.S.A. § 1901(3)(A).

Sec. 9a. 2013 Acts and Resolves No. 80, Sec. 18 is amended to read:

Sec. 18. BURLINGTON WATERFRONT TIF

(a) The authority of the City of Burlington to incur indebtedness for its waterfront tax increment financing district is hereby extended for five years beginning January 1, 2015; provided, however, that the City is authorized to extend the period to incur indebtedness for 6.5 years beginning on January 1, 2015 for three properties located within the waterfront tax increment financing district at 49 Church Street and 75 Cherry Street, as designated on the City's Tax Parcel Maps as the following:

(1) Parcel ID# 044-4-004-000;

(2) Parcel ID# 044-4-004-001;

(3) Parcel ID# 044-4-033-000.

(b) ~~This extension does not extend any period that municipal or education tax increment may be retained~~ Notwithstanding any other provision of law, the City of Burlington may extend the period to retain municipal and education tax increment for the parcels described in subdivisions (a)(1), (2), and (3) of this section until June 30, 2035. The City shall not extend the period to retain municipal or education tax increment for any other properties within the waterfront tax increment financing district.

(c) The extension of the period to incur indebtedness for the specific parcels in subdivision (a)(1)–(3) of this section is subject to the City of Burlington's submission to the Vermont Economic Progress Council of an executed construction contract with a completion guarantee by the owner of the parcels evidencing commitment to construct not less than \$50 million of private development on the parcels.

Sec. 10. 1892 Acts and Resolves No. 213, Secs. 5 and 6, as amended by 1906 Acts and Resolves No. 357, Sec. 1, and as amended by 2008 Acts and Resolves No. 190, Sec. 46 is further amended to read:

Sec. 5. ~~Said corporation~~ The Corporation shall have power to purchase and receive for the charitable purposes herein indicated, by gift, bequest, devise or otherwise, real and personal property, and the same to hold, for such purposes only, and to sell and convey the same or any part thereof when expedient in the judgment of the Directors. No more than ~~fifty thousand dollars~~ \$50,000.00 in value of the property of ~~said corporation~~ the Corporation which is used directly as a nonprofit elder residential care home shall be exempt from municipal property taxation, and up to \$500,000.00 of the same property shall be exempt

from education property taxation, ~~and such property;~~ provided that the property, to be so exempt from taxation under this section, shall be located in Brattleboro.

Sec. 6. ~~Said The Corporation, in the investment of its funds, shall be governed by the laws relative to Savings Banks savings banks in this state State. Neither said Corporation, nor any corporator, officer, or employee, shall have power to create a debt against the Corporations except for current expenses.~~

* * * Income Tax * * *

Sec. 11. 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 ~~2014~~ 2015, 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. 12. 32 V.S.A. § 5842 is amended to read:

§ 5842. RETURN AND PAYMENT OF WITHHELD TAXES

(a) Every person required to deduct and withhold any amount under section 5841 of this title shall make return thereof and shall pay over that amount to the Commissioner as follows:

(1) In quarterly payments to be made not later than 25 days following the last day of March, June, September, and December if the person ~~reasonably estimates that the amount to be deducted and withheld during that quarter will not exceed \$2,500.00; or~~ is required to make quarterly or annual payments of federal withholding pursuant to the Internal Revenue Code.

(2) In semiweekly payments, if the person is required to make semiweekly payments of federal withholding pursuant to the Internal Revenue Code. Semiweekly shall mean payment of tax withheld for pay dates on Wednesday, Thursday, or Friday is due by the following Wednesday, and tax withheld for pay dates on Saturday, Sunday, Monday, or Tuesday is due by the following Friday.

(3) In monthly payments to be made not later than the 25th (23rd of February) day following the close of the calendar month during which the amount was withheld, if subdivisions (1) and (2) of this subsection do not apply.

(b) The Commissioner shall prescribe the method of payment of tax and may, without limitation, require electronic funds transfer or payment to a bank

depository. The Commissioner may, in writing, permit or require returns to be made covering other periods and upon such dates as the Commissioner may specify and require payments of tax liability at such intervals and based upon such classifications as the Commissioner may designate:

(1) to conform to federal withholding law as the Commissioner deems appropriate;

(2) in cases in which less frequent reporting is determined by the Commissioner to be sufficient; and

(3) in cases in which the Commissioner determines that the taxpayer's repeated failure to file or pay tax makes more frequent reporting necessary to insure the prompt and orderly collection of the tax.

(c) In addition to the returns required to be filed and payments required to be made under subsection (a) of this section, every person required to deduct and withhold any tax under section 5841 of this title shall file an annual return covering the aggregate amount deducted and withheld during the entire preceding year, ~~not later than February 28~~ on or before January 31 of each year. At the time of filing that return, the person shall pay over to the Commissioner any amount deducted and withheld during the preceding calendar year and not previously paid. The person shall, further, make such annual report to payees and to the Commissioner of amounts paid and withheld as the Commissioner by regulation shall prescribe.

(d) Notwithstanding section 5867 of this title, the Commissioner may, in his or her discretion, prescribe that one or more or all of the returns required by subsection (a) of this section are not required to be signed or verified by the taxpayer. The Commissioner may require businesses and payroll service providers to file information under this section by electronic means.

Sec. 13. REPEAL

32 V.S.A. § 5912 (characterization of income) is repealed.

Sec. 14. 32 V.S.A. § 5915 is amended to read:

§ 5915. MINIMUM TAX

An S corporation which is subject to the provisions of section 5914 of this title shall pay an annual tax of \$250.00 to the Commissioner of Taxes on or before the due date prescribed for the filing of ~~C corporation returns under section 5862 of this title~~ S corporation returns under subsection 6072(b) of the Internal Revenue Code.

* * * Solid Waste Tax * * *

Sec. 15. 32 V.S.A. § 5954(a) is amended to read:

(a) Every person required to pay this tax shall on or before the 30th day of the month following each calendar quarter, file a return with the Commissioner of Taxes and pay the amount of tax due. The Commissioner may require a return to be filed for quarters in which no tax is due.

* * * Homestead Property Tax Adjustment * * *

Sec. 16. 32 V.S.A. § 6061(13) is amended to read:

(13) “Homestead” means a homestead as defined under subdivision 5401(7), but not under subdivision 5401(7)(G), of this title and declared on or before ~~September 1~~ October 15 in accordance with section 5410 of this title.

Sec. 17. 32 V.S.A. § 6069 is amended to read:

§ 6069. LANDLORD CERTIFICATE

(a) ~~By~~ On or before January 31 of each year, the owner of land rented as a portion of a homestead in the prior calendar year shall furnish a certificate of rent to the Department of Taxes and to each claimant who owned a portion of the homestead and rented that land as a portion of a homestead in the prior calendar year. The certificate shall indicate the proportion of total property tax on that parcel which was assessed for municipal property tax, for local share property tax, and for statewide property tax.

(b) The owner of each rental property consisting of more than one rented homestead shall, ~~not later than~~ on or before January 31 of each year, furnish a certificate of rent to the Department of Taxes and to each person who rented a homestead from the owner at any time during the preceding calendar year. All other owners of rented homestead units shall furnish such certificate upon request of the renter. If a renter moves prior to December 31, the owner may either provide the certificate to the renter at the time of moving or mail the certificate to the forwarding address if one has been provided by the renter or in the absence of a forwarding address, to the last known address.

(c) A certificate under this section shall be in a form prescribed by the Commissioner and shall include the name of the renter, the address and any property tax parcel identification number of the homestead, notice of the requirements for eligibility for the property tax adjustment provided by this chapter, and any additional information which the Commissioner determines is appropriate.

(d)(1) An owner who knowingly fails to furnish a certificate to the Department or a renter as required by this section shall be liable to the Commissioner for a penalty of \$200.00 for each failure to act. An owner shall be liable to the Commissioner for a penalty equal to the greater of \$200.00 or the excess amount reported who:

(A) willfully furnishes a certificate that reports total allocable rent in excess of the actual amount paid; or

(B) reports a total amount of allocable rent that exceeds by 10 percent or more the actual amount paid.

(2) Penalties under this subsection shall be assessed and collected in the manner provided in chapter 151 for the assessment and collection of the income tax.

(e) Failure to receive a rent certificate shall not disqualify a renter from the benefits provided by this chapter.

* * * Corporation Taxes * * *

Sec. 18. 32 V.S.A. § 8146 is amended to read:

§ 8146. ADDITIONAL TAX; REFUNDS

When the Commissioner finds that owing to the incorrectness of a return or any other cause, a tax paid pursuant to this chapter is too small, he or she shall assess an additional tax sufficient to cover the deficit and shall forthwith notify the parties so assessed. The administrative provisions of chapters 103 and 151 of this title shall apply to assessments and refund claims under this chapter, including those provisions governing interest and penalty in section 3202 of chapter 103, appeals, and collection of assessments.

Sec. 19. 32 V.S.A § 8557(a) is amended to read:

(a) Sums for the expenses of the operation of training facilities and curriculum of the Vermont Fire Service Training Council not to exceed ~~\$950,000.00~~ \$1,200,000.00 per year shall be paid to the Fire Safety Special Fund created by 20 V.S.A. § 3157 by insurance companies, including surplus lines companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the State of Vermont within 30 days after notice from the Commissioner of Financial Regulation of such estimated expenses. Captive companies shall be excluded from the effect of this section. The Commissioner shall annually, on or before July 1, apportion such charges among all such companies and shall assess them for the same on a fair and reasonable basis as a percentage of their gross direct written premiums on such insurance written during the second prior calendar year on property situated in the State. An amount not less than \$100,000.00 shall be specifically allocated to the provision of what are now or formerly referred to as Level I, units I, II, and III (basic) courses for entry level firefighters. An amount not less than \$150,000.00 shall be specifically allocated to the Emergency Medical Services

Special Fund established under 18 V.S.A. § 908 for the provision of training programs for emergency medical technicians, advanced emergency medical technicians, and paramedics. The Department of Health shall present a plan to the Joint Fiscal Committee which shall review the plan prior to release of any funds.

* * * Meals and Rooms Tax * * *

Sec. 20. 32 V.S.A. § 9202(15) is amended to read:

(15) “Restaurant” means:

(A) An establishment from which food or beverage of the type for immediate consumption is sold or for which a charge is made, including a cafe, cafeteria, dining room, diner, lunch counter, snack bar, private or social club, bar, tavern, street vendor, or person engaged in the business of catering.

(B) An establishment 80 percent or more of whose total sales of food and beverage in the previous taxable year were, or in the first taxable year are reasonably projected to be, of alcoholic beverages, food, and beverage that are taxable under subdivision (10)(C) of this section, and food and beverage that are taxable under subdivision (10)(B) and are not exempt under subdivision (10)(D) of this section.

(C) “Restaurant” shall not include a snack bar on the premises of a retail grocery or “convenience” store.

~~(D) A vending machine is not a restaurant, but food or beverage that is sold from a vending machine shall be deemed to be sold by a “restaurant” if the vending machine is located on the premises of a restaurant.~~

Sec. 21. PRIVATE SHORT-TERM RENTALS

Given the growth in private short-term rentals in the State, the Department of Taxes shall pursue negotiations to enter into a contract for the collection and remittance of the rooms and meals tax under 32 V.S.A. chapter 225 with persons who provide an Internet platform for the short-term rental of property for occupancy. The Department of Taxes shall report to the Senate Committee on Finance and the House Committee on Ways and Means on or before January 15, 2017 on the status of any contracts signed under this section.

Sec. 21a. 32 V.S.A. § 9248 is added to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes shall collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms

of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of \$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

* * * Sales and Use Tax – Contractors * * *

Sec. 22. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

* * *

(5) “Retail sale” or “sold at retail” means any sale, lease, or rental for any purpose other than for resale, sublease, or subrent, including sales to contractors, subcontractors, or repair persons of materials and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property. A manufacturer or retailer shall be treated as a contractor when purchasing material and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property unless an election is made under section 9711 of this title.

* * *

Sec. 23. 32 V.S.A. § 9711 is added to read:

§ 9711. ELECTION BY MANUFACTURER OR RETAILER

(a) As used in this section:

(1) “Manufacturer” is any person that is primarily engaged in the business of manufacturing tangible personal property for sale.

(2) “Retailer” is any person that is primarily engaged in the business of making retail sales of tangible personal property.

(b) A manufacturer or retailer that purchases material and supplies for use by them in erecting structures or otherwise improving, altering, or repairing real property shall be permitted to make an election that it will be treated as a retailer on the purchase of those materials and supplies and such purchase will not be considered a retail sale under subdivision 9701(5) of this title.

(c) A manufacturer or retailer making an election under subsection (b) of this section shall charge sales tax to its customer on its materials and supplies or, in the case of a manufacturer, the finished manufactured products, when it uses those materials, supplies, or finished manufactured products in erecting structures or otherwise improving, altering, or repairing real property. The sales price for the purposes of calculating sales tax on materials, supplies, or

finished manufactured products shall not be less than the manufacturer's or retailer's best customer price. The tax charged shall be separately stated on any invoice or receipt.

(d) An election made under subsection (b) of this section shall be binding on a manufacturer or retailer for a minimum of five years and shall remain in effect until the manufacturer or retailer files a withdrawal of election. No manufacturer or retailer shall be entitled to a refund on the basis of a withdrawal of an election.

(e) The provisions of this section shall not excuse any person from the obligation to collect tax on retail sales of tangible personal property not used in erecting structures or otherwise improving, altering, or repairing real property or from the obligation to pay sales tax or remit the use tax on tools, services, and other materials that are not used in erecting structures or otherwise improving, altering, or repairing real property.

(f) An election made under subsection (b) of this section shall be made on a form prescribed by the Commissioner and filed with the Department of Taxes at least 30 days prior to such election taking effect.

Sec. 24. 32 V.S.A. § 9771 is amended to read:

§ 9771. IMPOSITION OF SALES TAX

Except as otherwise provided in this chapter, there is imposed a tax on retail sales in this State. The tax shall be paid at the rate of six percent of the sales price charged for but in no case shall any one transaction be taxed under more than one of the following:

~~(1) tangible personal property, including property used to improve, alter, or repair the real property of others by a manufacturer or any person who is primarily engaged in the business of making retail sales of tangible personal property;~~

* * *

* * * Sales and Use Tax – Out-of-State Vendors * * *

Sec. 25. 32 V.S.A. § 9701(54) is added to read:

(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.

Sec. 26. 32 V.S.A. § 9712 is added to read:

§ 9712. NOTICE REQUIREMENTS FOR NONCOLLECTING VENDORS

(a) Each noncollecting vendor making sales into Vermont shall notify Vermont purchasers that sales or use tax is due on nonexempt purchases made from the noncollecting vendor and that the State of Vermont requires the purchaser to pay the tax due on his or her tax return. Failure to provide the notice required by this subsection shall subject the noncollecting vendor to a penalty of \$5.00 for each such failure, unless the noncollecting vendor shows reasonable cause for such failure.

(b) Each noncollecting vendor shall send notification to all Vermont purchasers on or before January 31 of each year showing the total amount paid by the purchaser for Vermont purchases made from the noncollecting vendor in the previous calendar year. The notice requirement in this subsection only applies to Vermont purchasers who have made \$500.00 or more of purchases from the noncollecting vendor in the previous calendar year. The notice shall include any information required by the Commissioner by rule. The notification shall state that the State of Vermont requires a sales or use tax return to be filed and sales or use tax paid on nonexempt purchases made by the purchaser from the noncollecting vendor. The notification required by this subsection shall be sent separately to all Vermont purchasers by first-class mail or electronic mail and shall not be included with any other shipments. The notification shall include the words "Important Tax Document Enclosed" on the exterior of the mailing. The notification shall include the name of the noncollecting vendor. Failure to send the notification required by this subsection shall subject the noncollecting vendor to a penalty of \$10.00 for each such failure, unless the noncollecting vendor shows reasonable cause for such failure.

(c) Each noncollecting vendor shall file an annual statement for each purchaser with the Department of Taxes, on forms required by the Commissioner, showing the total amount paid for Vermont purchases by that purchaser during the preceding calendar year or any portion thereof, and this annual statement shall be filed on or before March 1 of each year. The notice requirements of this subsection only apply to noncollecting vendors who make \$100,000.00 or more of sales into Vermont in the previous calendar year. Failure to file the annual statement required by this subsection shall subject the noncollecting vendor to a penalty of \$10.00 for each purchaser that should have been included in the annual statement, unless the noncollecting vendor shows reasonable cause for such failure.

(d) The Commissioner is authorized to adopt rules or procedures, or to create forms, necessary to implement this section. Penalties imposed under this section shall be subject to the same administrative and appeal provisions of this chapter as if imposed under section 3202 of this title.

Sec. 27. 32 V.S.A. § 9701(9)(F) is amended to read:

~~(F) A person making sales of tangible personal property from outside this State to a destination within this State and not maintaining a place of business in this State who engages in regular, systematic, or seasonal solicitation of sales of tangible personal property in this State:~~

~~(i) by the display of advertisements in this State;~~

~~(ii) by the distribution of catalogs, periodicals, advertising flyers, or other advertising by means of print, radio, or television media; or~~

~~(iii) by mail, telegraphy, telephone, computer database, cable, optic, microwave, or other communication systems, for the purpose of effecting sales of tangible personal property; provided such person has made sales from outside this State to destinations within this State of at least \$50,000.00 during any 12 month period preceding the monthly or quarterly period with respect to which such person's liability for tax under this chapter is determined.~~

A person making sales of tangible personal property from outside this State to a destination within this State and not maintaining a place of business or other physical presence in this State that:

(i) engages in regular, systematic, or seasonal solicitation of sales of tangible personal property in this State:

(I) by the display of advertisements in this State;

(II) by the distribution of catalogues, periodicals, advertising flyers, or other advertising by means of print, radio, or television media; or

(III) by mail, Internet, telephone, computer database, cable, optic, cellular, or other communication systems, for the purpose of effecting sales of tangible personal property; and

(ii) has either made sales from outside this State to destinations within this State of at least \$100,000.00, or totaling at least 200 individual sales transactions, during any 12-month period preceding the monthly period with respect to which that person's liability for tax under this chapter is determined.

* * * Health Care Provisions* * *

Sec. 28. 18 V.S.A. § 9607 is amended to read:

§ 9607. FUNDING; INTENT ALLOCATION OF EXPENSES

(a) The Office of the Health Care Advocate shall specify in its annual report filed pursuant to this chapter the sums expended by the Office in

carrying out its duties, including identifying the specific amount expended for actuarial services.

(b)(1) Expenses incurred by the Office of the Health Care Advocate for services related to the Green Mountain Care Board's and Department of Financial Regulation's regulatory and supervisory duties shall be borne as follows:

(A) 27.5 percent by the State from State monies;

(B) 24.2 percent by the hospitals;

(C) 24.2 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125; and

(D) 24.2 percent by health insurance companies licensed under 8 V.S.A. chapter 101.

(2) 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.

(3) The Green Mountain Care Board shall administer the bill back authority created in this subsection on behalf of the Agency of Administration in support of the Agency's contract with the Office of the Health Care Advocate pursuant to section 9602 of this title to carry out the duties set forth in this chapter.

(c) It is the intent of the General Assembly that the Office of the Health Care Advocate shall maximize the amount of federal and grant funds available to support the activities of the Office.

Sec. 28a. OFFICE OF THE HEALTH CARE ADVOCATE; REPORT

In the annual report submitted by the Office of the Health Care Advocate for calendar year 2016 pursuant to 18 V.S.A. § 9603(a)(11), the Office shall provide recommendations regarding whether:

(1) the Office of the Health Care Advocate should be relieved of obligations to serve as a voting member of any advisory group, task force, or similar group in order to fulfill more effectively the Office's consumer advocacy function;

(2) Vermont Health Connect-related consumer issues should be directed in the first instance to the insurance carrier for resolution; and

(3) any other statutory or structural changes to strengthen the role of the Office of the Health Care Advocate in providing systemic advocacy.

Sec. 29. 33 V.S.A. § 1951 is amended to read:

§ 1951. DEFINITIONS

As used in this subchapter:

* * *

(15) “Ambulance agency” means an ambulance agency licensed pursuant to 18 V.S.A. chapter 17.

Sec. 30. 33 V.S.A. § 1959 is added to read:

§ 1959. AMBULANCE AGENCY ASSESSMENT

(a) The annual assessment for each ambulance agency shall be 3.3 percent of the ambulance agency’s annual net patient revenues for services delivered to patients in Vermont during the most recent annual fiscal period. The Department shall determine the appropriate fiscal period as necessary to ensure compliance with federal law. Ambulance agencies shall remit the assessment amount to the Department annually on or before March 31, beginning with March 31, 2017.

(b) The Department shall provide written notification of the assessment amount to each ambulance agency. The assessment amount determined shall be considered final unless the agency requests reconsideration. Requests for reconsideration shall be subject to the provisions of section 1958 of this title.

(c) Each ambulance agency shall remit its assessment to the Department according to a schedule adopted by the Commissioner. The Commissioner may permit variations in the schedule of payment as deemed necessary.

(d) Any ambulance agency that fails to make a payment to the Department on or before the specified schedule, or under any schedule of delayed payments established by the Commissioner, shall be assessed not more than \$1,000.00. The Commissioner may waive the late-payment assessment provided in this subsection for good cause shown by the ambulance agency.

Sec. 31. AMBULANCE PROVIDER TAX; INTENT

In establishing a provider tax on ambulance agencies, it is the intent of the General Assembly to increase Medicaid reimbursement rates to these providers while ensuring full compliance with 42 C.F.R. 433.68.

* * *

Sec. 32. 33 V.S.A. § 1955a is amended to read:

§ 1955a. HOME HEALTH AGENCY ASSESSMENT

(a) Beginning on October 1, ~~2014~~ 2016, each home health agency's assessment shall be the greater of 19.30 percent of its net operating revenues from core home health care services, excluding revenues for services provided under Title XVIII of the federal Social Security Act, or two percent of its annual net patient revenue; provided, however, that each home health agency's annual assessment shall be limited to no more than ~~six~~ 4.5 percent of its annual net patient revenue. The amount of the tax shall be determined by the Commissioner based on the home health agency's most recent audited financial statements at the time of submission, a copy of which shall be provided on or before May 1 of each year to the Department. For providers who begin operations as a home health agency after January 1, 2005, the tax shall be assessed as follows:

* * *

Sec. 33. HOME HEALTH AGENCY ASSESSMENT WORKING GROUP;
REPORT

(a) The Department of Vermont Health Access shall convene a working group comprising nonprofit and for-profit home health agencies and other interested stakeholders to develop a common understanding, for purposes of the home health agency assessment established in 33 V.S.A. § 1955a, of:

- (1) core home health agency services;
- (2) net operating revenue for core home health agency services;
- (3) net patient revenue; and
- (4) criteria for determining medical necessity.

(b) On or before October 1, 2016, the Department shall provide the results of the working group's meetings and any recommendations for statutory modifications to the Health Reform Oversight Committee, the House Committees on Health Care and on Ways and Means, and the Senate Committees on Health and Welfare and on Finance.

* * * Fuel Gross Receipts Tax * * *

Sec. 34. 32 V.S.A. § 2501(d) is added to read:

(d) The Emergency Board shall adopt an official revenue estimate for the fuel gross receipts tax under section 2503 of this title in the same manner as it does for other revenues under 32 V.S.A. § 305a.

Sec. 35. 33 V.S.A. § 2503 is amended to read:

§ 2503. FUEL GROSS RECEIPTS TAX

(a) There is imposed a gross receipts tax of:

(1) 0.5 0.75 percent on the retail sale of the following types of fuel:

~~(1)(A)~~ heating oil, propane, kerosene, and other dyed diesel fuel delivered to a residence or business;

~~(2)~~ natural gas;

~~(3)~~ electricity; and

~~(4)(B)~~ coal.

(2) There is imposed a gross receipts tax of 0.5 percent on the retail sale of natural gas and electricity.

* * *

~~(d) Fuel sellers, which are regulated “companies” as defined in subsection 30 V.S.A. § 201(a), which provide conservation programs that meet the goals of the Weatherization Program in a manner approved by the Public Service Board, and which enhance the Weatherization Program’s capacity to serve low income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, a company shall file with the Public Service Board, on or before August 15 of each year, a request for approval of rebates based on the company’s activities during the prior fiscal year. The Public Service Board shall make a determination of the amount of rebate for each applicant on or before January 15 of each year, and such amount shall be rebated by the State Office of Economic Opportunity under the provisions of subsection (f) of this section. The Public Service Board shall authorize rebates equal to the expenditures undertaken by the regulated utilities provided that such expenditures were prudently incurred and cost effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households that meet the eligibility criteria for low income weatherization services as determined by the Office of Economic Opportunity.~~

~~(e) Unregulated fuel sellers providing conservation programs that meet the goals of the Weatherization Program in a manner approved by the State Office of Economic Opportunity and that enhance the weatherization program’s capacity to serve low income households may be eligible for rebates from the fuel gross receipts tax imposed under this section. To establish rebate eligibility, a company shall file with the State Office of Economic Opportunity, on or before August 15 of each year, a request for approval of rebates based on~~

~~the company's activities during the prior fiscal year. The State Office of Economic Opportunity shall make a determination of the amount of rebate for each applicant on or before January 15 of each year, and that amount shall be rebated by the State Office of Economic Opportunity under the provisions of this subsection. The State Office of Economic Opportunity shall authorize rebates equal to the expenditures undertaken by the unregulated fuel sellers provided that the expenditures were prudently incurred and cost-effective, that they provided weatherization services following a comprehensive energy audit and work plan, except in cases where the fuel seller and weatherization staff jointly conclude that the need for weatherization services can be determined without a comprehensive energy audit, and that they were targeted to households at or below 150 percent of the federally established poverty guidelines.~~

~~(f) On or before August 7 of each year, the Director of the State Office of Economic Opportunity shall set aside a sum of money equaling two and one half percent of the tax receipts of the fuel gross receipts tax for the preceding fiscal year in an escrow account. The monies in the escrow account are to be used for rebate, as approved under subsections (d) and (e) of this section, of the gross receipts tax established in subsection (a) of this section. Upon approval of rebates, the Director shall pay the approved rebates out of the escrow account. In the event that the approved rebates exceed the amount of money set aside in the escrow account, the Director shall prorate each rebate. Any balance of rebate awards remaining unpaid as a result of proration may be carried forward for payment in a succeeding year. If monies set aside exceed approved rebates, then the balance shall be returned to the Fund. The Director of the State Office of Economic Opportunity shall use the remainder of the tax receipts of the fuel gross receipts tax for the preceding fiscal year to assure the provision of weatherization services as described in subsections 2502(a), (b), and (c) of this title.~~

~~(g) No tax under this section shall be imposed for any quarter month ending after June 30, 2016. Monies from the escrow account shall be issued for rebates pursuant to subsection (f) of this section until March 1, 2017 2017.~~

Sec. 36. STUDY ON FUEL GROSS RECEIPTS TAX

The Vermont Department of Taxes, with the assistance of other executive agencies, shall report to the General Assembly on or before November 15, 2016 with a specific proposal to restructure the fuel gross receipts tax from one based on gross receipts to one based on a levy for each unit of fuel source, including draft legislation to implement the proposal. The proposal shall be designed to raise the same amount of revenue as the fuel gross receipts tax did for a three-year average from fiscal years 2013–2015.

Sec. 36a. ANALYSIS OF ADMINISTRATIVE COSTS

The Joint Fiscal Office shall conduct an analysis of the administrative costs associated with seasonal and crisis fuel and weatherization programs for the State of Vermont. The Joint Fiscal Office shall report its findings to the Senate Committees on Finance, Health and Welfare, and Appropriations, and the House Committees on Ways and Means, Human Services, and Appropriations on or before December 15, 2016.

* * * Filing Periods * * *

Sec. 37. 32 V.S.A. § 5836(c) is amended to read:

(c) The tax imposed by this section shall be paid ~~quarterly~~ monthly to the Commissioner ~~not later than~~ on or before the 25th day of ~~the~~ each month following the last day of each quarter of the corporation's taxable year under the federal Internal Revenue Code, for the three months of that quarter for the tax due in the previous month.

Sec. 38. 32 V.S.A. § 8521 is amended to read:

§ 8521. IMPOSITION AND RATE OF TAX

(a) There is hereby assessed, upon each person or corporation owning or operating a telephone line or business within the State, a tax equal to 2.37 percent of net book value as of the preceding December 31 of all personal property of the taxpayer located within the State. The tax shall be paid to the Commissioner in equal ~~quarterly~~ monthly installments ~~no later than~~ on or before the 25th day of ~~the third, sixth, ninth, and 12th month of each taxable year~~ each month of each taxable year.

* * *

(f) When personal property is transferred during the year from a person or corporation subject to a tax imposed by this subchapter to another person or corporation ~~who~~ that operates or will operate a telephone line or business in the State:

(1) for ~~quarters~~ months beginning after the date of transfer, the transferee shall include the net book value of the transferred property as of the date of transfer in the calculation of the tax due under subsection (a) of this section and the transferor shall exclude such value from its calculation of its tax under subsection (a);

(2) for the ~~quarter~~ month during which the transfer occurs, the transferor shall include the net book value of the transferred property as of the preceding December 31 multiplied by the number of days during the ~~quarter~~ month it owned the property and divided by the total number of days in the ~~quarter~~

month and the transferee shall include the net book value of the property as of the date of transfer multiplied by the number of days during the ~~quarter~~ month it owned the property divided by the number of days in the ~~quarter~~ month.

Sec. 39. 33 V.S.A. § 2503(b) is amended to read:

(b) The tax shall be levied upon and collected ~~quarterly~~ monthly from the seller. Fuel sellers may include the following message on their bills to customers:

“The amount of this bill includes a ~~0.5%~~ 0.75% gross receipts tax, enacted in 1990, for support of Vermont’s Low Income Home Weatherization Program.”

* * * Evaluation of Tax Expenditures * * *

Sec. 40. EXPEDITED REVIEW OF CERTAIN TAX EXPENDITURES

The Department of Taxes and the Joint Fiscal Office shall conduct an expedited review of certain tax expenditures as outlined in Appendix C of the report required by 2015 Acts and Resolves No. 33. As used in this section, “expedited review” means an evaluation of a tax expenditure that analyzes the purpose of the tax expenditure, delineates its cost and benefits, and considers whether it still meets its policy goals. The specific tax expenditures receiving expedited review, and the schedule for conducting that review, shall be as follows:

(1) For the tax expenditure report due in January 2017, the tax expenditures related to encouraging economic growth and investment shall be reviewed.

(2) For the tax expenditure report due in January 2019, the tax expenditures related to incentivizing a specific desirable outcome, including agriculture, and related to excluding charitable and public service organizations from taxation shall be reviewed.

(3) For the tax expenditure report due in January 2021, the tax expenditures related to enhancing community development, including housing and historic revitalization, shall be reviewed.

(4) For the tax expenditure report due in January 2023, the tax expenditures related to promoting income security and encouraging work; exempting the necessities of life, including health care, from taxation; and implementing State tax policy and other priorities shall be reviewed.

* * * Effective Dates * * *

Sec. 41. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 11 (annual update of income tax link to the IRC) shall take effect retroactively on January 1, 2015 and apply to taxable years beginning on and after January 1, 2015.

(2) Secs. 12 (withholding and W2s), 15 (solid waste tax returns), 22–24 (sales tax contractors), 28–30 (ambulance provider tax), and 35 (fuel gross receipts tax) shall take effect on July 1, 2016.

(3) Sec. 19 (fire service training council) shall take effect for fiscal years 2017 and after.

(4) Secs. 21a (informational reporting) and 25–26 (definition of vendor and out-of-state vendor notification requirements) shall take effect on the earlier of July 1, 2017 or beginning on the first day of the first quarter after a resolution favorable to the State of Colorado in *Direct Marketing Assoc. v. Brohl*, 814 F.3d 1129 (10th Cir. 2016).

(5) Sec. 27 (definition of vendor) shall take effect on the later of July 1, 2017 or beginning on the first day of the first quarter after a controlling court decision or federal legislation abrogates the physical presence requirement of *Quill v. North Dakota*, 504 U.S. 298 (1992).

(6) Secs. 37 (filing period for bank franchise tax), 38 (filing period for telephone company tax) and 39 (filing period for fuel gross receipts tax) shall take effect on January 1, 2017.

(For text see House Journal March 23, 24, 2016)

For Informational Purposes

The end of session is fast approaching. If you want to be assured your House Concurrent Resolution will be adopted before the the final adjournment, please touch base with Michael Chernick by Monday, May 2nd, to be sure Michael has time to put it together before we adjourn.