

# House Calendar

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Tuesday, April 18, 2017

105th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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**ACTION CALENDAR**

**Action Postponed Until April 18, 2017**

**Third Reading**

**S. 23**

An act relating to juvenile jurisdiction

**New Business**

**Favorable with Amendment**

**H. 150**

An act relating to parole eligibility

**Rep. Scheu of Middlebury**, for the Committee on Corrections and Institutions, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 502a is amended to read:

§ 502a. RELEASE ON PAROLE

(a) No inmate serving a sentence with a minimum term shall be released on parole until the inmate has served the minimum term of the sentence, less any reductions for good behavior.

\* \* \*

(d) Notwithstanding subsection (a) of this section, or any other provision of law to the contrary, any inmate who is serving a sentence, including an inmate who has not yet served the minimum term of the sentence, who is diagnosed as having a terminal or ~~debilitating~~ serious medical condition so as to render the inmate unlikely to be physically capable of presenting a danger to society, may be released on medical parole to a hospital, hospice, other licensed inpatient facility, or suitable housing accommodation as specified by the Parole Board. The Provided the inmate has authorized the release of his or her personal health information, the Department shall promptly notify the Parole Board upon receipt of medical information of an inmate's diagnosis of a terminal or ~~debilitating~~ serious medical condition. As used in this subsection, a "serious medical condition" does not mean a condition caused by noncompliance with a medical treatment plan.

Sec. 2. 28 V.S.A. § 808(e) is amended to read:

(e) The Commissioner may place on medical furlough any offender who is serving a sentence, including an offender who has not yet served the minimum

term of the sentence, who is diagnosed with a terminal or ~~debilitating~~ serious medical condition so as to render the offender unlikely to be physically capable of presenting a danger to society. The Commissioner shall develop a policy regarding the application for, standards for eligibility of, and supervision of persons on medical furlough. The offender may be released to a hospital, hospice, other licensed inpatient facility, or other housing accommodation deemed suitable by the Commissioner. As used in this subsection, a “serious medical condition” does not mean a condition caused by noncompliance with a medical treatment plan.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

**S. 50**

An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility

**Rep. Christensen of Weathersfield**, for the Committee on Health Care, 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. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEMEDICINE SERVICES

(a) All health insurance plans in this State shall provide coverage for ~~telemedicine~~ health care services delivered through telemedicine by a health care provider at a distant site to a patient in a health care facility at an originating site to the same extent that the ~~services would be covered plan would cover the services~~ if they were provided through in-person consultation.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan’s network ~~and may require originating site health care providers to document the reason the services are being provided by telemedicine rather than in person.~~ A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary and are clinically appropriate for delivery through telemedicine, subject to the terms and conditions of the covered person's policy.

(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.

(f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

(g) In order to facilitate the use of telemedicine in treating substance use disorder, when the originating site is a health care facility, health insurers and the Department of Vermont Health Access shall ensure that ~~both the treating clinician and the hosting facility~~ the health care provider at the distant site and the health care facility at the originating site are both reimbursed for the services rendered, unless the health care providers at both the ~~host and service~~ distant and originating sites are employed by the same entity.

(h) As used in this subchapter:

(1) "Distant site" means the location of the health care provider delivering services through telemedicine at the time the services are provided.

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

~~(2)~~(3) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.

~~(3)~~(4) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement.

(5) "Originating site" means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including a health care provider's office, a hospital, or a health care facility, or the patient's home or another

nonmedical environment such as a school-based health center, a university-based health center, or the patient's workplace.

(6) "Store and forward" means an asynchronous transmission of medical information to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which the health care provider at the distant site reviews the medical information without the patient present in real time.

~~(4)~~(7) "Telemedicine" means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

Sec. 2. 18 V.S.A. § 9361 is amended to read:

§ 9361. HEALTH CARE PROVIDERS ~~PROVIDING~~ DELIVERING

HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY STORE AND FORWARD SERVICES MEANS

(a) As used in this section, "distant site," "health care provider," "originating site," "store and forward," and "telemedicine" shall have the same meanings as in 8 V.S.A. § 4100k.

(b) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this state may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient ~~either in person, through telemedicine,~~ or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings. ~~For purposes of this subchapter, "telemedicine" shall have the same meaning as in 8 V.S.A. § 4100k.~~

(c)(1) A health care provider delivering health care services through telemedicine shall obtain and document a patient's oral or written informed consent prior to delivering services to the patient. The provider shall include the written consent in the patient's medical record or document the patient's oral consent in the patient's medical record.

(2)(A) Informed consent for telemedicine services shall include, in language that patients can easily understand:

(i) an explanation of the differences between telemedicine and in-person delivery of health care services, including:

(I) that the patient may experience a qualitative difference in care based on potential differences in a patient's ability to establish a therapeutic rapport with the provider in-person and through telemedicine; and

(II) that telemedicine provides different opportunities and challenges for provider-patient interaction than in-person consultation, including the potential for differences in the degree and manner of the provider's visual observations of the patient;

(ii) informing the patient of the patient's right to exclude any individual from participating in or observing the patient's consultation with the provider at both the originating site and the distant site;

(iii) informing the patient that the patient may stop telemedicine services at any time and may request a referral for in-person services; and

(iv) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(B) For services delivered through telemedicine on an ongoing basis, the health care provider shall be required to obtain consent only at the first episode of care.

(3) A health care provider delivering telemedicine services through a contract with a third-party vendor shall comply with the provisions of subdivision (2) of this subsection (c) to the extent permissible under the terms of the contract. If the contract requires the health care provider to use the vendor's own informed consent provisions instead of those set forth in subdivision (2) of this subsection (c), the health care provider shall be deemed to be in compliance with the requirements of this subsection (c) if he or she adheres to the terms of the vendor's informed consent policies.

(4) Notwithstanding any provision of this subsection (c) to the contrary, a health care provider shall not be required to obtain a patient's informed consent for the use of telemedicine in the following circumstances:

(A) for the second certification of an emergency examination determining whether an individual is a person in need of treatment pursuant to section 7508 of this title; or

(B) for a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).

(d) Neither a health care provider nor a patient shall create or cause to be created a recording of a provider's telemedicine consultation with a patient.

~~(b)~~(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time ~~of~~ following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means shall not preclude a patient from receiving real time telemedicine or face-to-face services with the distant site health care provider at a future date. Originating site health care providers involved in the store and forward process shall ensure obtain informed consent from the patient as described in subsection (c) of this section. ~~For purposes of this subchapter, "store and forward" shall have the same meaning as in 8 V.S.A. § 4100k.~~

### Sec. 3. REPEAL

33 V.S.A. § 1901i (Medicaid coverage for primary care telemedicine) is repealed.

### Sec. 4. EFFECTIVE DATES

(a) Secs. 1 (health insurance coverage) and 3 (repeal) shall take effect on October 1, 2017 and shall apply to Medicaid on that date and to all other health insurance plans on or after October 1, 2017 on the date a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2018.

(b) Sec. 2 (health care providers providing telemedicine) and this section shall take effect on passage.

**(Committee vote: 10-0-1 )**

**(For text see Senate Journal 2/23/2017 )**

**Favorable**

**H. 525**

An act relating to the Department of Liquor Control and the State Lottery.

**(Rep. Stevens of Waterbury** will speak for the Committee on General; Housing and Military Affairs.)

**Rep. Trieber of Rockingham,** for the Committee on Appropriations, recommends the bill ought to pass.

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

**Amendment to be offered by Reps. Harrison of Chittenden and Condon of Colchester to H. 525**

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

Sec. 1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) The Department of Liquor Control and the State Lottery serve similar roles in Vermont's government by generating significant revenue for the State through the sales of a controlled product.

(2) The similarities between the roles and functions of the Department of Liquor Control and the State Lottery create the potential for the two entities to merge and collaborate in carrying out their respective functions and missions.

(3) Merging the Department of Liquor Control and State Lottery into a single Department of Liquor and Lottery will enable the State to deliver services more effectively and efficiently to the public.

(4) Merging the Department of Liquor Control and the State Lottery into a single Department of Liquor and Lottery will also enable the State to realize significant cost savings by eliminating redundancy, improving accountability, providing for more efficient use of specialized expertise and facilities, and promoting the effective sharing of best practices and state-of-the-art technology.

(b) Accordingly, it is the intent of the General Assembly to:

(1) create a combined Department of Liquor and Lottery that shall be the successor to and continuation of the Department of Liquor Control and the State Lottery; and

(2) create a Board of Liquor and Lottery that shall be the successor to and a continuation of the Liquor Control Board and the Lottery Commission.

Sec. 2. DEPARTMENT OF LIQUOR AND LOTTERY; WORKING GROUP; REPORT

(a) Creation. There is created the Department of Liquor and Lottery Working Group to advise the Administration regarding the merger of the Department of Liquor Control and the State Lottery into the Department of Liquor and Lottery and to prepare draft legislation to facilitate the implementation of the merger.

(b) Membership. The Working Group shall be composed of the following nine members:

(1) two current members of the House of Representatives who shall be appointed by the Speaker of the House;

(2) two current members of the Senate who shall be appointed by the Committee on Committees;

(3) the Commissioner of Liquor Control or designee;

(4) the Chair of the Liquor Control Board or designee;

(5) the Director of the State Lottery or designee;

(6) the Chair of the Lottery Commission or designee; and

(7) a member appointed by the Governor.

(c) Powers and duties. The Working Group shall study the merger of the Department of Liquor Control and the State Lottery into the Department of Liquor and Lottery. In particular, the Working Group shall carry out the following duties:

(1) identify and examine potential administrative, regulatory, and statutory challenges, complications, and barriers to the effective merger of the Department of Liquor Control and the State Lottery

(2) provide advice to the Administration regarding the merger and identify specific measures to address the identified challenges, complications, and barriers; and

(3) develop a plan and proposed legislation to address the identified challenges, complications, and barriers.

(d) Assistance. The Working Group shall have the technical and legal assistance of the Department of Liquor Control and the Lottery Commission. For purposes of scheduling meetings and preparing any recommended legislation, the Working Group shall have the assistance of the Office of Legislative Council.

(e) Report. On or before January 15, 2018, the Working Group shall submit a written report to the House Committees on General, Housing and Military Affairs and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations with its findings and any proposed legislation.

(f) Meetings.

(1) The Commissioner of Liquor Control shall call the first meeting of the Working Group to occur on or before September 1, 2017.

(2) The Working Group shall select a chair from among its members at the first meeting.

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

(4) The Working Group shall cease to exist on January 15, 2018.

(g) Reimbursement. For attendance at not more than two meetings during adjournment of the General Assembly, legislative members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings.

## CHAPTER 5. DEPARTMENT OF LIQUOR CONTROL AND LOTTERY

### § 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR CONTROL AND LOTTERY; LIQUOR CONTROL BOARD OF LIQUOR AND LOTTERY

(a)(1) The Department of Liquor Control and Lottery, created by 3 V.S.A. § 212, shall administer the laws relating to alcoholic beverages, tobacco, and the State Lottery. It shall include the Commissioner of Liquor Control and Lottery and the Liquor Control Board of Liquor and Lottery.

(2) The Board of Liquor and Lottery shall supervise and manage the sales of spirits and fortified wines pursuant to this title and the establishment and management of the State Lottery pursuant to 31 V.S.A. chapter 14.

(3)(A) The Department of Liquor and Lottery shall be under the immediate supervision and direction of the Commissioner of Liquor and Lottery.

(B) The Division of Liquor Control is created within the Department to administer and carry out the laws relating to alcohol and tobacco set forth in this title.

(C) The Division of Lottery is created within the Department to administer and carry out the laws relating to the State Lottery set forth in 31 V.S.A. chapter 14.

(D) The Commissioner, with the approval of the Governor, may appoint a Deputy Commissioner of Liquor Control to supervise and direct the Division of Liquor Control and a Deputy Commissioner of the State Lottery to supervise and direct the Division of Lottery. Both Deputy Commissioners shall be exempt from the classified service and shall serve at the pleasure of the Commissioner.

(b)(1) The Liquor Control Board of Liquor and Lottery shall consist of five persons, not the Chair and four regular members. Not more than three members of which the Board shall belong to the same political party.

(2)(A) With the advice and consent of the Senate, the Governor shall appoint the members of the Board for staggered ~~five~~ three-year terms.

(B) The Governor shall fill a vacancy occurring during a term by an appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which the member is appointed.

(3) A member of the Board may serve for no more than two consecutive full terms. A member who is appointed to fill a vacancy occurring during a term may serve two consecutive full terms in addition to the unexpired portion of the term during which the member is first appointed.

(4) The Governor shall biennially designate a member of the Board to be its Chair. The Chair shall have general charge of the offices and employees of the Board.

(c) No member of the Board shall have a financial interest in any licensee under this title or 31 V.S.A. chapter 14, nor shall any member of the Board have a financial interest in any contract awarded by the Board or the Department of Liquor and Lottery.

(d) The Governor shall annually submit a budget for the Department to the General Assembly.

#### § 102. REMOVAL

Notwithstanding any provision of 3 V.S.A. § 2004 to the contrary, after notice and hearing, the Governor may remove a member of the ~~Liquor Control Board~~ Board of Liquor and Lottery for incompetency, failure to discharge his or her duties, malfeasance, immorality, or other cause inimical to the general good of the State. In case of such removal, the Governor shall appoint a person to fill the unexpired term.

\* \* \*

#### § 105. DUTIES OF ATTORNEY GENERAL

The ~~attorney general~~ Attorney General shall collaborate with the ~~liquor control board~~ Board of Liquor and Lottery for the enforcement of the provisions of subdivision ~~(1) of section 104(1)~~ 104(1) of this title.

#### § 106. COMMISSIONER OF LIQUOR ~~CONTROL~~ AND LOTTERY;

##### REPORTS; RECOMMENDATIONS

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the ~~Liquor~~

~~Control~~ Board of Liquor and Lottery a Commissioner of Liquor Control and Lottery for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and Lottery and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages and administering of the State Lottery.

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL AND LOTTERY

(a) The Commissioner of Liquor Control and Lottery shall direct and supervise the Department of Liquor and Lottery and, subject to the direction of the Board, shall see that the laws relating to alcohol and tobacco under this title and the State Lottery under 31 V.S.A. chapter 14 are carried out. The Commissioner shall annually prepare a budget for the Department and submit it to the Board.

(b) With respect to the laws relating to alcohol, the Commissioner shall:

(1) In towns that vote to permit the sale of spirits and fortified wines, establish local agencies as the Board of Liquor and Lottery shall determine. However, the ~~Liquor Control~~ Board shall not be obligated to establish an agency in every town that votes to permit the sale of spirits and fortified wines.

\* \* \*

§ 109. AUDIT OF ACCOUNTS OF ~~LIQUOR CONTROL BOARD OF~~ LIQUOR AND LOTTERY

All accounts of the ~~liquor control board~~ Board of Liquor and Lottery related to its activities pursuant to this title shall be audited annually by the ~~auditor of accounts~~ Auditor of Accounts and the annual report of ~~such~~ the audit shall accompany the annual reports of ~~such liquor control board~~ the Board of Liquor and Lottery.

\* \* \*

Sec. 4. REPEALS

31 V.S.A. §§ 651 (State Lottery Commission), 652 (organization), and 653 (compensation) are repealed.

Sec. 5. 31 V.S.A. § 654 is redesignated and amended to read:

§ ~~654~~ 651. POWERS AND DUTIES OF BOARD OF LIQUOR AND LOTTERY

The ~~Commission~~ Board of Liquor and Lottery shall adopt rules pursuant to 3 V.S.A. chapter 25, governing the establishment and operation of the State Lottery. The rules may include the following:

\* \* \*

(7) Lottery product sales locations, which may include State agency liquor stores ~~and liquor agencies~~; private business establishments, except establishments holding first- or first- and third-class licenses pursuant to Title 7; fraternal, religious, and volunteer organizations; town clerks' offices; and State fairs, race tracks, and other sporting arenas.

\* \* \*

(11) Apportionment of total revenues, within limits hereinafter specified, accruing to the State Lottery Fund among:

(A) the payment of prizes to winning ticket holders;

(B) the payment of all costs incurred in the creation, operation, and administration of the ~~lottery~~ State Lottery, including compensation of the ~~Commission Board, Director~~ Commissioner of Liquor and Lottery, employees of the Department of Liquor and Lottery, consultants, contractors, and other necessary expenses;

(C) the repayment of monies advanced to the State Lottery Fund for initial funding of the ~~lottery~~ State Lottery;

\* \* \*

Sec. 6. 31 V.S.A. § 654a is redesignated and amended to read:

§ ~~654a~~ 652. MULTIJURISDICTIONAL LOTTERY GAME

(a) In addition to the Tri-State Lotto Compact provided for in subchapter 2 of this chapter; and the other authority to operate lotteries contained in this chapter, the ~~Commission~~ Board of Liquor and Lottery is authorized to negotiate and contract with up to four multijurisdictional lotteries to offer and provide multijurisdictional lottery games. The ~~Commission~~ Board may join any multijurisdictional lottery that provides indemnification for its standing committee members, officers, directors, employees, and agents. The ~~Commission~~ Board shall adopt rules under 3 V.S.A. chapter 25 to govern the establishment and operation of any multijurisdictional lottery game authorized by this section.

\* \* \*

(c) The provisions of subdivisions 674L.1.1A through 674L.1.1I of this title shall apply to the payment of prizes to a person other than a winner for prizes awarded under any multijurisdictional lottery authorized by this section, except that the ~~Vermont Lottery Commission~~ Board of Liquor and Lottery shall be responsible for implementing ~~such~~ the provisions under this section, rather than the Tri-State Lotto Commission.

Sec. 7. 31 V.S.A. § 655 is redesignated and amended to read:

§ ~~655~~ 653. LICENSE FEES

A license fee shall be charged for each sales license granted to a person for the purpose of selling lottery tickets at the time the person is first granted a license. The fee shall be fixed by the ~~Commission~~ Board of Liquor and Lottery, but no license fee in excess of \$50.00 may be charged.

Sec. 8. 31 V.S.A. § 656 is redesignated and amended to read:

§ ~~656~~ 654. INTERSTATE LOTTERY; CONSULTANT; MANAGEMENT

(a) The ~~Commission~~ Board of Liquor and Lottery may develop and operate a lottery or the State may enter into a contractual agreement with another state or states to provide for the operation of the lottery. Approval of the Joint Fiscal Committee and the Governor shall be required for such contractual agreements with other states.

(b) If no interstate contract is entered into, the ~~Commission~~ Board shall obtain the service of an experienced lottery design and implementation consultant. The fee for the consultant may be fixed or may be based ~~upon~~ on a percentage of gross receipts realized from the lottery.

(c) The ~~Commission~~ Board may enter into a facilities management type of agreement for operation of the lottery by a third party.

Sec. 9. 31 V.S.A. § 657 is redesignated and amended to read:

§ ~~657~~ 655. ~~DIRECTOR AND~~ DUTIES OF THE COMMISSIONER

(a) The State Lottery shall be under the immediate supervision and direction of a ~~Lottery Director~~ the Commissioner of Liquor and Lottery. ~~The Director shall devote his or her entire time and attention to the duties of his or her office and shall not be engaged in any other profession or occupation. The Office of Director of the State Lottery is an executive position and shall not be included in the plan of classification of State employees, notwithstanding 3 V.S.A. § 310(a).~~

(b) The ~~Director~~ Commissioner shall:

(1) ~~supervise~~ Supervise and administer the operation of the ~~lottery~~ Lottery within the rules adopted by the ~~Commission;~~ Board of Liquor and Lottery.

(2) ~~subject~~ Subject to the approval of the ~~Commission~~ Board, enter into ~~such~~ contracts ~~as may be required~~ necessary for the proper creation, administration, operation, modification, and promotion of the ~~lottery~~ Lottery or any part ~~thereof~~ of the Lottery. These contracts shall not be assignable;.

(3) ~~license~~ License sales agents and suspend or revoke any license in accordance with the provisions of this chapter and the rules of the ~~Commission;~~ Board.

(4) ~~act~~ Act as Secretary to the ~~Commission~~ Board, but as a nonvoting member of the ~~Commission;~~ Board.

(5) ~~employ such~~ Employ professional and secretarial staff as ~~may be required~~ necessary to carry out the functions of the ~~Commission~~ Division of the Lottery. 3 V.S.A. chapter 13 shall apply to employees of the ~~Commission;~~ and Division.

(6) ~~annually~~ Annually prepare a budget and submit it to the ~~Commission~~ Board.

Sec. 10. 31 V.S.A. § 658 is redesignated and amended to read:

§ ~~658~~ 656. STATE LOTTERY FUND

(a) There is hereby created in the State Treasury a separate fund to be known as the State Lottery Fund. ~~This fund~~ The Fund shall consist of all revenues received from the Treasurer for initial funding, from sale of lottery tickets, from license fees, and from all other money credited or transferred from any other fund or source pursuant to law. The monies in the State Lottery Fund shall be disbursed pursuant to subdivision ~~654(11)~~ 651(11) of this title, and shall be disbursed by the Treasurer on warrants issued by the Commissioner of Finance and Management, when authorized by the Commissioner of Liquor and Lottery ~~Director~~ and approved by the Commissioner of Finance and Management.

(b) Expenditures for administrative and overhead expenses of the operation of the ~~lottery~~ Lottery, except agent and bank commissions, shall be paid from ~~lottery~~ Lottery receipts from an appropriation authorized for that purpose. Agent commissions shall be set by the ~~Lottery Commission~~ Board of Liquor and Lottery and ~~may~~ shall not exceed 6.25 percent of gross receipts and bank commissions ~~may~~ shall not exceed 1 percent of gross receipts. ~~Once~~ When the draw game results become official, the payment of any commission on any draw game ticket that wins at least \$10,000.00 shall be made through the

normal course of processing payments to lottery agents, regardless of whether the winning ticket is claimed.

\* \* \*

Sec. 11. 31 V.S.A. § 659 is redesignated and amended to read:

§ ~~659~~ 657. REPORT OF THE ~~COMMISSION~~ BOARD

The ~~Commission~~ Board of Liquor and Lottery shall make an annual report to the Governor and to the General Assembly on or before the 10th day of January in each year; ~~including therein~~. The report shall include an account of ~~its~~ the Board's actions; and the receipts derived under the provisions of this chapter, the practical effects of the application ~~thereof~~ of the proceeds of the Lottery, and any recommendation for legislation ~~which~~ that the ~~Commission~~ Board deems advisable.

Sec. 12. 31 V.S.A. § 660 is redesignated and amended to read:

§ ~~660~~ 658. ~~POST-AUDITS~~ POSTAUDITS

All ~~lottery~~ Lottery accounts and transactions of the ~~Lottery-Commission~~ Board of Liquor and Lottery and Division of the Lottery pursuant to this chapter shall be subject to annual ~~post-audits~~ postaudits conducted by independent auditors retained by the ~~Commission~~ Board for this purpose. The ~~Commission~~ Board may order ~~such~~ other audits as it deems necessary and desirable.

Sec. 13. 31 V.S.A. § 661 is redesignated and amended to read:

§ ~~661~~ 659. SALES AND PURCHASE OF LOTTERY TICKETS

The following acts relating to the purchase and sale of lottery tickets are prohibited:

\* \* \*

(4) No member of the ~~Commission~~ Board of Liquor and Lottery, or employee of the ~~Commission~~ Department of Liquor and Lottery, or ~~members~~ member of ~~their~~ his or her immediate household; may claim or receive prize money ~~hereunder~~ under this chapter.

Sec. 14. 31 V.S.A. § 662 is redesignated to read:

§ ~~662~~ 660. UNCLAIMED PRIZE MONEY

Sec. 15. 31 V.S.A. § 663 is redesignated to read:

§ ~~663~~ 661. STATE GAMING LAWS INAPPLICABLE AS TO LOTTERY

Sec. 16. 31 V.S.A. § 665 is redesignated to read:

§ ~~665~~ 662. PENALTIES

Sec. 17. 31 V.S.A. § 666 is redesignated to read:

§ ~~666~~ 663. PUBLICATION OF ODDS

Sec. 18. 31 V.S.A. § 667 is redesignated to read:

§ ~~667~~ 664. FISCAL COMMITTEE REVIEW

\* \* \*

(b) This section shall not apply in the event the ~~Commission~~ Board of Liquor and Lottery enters into a facilities management agreement pursuant to the provisions of subsection ~~656(e)~~ 654(c) of this title.

Sec. 19. 3 V.S.A. § 212 is amended to read:

§ 212. DEPARTMENTS CREATED

The following administrative departments are hereby created, through the instrumentality of which the Governor, under the Constitution, shall exercise such functions as are by law assigned to each department respectively:

\* \* \*

(14) The Department of Liquor ~~Control~~ and Lottery

\* \* \*

Sec. 20. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the compensation of the members of the following Boards shall be \$50.00 per diem:

\* \* \*

(7) ~~Liquor Control Board~~ Board of Liquor and Lottery

\* \* \*

Sec. 21. 2016 Acts and Resolves No. 144, Sec. 20 is amended to read:

Sec. 20. COMMISSIONER OF LIQUOR ~~CONTROL~~ AND LOTTERY;

CURRENT TERM; APPOINTMENT OF SUCCESSOR

The Commissioner of Liquor ~~Control~~ and Lottery in office on the effective date of this act shall be deemed to have commenced a four-year term pursuant to 7 V.S.A. § 106(a)(1) on February 1, 2016. The Commissioner shall serve until the end of the four-year term or until a successor is appointed as provided pursuant to 7 V.S.A. § 106. Notwithstanding any provision of 3 V.S.A. § 2004 or 7 V.S.A. § 106(b) to the contrary, during this current term, the Governor may remove the Commissioner for cause after notice and a hearing.

Sec. 22. BOARD OF LIQUOR AND LOTTERY; DEPARTMENT OF  
LIQUOR AND LOTTERY; POWERS AND DUTIES

On January 1, 2018:

(1)(A) The Board of Liquor and Lottery shall assume all the powers, duties, rights, and responsibilities of the Liquor Control Board and the Lottery Commission.

(B) The rules of the Liquor Control Board and the Lottery Commission in effect on July 1, 2017 shall be the rules of the Board of Liquor and Lottery until they are amended or repealed.

(2)(A) The Department of Liquor and Lottery shall assume all the powers, duties, rights, and responsibilities of the Department of Liquor Control and the State Lottery.

(B) All positions and appropriations of the Department of Liquor Control and the State Lottery shall be transferred to the Department of Liquor and Lottery.

(3)(A) The Commissioner of Liquor Control shall become the Commissioner of Liquor and Lottery.

(B) The Commissioner of Liquor and Lottery shall assume all the powers, duties, rights, and responsibilities of the Commissioner of Liquor Control and the Director of the State Lottery.

Sec. 23. LEGISLATIVE COUNCIL; PREPARATION OF A DRAFT BILL

On or before January 15, 2018, the Office of Legislative Council shall prepare and submit a draft bill to the House Committees on General, Housing and Military Affairs and on Government Operations and the Senate Committees on Economic Development, Housing and General Affairs and on Government Operations that makes statutory amendments of a technical nature and identifies all statutory sections that the General Assembly may need to amend substantively to effect the intent of this act.

Sec. 24. CONFORMING REVISIONS

When preparing the cumulative supplements and replacement volumes of the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions to these supplements and volumes as needed for consistency with Secs. 3–22 of this act, provided the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Commissioner of Liquor Control” with “Commissioner of Liquor and Lottery”;

(2) replace “Liquor Control Board” with “Board of Liquor and Lottery”;

(3) replace “Lottery Commission” with “Board of Liquor and Lottery”;

(4) replace “Department of Liquor Control” with “Division of Liquor Control”; and

(5) revisions that are substantially similar to those described in subdivisions (1) through (4) of this section.

Sec. 25. EFFECTIVE DATE

(a) This section and Secs. 1, 2, and 23 shall take effect on July 1, 2017.

(b) The remaining sections shall take effect on January 1, 2018.

**Amendment to be offered by Rep. Ancel of Calais to H. 525**

First: In Sec. 2, Department of Liquor and Lottery, working group, in subsection (e) after the words “to the House Committees on General, Housing and Military Affairs” by inserting: “, on Ways and Means,”

Second: In Sec. 2, Department of Liquor and Lottery, working group, in subsection (e) after the words “the Senate Committees on Economic Development, Housing and General Affairs” by inserting: “, on Finance,”

**Action Under Rule 52**

**J.R.H. 7**

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House

**(For text see House Journal April 14, 2017)**

**NOTICE CALENDAR**

**Favorable with Amendment**

**S. 12**

An act relating to increasing the maximum prison sentence for first, second, and subsequent offenses of aggravated animal cruelty

**Rep. LaLonde of South 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. 13 V.S.A. chapter 8 is amended to read:

**CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS**

**Subchapter 1. Cruelty to Animals**

**§ 351. DEFINITIONS**

As used in this chapter:

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

\* \* \*

(19) "Sexual conduct" means:

(A) any act between a person and animal that involves contact between the mouth, sex organ, or anus of a person and the mouth, sex organ, or anus of an animal; or

(B) without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of a person's body or of any instrument, apparatus, or other object into the vaginal or anal opening of an animal.

\* \* \*

#### § 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner, or engages in a reckless course of conduct that results in the death of an animal;

\* \* \*

(10) uses a live animal as bait or lure in a race, game, or contest, or in training animals in a manner inconsistent with 10 V.S.A. Part 4 of Title 10 or the rules adopted thereunder;

(11)(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

(F) advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State.

#### § 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

\* \* \*

#### § 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

##### (a) Penalties.

(1) Except as provided in subdivision (3) ~~or~~, (4), or (5) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

\* \* \*

(5) A person who violates subdivision 352(1) of this title by intentionally killing or attempting to kill an animal belonging to another shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

\* \* \*

#### Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

**(For text see Senate Journal February 15, 2017)**

#### **S. 20**

An act relating to permanent licenses for persons 66 years of age or older

**Rep. Beyor of Highgate**, for the Committee on Natural Resources; Fish & Wildlife, recommends that the House propose to the Senate that the bill be amended as follows:

By striking out Sec. 2 (effective date) in its entirety and inserting in lieu thereof two new sections to be Secs. 2 and 3 to read:

Sec. 2. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a the Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

- (1) ~~the~~ The Secretary of Administration or designee;
- (2) ~~the~~ The Secretary of Natural Resources or designee;
- (3) ~~the~~ The Secretary of Agriculture, Food and Markets or designee;
- (4) ~~the~~ The Secretary of Commerce and Community Development or designee; ~~and~~.

(5) ~~the~~ The Secretary of Transportation or designee.

(6) Four members of the public to be appointed as follows:

(A) The Speaker of the House of Representatives shall appoint two members of the public, one of whom shall be a municipal official.

(B) The Committee on Committees shall appoint two members of the public, one of whom shall be a municipal official.

(C) Of the members appointed under this subdivision (6), it is the intent of the General Assembly that at any one time a member representing each of the following major watersheds shall be serving on the Board:

(i) the Connecticut River watershed;

(ii) the Hudson River watershed;

(iii) the Lake Champlain watershed; and

(iv) the Lake Memphremagog watershed.

(c) Officers; committees; rules; reimbursement.

(1) The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its

members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

\* \* \*

(g) Terms; appointed members. Members who are appointed to the Clean Water Fund Board shall be appointed for terms of three years, except initially, appointments shall be made such that one member appointed by the Speaker shall be appointed for a term of two years, and one member appointed by the Committee on Committees shall be appointed for a term of one year. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

### Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 (Clean Water Fund Board) shall take effect on passage.

(b) Sec. 1 (permanent fishing and hunting licenses) shall take effect on January 1, 2018.

**(Committee vote: 8-0-1 )**

**(For text see Senate Journal March 15, 2017 )**

**Rep. Helm of Fair Haven**, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as proposed by the Committee on Natural Resources; Fish & Wildlife.

**(Committee Vote: 11-0-0)**

### S. 75

An act relating to aquatic nuisance species control

**Rep. Lefebvre of Newark**, for the Committee on Natural Resources; Fish & Wildlife, 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. 10 V.S.A. § 1452 is amended to read:

#### § 1452. DEFINITIONS

As used in this chapter:

(1) “Agency” means the ~~agency of natural resources~~ Agency of Natural Resources.

(2) “Aquatic nuisance” means undesirable or excessive substances or populations that interfere with the recreational potential or aquatic habitat of a body of water, including rooted aquatic plants and animal and algal populations. Aquatic nuisances include ~~rooted aquatic plants and animal and algal populations~~ zebra mussels (Dreissena polymorpha), quagga mussels (Dreissena bugensis), Asian clam (Corbicula fluminea), fishhook waterflea (Cercopagis pengoi), rusty crayfish (Orconectes rusticus), spiny waterflea (Bythotrephes longimanus), or other species identified by the Secretary by rule.

(3) “Aquatic plant” means a plant that naturally grows in water, saturated soils, or seasonally saturated soils, including algae and submerged, floating-leafed, floating, or emergent plants.

(4) “Biological controls” ~~mean~~ means multi-cellular organisms.

(5) “~~Board~~” ~~means the water resources panel of the natural resources board.~~ [Repealed.]

\* \* \*

(9) “Secretary” means the ~~secretary of natural resources~~ Secretary of Natural Resources.

(10) “Water resources” means the waters and the values inherent or potential in waters and their uses.

(11) “Waters” means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and springs and all bodies of surface waters, artificial or natural, ~~which~~ that are contained within, flow through, or border upon the ~~state~~ State or any portion of it.

(12) “Baitbox” means a receptacle, not exceeding 25 cubic feet in volume, used for holding or keeping baitfish alive for personal use.

(13) “Live well” means a well for keeping fish alive in a vessel by allowing water to circulate through the well.

(14) “Ballast tank” means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(15) “Bilge area” means the lowest point in the vessel where water can collect when the vessel is in its static floating position.

(16) “Decontaminate” means a process used to kill, destroy, or remove aquatic nuisance species and other organic material that may be present in or on a vessel, motor vehicle transporting the vessel, trailer, or other equipment.

Decontamination may include washing a vessel, motor vehicle transporting the vessel, trailer, or other equipment with water at a sufficiently high temperature to kill or remove aquatic nuisance species.

(17) “Lake association” means a lake protection organization registered with the Secretary of Natural Resources on a form provided by the Secretary.

(18) “Marina” means a property, other than a public access or landing area regulated under section 4145 of this title, on the shoreline of a water of the State that contains a dock, basin, or ramp that, at no cost or for remuneration, provides to the public secure moorings or vessel access to the water.

(19) “Motor vehicle” means any vehicle propelled or drawn by power other than muscular power, including a snowmobile, motorcycle, all-terrain vehicle, farm tractor, or tracked vehicle.

(20) “Personal watercraft” shall have the same meaning as set forth in 23 V.S.A. § 3302.

(21) “Transport” means to move motor vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment over land, but does not include movement within the immediate area required for loading and preparing vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment prior to movement into or away from a body of water.

(22) “Vessel” means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft.

Sec. 2. 10 V.S.A. § 1454 is amended to read:

§ 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC  
NUISANCE SPECIES

(a) ~~No~~ Transport of aquatic nuisance species; prohibition. A person shall not transport an aquatic plant ~~or~~, aquatic plant part, zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), or other aquatic nuisance species identified by the Secretary by rule to or from any Vermont waters on the outside of a vehicle, boat, personal watercraft, trailer, or other equipment water. This section shall not restrict:

(1) proper harvesting or other control activities undertaken for the purpose of eliminating or controlling the growth or propagation of aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance species; or

(2) proper collection of water samples for the purpose of water quality monitoring.

(b) Inspection of vessel entering or leaving water. A person transporting a vessel to or from a water shall, prior to launching the vessel and upon leaving a water, inspect the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment, and shall remove and properly dispose of any aquatic plants, aquatic plant parts, and aquatic nuisance species.

(c) Aquatic nuisance species inspection station. It shall be a violation of this section for a person transporting a vessel to or from a water to not have the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment inspected and, if determined necessary, decontaminated at an approved aquatic nuisance species inspection station prior to launching the vessel and upon leaving a water if:

(1) an aquatic nuisance species inspection station is maintained at the area where the vessel is entering or leaving the water;

(2) the aquatic nuisance species inspection station is open; and

(3) an individual operating the aquatic nuisance species inspection station identifies the vessel for inspection or decontamination.

(d) Draining of vessel; transport.

(1)(A) When leaving a water of the State and prior to transport away from the area where the vessel left the water, a person operating a vessel shall drain the vessel, trailer, and other equipment of water, including water in live wells, ballast tanks, and bilge areas. A person is not required to drain:

(i) baitboxes when authorized under 10 App. V.S.A. § 122(5) to transport bait in a baitbox away from a water; or

(ii) vehicles and trailers specifically designed and used for water hauling.

(B) A person operating a vessel shall drain the vessel, trailer, and other equipment of water in a manner to avoid a discharge to the water of the State. This subdivision (d)(1) does not authorize a person to discharge waste, as defined in section 1251 of this title, to waters of the State. A person shall dispose of waste in the manner required by law.

(2) When a person transports a vessel, the person shall remove or open the drain plugs, bailers, valves, and other devices that are used to control the draining of water from ballast tanks, bilge areas, and live wells of the vessel, trailer, and other equipment, except for vehicles and trailers specifically designed and used for water hauling and emergency response vehicles and equipment.

(e) Exceptions to transport prohibition. The Secretary may ~~grant~~ exceptions to persons to allow the transport of aquatic plants, zebra mussels,

~~quagga mussels, aquatic plant parts, or other aquatic nuisance species for scientific or purposes, educational purposes, or other purposes specifically authorized by the Secretary. When granting exceptions allowing the transport of aquatic plants, aquatic plant parts, or aquatic nuisance species under this subsection,~~ the Secretary shall take into consideration both the value of the scientific or educational purpose and the risk to Vermont surface waters posed by the transport and ultimate use of the specimens. A letter from the Secretary authorizing the transport must accompany the specimens during transport.

~~(e)(f) Signage; access areas and marinas. Signage shall be posted at all public access and landing areas regulated under section 4145 of this title and at all marinas regarding the requirements of subsections (a)–(d) of this section relating to aquatic nuisance transport and inspection and decontamination of vessels, motor vehicles transporting vessels, trailers, or other equipment. The Secretary shall provide marinas with the signs required under this section.~~

~~(g) Violations. A Pursuant to 4 V.S.A. § 1102, a violation of this section may be brought in the Judicial Bureau by any law enforcement officer, as that term is defined in 23 V.S.A. § 3302(2), or, pursuant to section 8007 or 8008 of this title, a violation of this section may be brought in the Environmental Division of the Superior Court. When a violation is brought by an enforcement officer other than an environmental enforcement officer employed by the Agency of Natural Resources, the enforcement officer shall submit to the Secretary a copy of the citation for purposes of compliance with the public participation requirements of section 8020 of this title. If a violation of this section is adjudicated in the Judicial Bureau or the Environmental Division, the violation shall not be addressed or adjudicated a second time in the other court.~~

Sec. 3. 10 V.S.A. § 1455(a) is amended to read:

(a) ~~No~~ A person may shall not use pesticides, chemicals other than pesticides, biological controls, bottom barriers, structural barriers, structural controls, or powered mechanical devices in waters of the State to control nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey, unless that person has been issued a permit by the ~~secretary~~ Secretary.

Sec. 4. 10 V.S.A. § 1461 is added to read:

§ 1461. AQUATIC NUISANCE INSPECTION STATIONS; TRAINING PROGRAM

(a) The Secretary of Natural Resources shall establish a training program regarding how to conduct inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall include online training,

recorded material, training manuals, or other material that allows a person to complete training remotely.

(b) The Secretary of Natural Resources shall establish a training program regarding how to decontaminate vessels, motor vehicles, trailers, and other equipment to prevent the spread of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall:

(1) require a person operating aquatic nuisance decontamination equipment to complete in-person training conducted by the Secretary or an entity approved by the Secretary; and

(2) instruct participants regarding how to address noncompliance with the requirements of section 1454 of this title, including how to report a violation to law enforcement, if a violation needs to be reported, and how operators of the inspection station do not have law enforcement authority to mandate compliance with the requirements of section 1454 of this title.

(c) In order to establish an aquatic nuisance species inspection station for the purposes of the vessel inspection and decontamination requirements of subsection 1454(c) of this title, a lake association, municipality, or the Commissioner of Environmental Conservation shall apply to the Secretary for approval. As a condition of approval, a representative of an lake association or municipality shall complete the training programs established under subsections (a) and (b) of this section. A lake association or municipality seeking to operate an aquatic nuisance species inspection station shall designate a representative to complete the training programs established under subsections (a) and (b) of this section. In order to operate an aquatic nuisance species inspection station, a lake association or municipality shall own or control aquatic nuisance decontamination equipment.

(d) A lake association or municipality approved to operate an aquatic nuisance species inspection station under subsection (b) of this section shall provide persons who will operate the aquatic nuisance species inspection station with training materials furnished by the Secretary regarding how to:

(1) conduct the inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species; and

(2) complete the in-person training required under subsection (b) of this section in order to operate decontamination equipment.

(e) The Secretary may adopt rules under section 1460 of this title to implement the training requirements of this section, including an annual schedule of available training.

Sec. 5. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

\* \* \*

(27) Violations of 10 V.S.A. § 1454(a)–(d) relating to the transport of aquatic plants and aquatic nuisance species.

Sec. 6. 23 V.S.A. § 3317(b) is amended to read:

(b) A person who violates a requirement under 10 V.S.A. § 1454 shall be subject to enforcement under 10 V.S.A. ~~chapter 201~~ § 8007 or 8008 or a fine under this chapter, provided that the person shall be assessed a penalty or fine of not more than \$1,000.00 for each violation. A person who violates a rule adopted under 10 V.S.A. § 1424 shall be subject to enforcement under 10 V.S.A. chapter 201, provided that the person shall be assessed a penalty of not more than \$300.00 for each violation. A person who violates any of the following sections of this title shall be subject to a penalty of not more than \$300.00 for each violation:

§ 3306(e) marine toilet

§ 3312a operation of personal watercraft

Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT

The Secretary of Natural Resources shall not require an aquatic nuisance control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed in an area where they:

(A) create a hazard to public health; or

(B) unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers three days prior to placement of the barriers in a water; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.

Sec. 8. REPEAL; BOTTOM BARRIERS

Sec. 7 of this act (bottom barriers for aquatic nuisance control) shall be repealed on March 1, 2018.

## Sec. 9. AQUATIC NUISANCE CONTROL GENERAL PERMIT

On or before February 1, 2018, the Secretary of Natural Resources shall issue a general permit for aquatic nuisance control activities. The general permit shall allow for nonchemical aquatic nuisance control activities and any other management or control measures that the Secretary considers appropriate and for which the Secretary has general permit authority under 10 V.S.A. chapter 50. The general permit shall authorize rapid response activities that an individual or lake association may take to control aquatic nuisance species. The provisions of 10 V.S.A. § 1456(a) and (c)–(f) related to the rapid response permits for aquatic nuisance control shall apply to the rapid response activities authorized in the permit required under this section.

## Sec. 10. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

Beginning on July 1, 2017, the Secretary of Natural Resources shall provide education and outreach to the public regarding the transport and inspection requirements in 10 V.S.A chapter 50 for the reduction of the spread of aquatic nuisance species. The education and outreach shall include a notification in the Department of Fish and Wildlife guides to hunting and fishing in Vermont regarding the aquatic nuisance transport prohibition and the requirements to inspect vessels for aquatic nuisance species when entering or leaving a water.

## Sec. 11. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE CHAMPLAIN

(a) On or before November 15, 2017, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish and Wildlife a report regarding how to control the transport of aquatic nuisances to and from Lake Champlain. The report shall include:

(1) an inventory of the boat decontamination facilities or other aquatic nuisance control measures currently employed at boat launches, marinas, or other areas on Lake Champlain;

(2) a summary of whether the current measures to control aquatic nuisance transport to and from Lake Champlain are adequate;

(3) a proposal for siting boat decontamination facilities or other comparable aquatic nuisance control measures at boat launches, marinas, or other areas on Lake Champlain, including where proposed facilities or other aquatic nuisance control measures would be located;

(4) a summary of how proposed boat decontamination facilities or comparable aquatic nuisance control measures would be staffed, including

whether staff would possess sufficient authority to inspect a vessel entering or leaving Lake Champlain in order to require boat decontamination or another aquatic nuisance control measure;

(5) an estimate of the cost to implement proposed boat decontamination facilities or other aquatic nuisance control measures on Lake Champlain; and

(6) a recommendation of whether and how vessels leaving Lake Champlain should be quarantined from entering other waters of the State for a defined time period or until a specific condition is satisfied; and

(7) draft legislation that the Secretary determines is necessary to implement any boat decontamination facility or other aquatic nuisance control measure proposed in the report.

(b) As used in this section, “aquatic nuisance” and “vessel” shall have the same meanings as set forth in 10 V.S.A. § 1452.

Sec. 12. 10 V.S.A. § 1264b is amended to read:

§ 1264b. ~~STORMWATER-IMPAIRED WATERS RESTORATION~~

STORMWATER FUND

(a) A fund to be known as the ~~stormwater impaired waters restoration fund~~ Stormwater Fund is created in the ~~state treasury~~ State Treasury to be expended by the ~~secretary of natural resources~~ Secretary of Natural Resources. The ~~fund~~ Fund shall be administered by the ~~secretary of natural resources through the facilities engineering division~~ Secretary of Natural Resources. The ~~fund~~ Fund shall consist of:

(1) ~~Stormwater~~ stormwater impact fees paid by permittees ~~in order~~ to meet applicable permitting standards for the discharges of regulated stormwater runoff to the stormwater-impaired waters of the ~~state~~ State and Lake Champlain and waters that contribute to the impairment of Lake Champlain;

(2) ~~Such~~ such sums as may be appropriated or transferred to the ~~fund~~ Fund by the ~~general assembly, the state emergency board, or the joint fiscal committee~~ General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times when the ~~general assembly~~ General Assembly is not in session;

(3) ~~Principal~~ principal and interest received from the repayment of loans made from the ~~fund~~ Fund;

(4) ~~Private~~ private gifts, bequests, and donations made to the ~~state~~ State for any of the purposes for which the ~~fund~~ Fund was established; and

(5) ~~Other~~ other funds from any public or private source intended for use for any of the purposes for which the ~~fund~~ Fund has been established.

(b) The ~~fund~~ Fund shall maintain separate accounts for each stormwater-impaired water and each phosphorus-impaired lake segment of Lake Champlain and the monies in each account may only be used to fund offsets in the designated water. Offsets shall be designed to reduce the sediment load, phosphorus load, or hydrologic impact of regulated stormwater runoff in ~~stormwater-impaired waters~~ the receiving water. All balances in the ~~fund~~ Fund at the end of any fiscal year shall be carried forward and remain a part of the ~~fund~~ Fund. Interest earned by the ~~fund~~ Fund shall be deposited into the ~~fund~~ Fund.

(c) The ~~facilities—engineering—division~~ Secretary may authorize disbursements from the ~~fund~~ Fund to offsets that meet the requirements of the rule adopted pursuant to subsection 1264a(e) 1264(f) of this title. The public funds used to capitalize the ~~stormwater-impaired waters restoration fund~~ Fund shall:

(1) ~~Be~~ be disbursed only to an offset that is owned or operated by a municipality or a governmental subdivision, agency, or instrumentality; and

(2) ~~Be~~ be disbursed only to reimburse a municipality or a governmental subdivision, agency, or instrumentality for those funds provided by the municipality or governmental subdivision, agency, or instrumentality to complete or construct an offset.

(d) A municipality or governmental subdivision, agency, or instrumentality may, on an annual basis, reserve capacity in an offset that the municipality or governmental subdivision, agency, or instrumentality operates or owns and that meets the requirements of ~~subsection 1264a(e)~~ the rule adopted pursuant to subsection 1264(f) of this title. A municipality or governmental subdivision, agency, or instrumentality reserving offset capacity shall inform the ~~secretary of natural resources~~ Secretary of the offset capacity for which the offset will not receive disbursements from the ~~stormwater-impaired waters restoration fund~~ Fund for nonmunicipal discharges. ~~A municipality that reserves capacity as an offset may receive disbursements from the fund to mitigate the uncontrolled sediment load or hydrologic impact in discharges for which the municipality is issued a permit for the discharge of regulated stormwater runoff under subdivision 1264a(b)(1) of this title.~~

(e) Eligible persons may apply for a grant from the ~~fund~~ Fund to design and implement an offset. The ~~fund~~ Fund may be used to match other public and private sources of funding for such projects. ~~The funds may also be used to match federal funds otherwise available to capitalize the fund created by 24 V.S.A. § 4753(a)(8).~~

(f) A discharger that pays a stormwater impact fee to the ~~stormwater-impaired waters restoration fund under section 1264a of this title~~ Fund in order to receive a permit for the discharge of regulated stormwater runoff may receive reimbursement of that fee if the discharger fails to discharge under the stormwater discharge permit, if the discharger notifies the ~~secretary~~ Secretary of the abandonment of the discharge permit, and if the ~~secretary~~ Secretary determines that unobligated monies for reimbursement remain in the ~~stormwater-impaired restoration fund~~ Fund.

Sec. 13. REPEAL; INTERIM STORMWATER PERMITTING

10 V.S.A. § 1264a(e) (interim stormwater permitting authority) is repealed.

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1–11 (aquatic nuisance species control) shall take effect on passage.

(b) Secs. 12 and 13 (stormwater management) shall take effect on July 1, 2017.

**(Committee vote: 8-0-1 )**

**(For text see Senate Journal March 22, 2017 )**

**S. 130**

An act relating to miscellaneous changes to education laws

**Rep. Webb of Shelburne**, for the Committee on Education, recommends that the House propose to the Senate that the bill be amended as follows:

First: By striking out Sec. 2 (Educational and Training Programs for College Credit), Sec. 3 (Student Enrollment; Small School Grant), Secs. 6–8 (speech-language pathologists), and Sec. 19 (Effective Dates) with their reader assistances, in their entirety.

Second: By renumbering the remaining sections to be numerically correct.

Third: By adding eight new sections, to be Secs. 14, 15, 16, 17, 18, 19, 20, and 21, with reader assistances, to read:

\* \* \* Criminal Record Checks \* \* \*

Sec. 14. 16 V.S.A § 255(k) is added to read:

(k) The requirements of this section shall not apply to persons operating or employed by a child care facility that is prequalified to provide prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A § 3502.

Sec. 15. 33 V.S.A § 3511 is amended to read:

§ 3511. DEFINITIONS

As used in this chapter:

\* \* \*

(2) “Child care facility” means any place or program operated as a business or service on a regular or continuous basis, whether for compensation or not, whose primary function is protection, care, and supervision of children under 16 years of age outside their homes for periods of fewer than 24 hours a day by a person other than a child’s own parent, guardian, or relative, as defined by rules adopted by the Department for Children and Families, but not including a kindergarten approved by the State Board of Education or a prequalified prekindergarten program operated by a school.

\* \* \*

\* \* \* Education Weighting Study Committee \* \* \*

Sec. 16. EDUCATION WEIGHTING STUDY COMMITTEE

(a) Creation. There is created the Education Weighting Study Committee to consider and make recommendations on the criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010.

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

(1) two current members of the House of Representatives, not from the same party, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, not from the same party, who shall be appointed by the Committee on Committees;

(3) the Secretary of Education or designee;

(4) the Secretary of Human Services or designee;

(5) the Executive Director of the Vermont Superintendent’s Association or designee;

(6) the Executive Director of the Vermont School Boards Association or designee; and

(7) the Executive Director of the Vermont National Education Association or designee.

(c) Powers and duties.

(1) The Committee shall consider and make recommendations on the criteria used for the determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including the following:

(A) the relationship between each of the current weighting factors and the quality and equity of educational outcomes for students;

(B) whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and if the modification would further the quality and equity of educational outcomes for students; and

(C) whether to add any weighting factors, including a school district population density factor, and if so, why the weighting factor should be added and if the weighting factor would further the quality and equity of educational outcomes for students.

(2) In addition to considering and make recommendations on the criteria used for the determining weighted long-term membership of a school district under subdivision (1) of this subsection, the Committee may consider and make recommendations on other methods that would further the quality and equity of educational outcomes for students.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Report. On or before January 15, 2018, the Committee shall submit a written report to the House and Senate Committees on Education with its findings and any recommendations.

(f) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before May 30, 2017.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Committee shall cease to exist on January 16, 2018.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than seven meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than seven meetings.

\* \* \* Surety Bond; Postsecondary Institutions \* \* \*

Sec. 17. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1) promptly inform the State Board;

(2) prepare the academic record of each current and former student in a form satisfactory to the State Board and including interpretive information required by the Board; and

(3) deliver the records to a person designated by the State Board to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

\* \* \*

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

\* \* \*

(g)(1) Each institution of higher education accredited in Vermont, except institutions that are members of the Association of Vermont Independent Colleges (AVIC), the University of Vermont, and the Vermont State Colleges, shall acquire and maintain a bond from a corporate surety licensed to do business in Vermont in the amount of \$50,000.00 to cover costs that may be incurred by the State under subsection (e) of this section due to the institution's failure to comply with the requirements of subsection (a) of this section, and the institution shall provide evidence of the bond to the Secretary within 30 days of receipt. The State shall be entitled to recover up to the full amount of the bond in addition to the other remedies provided in subsection (e) of this section.

(2) AVIC shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:

(A) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and

(B) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.

\* \* \* Small School Support \* \* \*

Sec. 18. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

\* \* \*

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1, provided, however, that for prekindergarten students, “enrollment” shall include any prekindergarten child for whom the school district of residence has provided prekindergarten education or on whose behalf it has paid tuition pursuant section 829 of this title. A student shall be counted as one whether the student is enrolled as a full-time or part-time student.

\* \* \*

(4) “Average grade size” means two-year average enrollment divided by the number of grades taught in the district on October 1. For purposes of this calculation, ~~kindergarten and~~ prekindergarten programs shall be counted ~~together as one grade~~ as two grades.

\* \* \*

Sec. 19. 2015 Acts and Resolves No. 46, Sec. 20 is amended to read:

Sec. 20. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) “Eligible school district” means a school district that:

~~operates at least one school; and~~

~~(A) has a two-year average combined enrollment of fewer than 100 students in all the schools operated by the district; or has~~

~~(B)~~(A) operates at least one school with an average grade size of 20 or fewer; and

(B) has been determined by the State Board, on an annual basis, to be eligible due to either:

(i) the lengthy driving times or inhospitable travel routes between the school and the nearest school in which there is excess capacity; or

(ii) the academic excellence and operational efficiency of the school, which shall be based upon consideration of:

(I) the school's measurable success in providing a variety of high-quality educational opportunities that meet or exceed the educational quality standards adopted by the State Board pursuant to section 165 of this title;

(II) the percentage of students from economically deprived backgrounds, as identified pursuant to subsection 4010(d) of this title, and those students' measurable success in achieving positive outcomes;

(III) the school's high student-to-staff ratios; and

(IV) the district's participation in a merger study and submission of a merger report to the State Board pursuant to chapter 11 of this title or otherwise.

(2) "Enrollment" means the number of students who are enrolled in a school operated by the district on October 1, provided, however, that for prekindergarten students, "enrollment" shall include any prekindergarten child for whom the school district of residence has provided prekindergarten education or on whose behalf it has paid tuition pursuant section 829 of this title. A student shall be counted as one whether the student is enrolled as a full-time or part-time student.

\* \* \*

(4) "Average grade size" means two-year average enrollment divided by the number of grades taught in the district on October 1. For purposes of this calculation, kindergarten and prekindergarten programs shall be counted together as one grade as two grades.

\* \* \*

(6) "School district" means a town, city, incorporated, interstate, or union school district or a joint contract school established under subchapter 1 of chapter 11 of this title.

\* \* \*

~~(c) Small schools financial stability grant: In addition to a small schools support grant, an eligible school district whose two year average enrollment decreases by more than 10 percent in any one year shall receive a small schools financial stability grant. However, a decrease due to a reduction in the number of grades offered in a school or to a change in policy regarding paying tuition for students shall not be considered an enrollment decrease. The amount of the grant shall be determined by multiplying 87 percent of the base education amount for the current fiscal year, by the number of enrollment, to the nearest one hundredth of a percent, necessary to make the two year average enrollment decrease only 10 percent. [Repealed.]~~

~~(d) Funds for both grants shall be appropriated from the Education Fund and shall be added to payments for the base education amount or deducted from the amount owed to the Education Fund in the case of those districts that must pay into the Fund under section 4027 of this title. [Repealed.]~~

\* \* \*

\* \* \* Prekindergarten Education Recommendations \* \* \*

#### Sec. 20. PREKINDERGARTEN EDUCATION RECOMMENDATIONS

On or before November 1, 2017, the Secretaries of Human Services and of Education shall jointly present recommendations to the House and Senate Committees on Education that will ensure equity, quality, and affordability, and reduce duplication and complexity, in the current delivery of prekindergarten services.

\* \* \* Effective Dates \* \* \*

#### Sec. 21. EFFECTIVE DATES

(a) This section, Secs. 1–7, 9–13, 16, 18, and 20 shall take effect on passage.

(b) Sec. 8 (State-placed students) shall take effect beginning with the 2017–2018 school year.

(c) Secs. 14–15 (criminal record checks) shall take effect on passage and shall apply to persons hired or contracted with after June 30, 2017 and to persons who apply for or renew a teaching or child care provider license after June 30, 2017.

(d) Sec. 17 (surety bond; postsecondary institutions) shall take effect on October 1, 2017.

(e) Sec. 19 (small school support) shall take effect on July 1, 2019, and shall apply to grants made in fiscal year 2020 and after.

(Committee vote: 11-0-0 )

(For text see Senate Journal March 30, 2017 )

**Favorable**

**S. 96**

An act relating to a news media privilege

**Rep. LaLonde of South Burlington**, for the Committee on Judiciary, recommends that the bill ought to pass in concurrence.

(Committee Vote: 10-0-1)

(For text see Senate Journal March 22, 2017 )

**Senate Proposal of Amendment**

**H. 182**

An act relating to certain businesses regulated by the Department of Financial Regulation

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

First: By striking out Sec. 14 (segregated accounts of money transmitters) in its entirety and by inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. [DELETED.]

Second: By striking out Sec. 15 (segregated accounts of money transmitters) in its entirety and by inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. [DELETED.]

Third: In Sec. 18, 8 V.S.A. § 2200, by striking out the newly renumbered subdivision 17 (loan solicitation) in its entirety and by inserting in lieu thereof a new subdivision 17 to read as follows:

(15)(17)(A) "Loan solicitation" means, for compensation or gain or with the expectation of compensation or gain, to:

(i) offer, solicit, broker, directly or indirectly arrange, place, or find a loan for a prospective Vermont borrower;

(ii) engage in any activity intended to assist a prospective Vermont borrower in obtaining a loan, including lead generation;

(iii) arrange, in whole or in part, a loan through a third party, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, through any method, including mail, telephone, Internet, or any electronic means; or

(iv) advertise or cause to be advertised in this State a loan or any of the services described in subdivisions (i)–(iii) of this subdivision (17)(A).

(B) As used in this subdivision (17), “loan solicitation” does not:

(i) apply to residential mortgage loans;

(ii) include a broker-dealer registered or exempt from registration under 9 V.S.A. § 5401 when the broker-dealer provides the services described in subdivision (A) of this subdivision (17) and the broker-dealer is not compensated by the consumer for those services;

(iii) include an agent registered or exempt from registration under 9 V.S.A. § 5402 when the agent provides the services described in subdivision (A) of this subdivision (17) and the individual agent is not compensated by the consumer for those services;

(iv) include an insurance producer licensed under 8 V.S.A. § 4800 when the insurance producer provides the services described in subdivision (A) of this subdivision (17) and the individual insurance producer is not compensated by the consumer for those services;

(v) include a seller of goods or services that provides the services described in subdivision (A) of this subdivision (17) in connection with financing the sale or proposed sale of the seller’s goods or services and the seller is not compensated by the consumer for the services described in subdivision (A) of this subdivision (17); or

(vi) include other categories of loans or service providers as determined by the Commissioner by rule or order.

Fourth: In Sec. 19, 8 V.S.A. § 2201, in subdivision (a)(5) (loan solicitation), after “A person licensed as a lender” by inserting the following: , sales finance company,

Fifth: In Sec. 32 (effective dates), by striking out “14 (money transmitter segregated accounts),”

(For text see House Journal March 14, 2017 )

#### **H. 494**

An act relating to the Transportation Program and miscellaneous changes to transportation-related law

The Senate proposes to the House to amend the bill by striking all after the

enacting clause and inserting in lieu thereof the following:

\* \* \* Transportation Program Adopted as Amended; Definitions \* \* \*

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation’s proposed fiscal year 2018 Transportation Program appended to the Agency of Transportation’s proposed fiscal year 2018 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) “Agency” means the Agency of Transportation.

(2) “Secretary” means the Secretary of Transportation.

(3) The table heading “As Proposed” means the Transportation Program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the term “change” or “changes” in the text refers to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

(4) “TIB funds” means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

\* \* \* Department of Motor Vehicles \* \* \*

Sec. 2. DEPARTMENT OF MOTOR VEHICLES

For fiscal year 2018, spending authority for the Department of Motor Vehicles is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	18,395,579	18,395,579	0
Operating Expense	11,106,337	10,906,337	-200,000
Total	29,501,916	29,301,916	-200,000
<u>Sources of Funds</u>			
State	27,973,478	27,773,478	-200,000
Federal	1,423,438	1,423,438	0
Interdept. Transfer	105,000	105,000	0
Total	29,501,916	29,301,916	-200,000

\* \* \* State Highway Bridge Program \* \* \*

Sec. 2a. PROGRAM DEVELOPMENT – STATE HIGHWAY BRIDGE PROGRAM

The following project is added to the development and evaluation (D&E) list of the Program Development – State Highway Bridge Program within the fiscal year 2018 Transportation Program: NH 020-2 ( ) – Quechee – Rehab of Bridge 61 on U.S. Route 4 in the town of Hartford over the Ottauquechee River. To the extent funds become available as a result of the unanticipated delay of or cost savings on projects in the fiscal year 2018 Transportation Program, the funds may be spent as necessary for D&E of this project.

\* \* \* Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail \* \* \*

Sec. 3. REPEAL

(a) 2016 Acts and Resolves No. 158, Sec. 9a (Bike and Pedestrian Facilities Program; Lamoille Valley Rail Trail) is repealed.

(b) In the Program Development – Bike and Pedestrian Facilities Program section of the Agency’s fiscal year 2018 proposed Transportation Program, within the project information description for the Swanton–St. Johnsbury LVRT() project, the projected cash requirement fields are amended as follows:

(1) under “Projected FY 2019,” the estimated amount of construction expenditures and the total expenditures is amended from “980,000” to “1,000,000”;

(2) under “Projected FY 2020,” the estimated amount of construction expenditures and the total expenditures is amended from “0” to “1,000,000”; and

(3) under “Projected FY 2021,” the estimated amount of construction expenditures and the total expenditures is amended from “0” to “1,000,000.”

\* \* \* Maintenance Program \* \* \*

Sec. 4. MAINTENANCE

For fiscal year 2018, spending authority for the Maintenance Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	45,558,652	43,638,652	-1,920,000
Operating Expense	45,265,393	45,265,393	0
Grants	421,780	421,780	0
Total	91,245,825	89,325,825	-1,920,000
<u>Sources of Funds</u>			
State	87,376,083	87,376,083	0

Federal	3,769,742	1,849,742	-1,920,000
Interdept. Transfer	100,000	100,000	0
Total	91,245,825	89,325,825	-1,920,000

\* \* \* License Plate Savings \* \* \*

Sec. 4a. SAVINGS RELATED TO SINGLE LICENSE PLATES;  
ANALYSIS; SPENDING AUTHORITY

(a) Secs. 2 and 5 of this act reallocate \$200,000.00 in spending authority from the Department of Motor Vehicles (DMV) to the Town Highway Class 2 Roadway Program as result of cost savings projected to result from the requirement that DMV issue one license plate instead of two license plates for most motor vehicles registered in Vermont.

(b) On or before December 1, 2017, the Commissioner of Motor Vehicles shall provide the House and Senate Committees on Appropriations and on Transportation an updated analysis of cost savings projected to result in fiscal year 2018 from requiring one license plate. If the cost savings are projected to exceed \$200,000.00, the Administration shall propose in its fiscal year 2018 Budget Adjustment Act submission an increase in spending authority for the Town Highway Class 2 Roadway Program for fiscal year 2018, and a decrease in spending authority for the Department of Motor Vehicles for fiscal year 2018, to the extent the savings are projected to exceed \$200,000.00.

\* \* \* Town Highway Bridge Program \* \* \*

Sec. 4b. TOWN HIGHWAY BRIDGE PROGRAM

The following project is added to the Town Highway Bridge Program within the fiscal year 2018 Transportation Program: FLAP (1) – Derby – culvert replacement on the access road to the Eagle Point Wildlife Management Area in Derby. To the extent funds become available for the project from the Federal Lands Access Program in fiscal year 2018, the funds may be expended as necessary for advancement of this project.

\* \* \* Town Aid Programs \* \* \*

Sec. 5. TOWN HIGHWAY CLASS 2 ROADWAY PROGRAM

For fiscal year 2018, spending authority for the Town Highway Class 2 Roadway Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	7,248,750	7,848,750	600,000
Total	7,248,750	7,848,750	600,000
<u>Sources of funds</u>			
State	7,248,750	7,848,750	600,000
Federal	0	0	0

Total	7,248,750	7,848,750	600,000
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Sec. 6. TOWN HIGHWAY FEDERAL DISASTERS PROGRAM

Spending authority for the fiscal year 2018 Town Highway Federal Disasters Program is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	200,000	180,000	-20,000
Total	200,000	180,000	-20,000
<u>Sources of funds</u>			
State	20,000	20,000	0
Federal	180,000	160,000	-20,000
Total	200,000	180,000	-20,000

\* \* \* Transportation Alternatives Program \* \* \*

Sec. 7. 19 V.S.A. § 38 is amended to read:

§ 38. TRANSPORTATION ALTERNATIVES GRANT PROGRAM

\* \* \*

(c) The Transportation Alternatives Grant Program is created. The Grant Program shall be administered by the Agency, and shall be funded in the amount provided for in 23 U.S.C. § ~~213(a)~~ 133(h), less the funds set aside for the Recreational Trails Program ~~as specified in 23 U.S.C. § 213(f)~~. Awards shall be made to eligible entities as defined under 23 U.S.C. § ~~213(e)(4)~~ 133(h), and awards under the Grant Program shall be limited to the activities ~~described at 23 U.S.C. § 213(b) other than Recreational Trails Program grants authorized under federal law.~~

(d) Eligible entities awarded a grant must provide all funds required to match federal funds awarded for a Transportation Alternatives project. All grant awards shall be decided and awarded by the Transportation Alternatives Grant Committee.

(e) Transportation Alternatives grant awards shall be announced annually by the Transportation Alternatives Grant Committee not earlier than December and not later than the following March.

(f)(1) In fiscal years 2018 and 2019, all Grant Program funds shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects.

(2) Each In fiscal year 2020 and thereafter, \$1,100,000.00 of Grant Program funds, or such lesser sum if all eligible applications amount to less than \$1,100,000.00, shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt

and sand shed projects. Regarding the balance of Grant Program funds, in evaluating applications for Transportation Alternatives grants, the Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the Transportation Alternatives Grant Committee.

\* \* \*

Sec. 8. MUNICIPAL MITIGATION ASSISTANCE PROGRAM

Authorized spending in the Municipal Mitigation Assistance Program for fiscal year 2018 is amended as follows:

<u>FY18</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Operating Expenses	150,000	150,000	0
Grants	8,032,342	9,032,342	1,000,000
Total	8,182,342	9,182,342	1,000,000
<u>Sources of Funds</u>			
State	1,640,000	1,240,000	-400,000
Federal	5,442,342	5,442,342	0
Clean Water Fund	1,100,000	1,100,000	0
Other	0	1,400,000	1,400,000
Total	8,182,342	9,182,342	1,000,000

Sec. 9. FUTURE APPROPRIATIONS; REPEAL

2016 Acts and Resolves No. 158, Sec. 5 (future appropriations) is repealed.

Sec. 10. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

\* \* \*

(c) State aid for town highway bridges. There shall be an annual appropriation for town bridge engineering services and for aid in maintaining or constructing bridges having a span of six feet or more on class 1, 2, and 3 town highways. Annually the Agency shall ~~distribute~~ expend these funds according to a the Transportation Program plan based upon applications submitted by the towns approved by the General Assembly. With the approval of the Agency, funds may be used for alternatives which eliminate the need for a bridge or bridges, including construction or reconstruction of highways, purchase of parcels of land that would be landlocked by closure of a bridge or bridges, payment of damages for loss of highway access, and substitution of other means of access.

\* \* \*

(i) ~~Monies disbursed from the Clean Water Fund established in 10 V.S.A. § 1388 for~~ The Agency shall administer the Municipal Mitigation Assistance Program. Through the Program, the Agency shall provide assistance and grants to municipalities for environmental mitigation projects related to stormwater and highways shall be administered by the Agency through the Municipal Mitigation Grant Program and for the establishment and operation of stormwater utilities. Grants provided to municipalities under the Program shall be matched by Municipalities shall match grants with local funds sufficient to cover 20 percent of the project costs, except that the Agency may issue grants for the establishment or operation of stormwater utilities without requiring a local match. From the operating expenses appropriated for the Program, the Agency is authorized to pay costs billed to the Agency by municipal stormwater utilities.

\* \* \*

\* \* \* Central Garage \* \* \*

#### Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2018, the amount of \$1,296,047.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

\* \* \* Transportation Program Terminology \* \* \*

Sec. 12. 19 V.S.A. § 10 is amended to read:

#### § 10. DUTIES

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

\* \* \*

(16) Inform the Joint Transportation Oversight Committee of any anticipated loss or reduction of federal funding for transportation purposes due to either a lack of State funds for matching, or a decrease in federal funds for the ~~one-year capital program~~ Transportation Program.

\* \* \*

Sec. 13. 19 V.S.A. § 10g is amended to read:

#### § 10g. ANNUAL REPORT; TRANSPORTATION PROGRAM; ADVANCEMENTS, CANCELLATIONS, AND DELAYS

(a) The Agency of Transportation shall annually present to the General Assembly a multiyear Transportation Program covering the same number of years as the Statewide Transportation Improvement ~~Plan~~ Program (STIP), consisting of the recommended budget for all Agency activities for the ensuing fiscal year and projected spending levels for all Agency activities for the

following fiscal years. The Program shall include a description and year-by-year breakdown of recommended and projected funding of all projects proposed to be funded within the time period of the STIP and, in addition, a description of all projects that are not recommended for funding in the first fiscal year of the proposed Program but which are scheduled for construction during the time period covered by the STIP. The Program shall be consistent with the planning process established by 1988 Acts and Resolves No. 200, as codified in 3 V.S.A. chapter 67 and 24 V.S.A. chapter 117, the statements of policy set forth in sections 10b–10f of this title, and the long-range systems plan, corridor studies, and project priorities developed through the capital planning process under section 10i of this title.

\* \* \*

Sec. 14. 19 V.S.A. § 1512 is amended to read:

#### § 1512. UTILITY RELOCATIONS

(a) When relocation of a utility is required by a project for the improvement, construction, or reconstruction of a highway under the provisions of this chapter, the ~~agency~~ Agency or a municipality, or both, may pay for some or all of the cost of the relocation.

(b) The ~~agency~~ Agency, following the procedures set forth in 3 V.S.A. chapter 25, shall adopt rules setting standards for determining when and to what extent the authority granted by subsection (a) of this section may be exercised. These standards shall take into account the following:

\* \* \*

(4) the overall effect on the ~~state's transportation capital program~~ State's Transportation Program of using available highway construction funds for utility relocation purposes.

\* \* \* Automated Vehicles \* \* \*

#### Sec. 15. AUTOMATED VEHICLES

(a) On or before December 15, 2017, the Secretary shall convene a meeting of public and private stakeholders with expertise related to:

(1) the licensing of automated vehicle (AV) operators and the registration of AVs;

(2) AV operator education and training;

(3) insurance and liability issues related to AVs;

(4) enforcement of laws governing AV operation;

(5) inspections of AVs;

- (6) testing of AVs in Vermont;
- (7) emergency response practices in relation to AVs;
- (8) infrastructure needs associated with the rollout of AVs; and
- (9) social, economic, and environmental consequences of the rollout of AVs.

(b) The purpose of the meeting required under subsection (a) of this section is to gather information related to and raise awareness of opportunities and challenges related to AVs, and identify policy areas requiring further research or possible legislation. On or before January 15, 2018, the Secretary shall report back to the House and Senate Committees on Transportation on its activities and any recommendations related to AVs, including any proposed legislation.

(c) The Secretary shall monitor guidance from the federal government, activities in other states, and industry trends related to the development and rollout of AVs.

\* \* \* Park and Rides \* \* \*

Sec. 16. 19 V.S.A. chapter 5 is amended to read:

CHAPTER 5. CONDEMNATION FOR STATE  
HIGHWAY PROJECTS

§ 500. INTENT

The purpose of this chapter is to ensure that a property owner receives fair treatment and just compensation when the owner's property is taken for State highway projects, and that condemnation proceedings are conducted expeditiously so that highway projects in the public interest are not unnecessarily delayed.

§ 501. DEFINITIONS

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

\* \* \*

(4) "Highway" shall include park and rides.

\* \* \*

\* \* \* Distribution of Public Transit Program Funds \* \* \*

Sec. 17. 24 V.S.A. § 5091 is amended to read:

§ 5091. FUNDING

(a) The Secretary of Transportation, within the annual budget setting process, shall meet with the Public Transit Advisory Council and representatives of public transit systems to establish the level of State funds needed by public transit systems in Vermont, and shall consider this level in formulating the Agency of Transportation's ~~State Budget request~~ proposed Transportation Program.

(b) State funds authorized by the ~~Legislature~~ General Assembly as grant assistance for the operation of public transit services shall be eligible for use as a matching source for federal funds.

(c) The same fiscal accountability requirements and regulatory standards shall apply to all grantees of funds as provided by rule of the Secretary of Transportation.

(d) Rideshare, capital, contracted services, and transportation brokerage services are not to be considered as operating funds under this section.

(e) State funds shall be paid ~~on a semi-annual payment basis to eligible grantees with the first payment paid immediately upon approval of the contract and the second payment to occur at the start of the third quarter of the State fiscal year as follows:~~

(1) the first payment of 50 percent of the estimated annual fiscal year total shall be paid immediately upon execution of the grant;

(2) subsequent payments shall be paid quarterly based on projected need determined by current fiscal year spending and availability of funds;

(3) additional payments, if necessary, shall occur only if actual costs exceed the previous payments and if funds are available.

\* \* \*

\* \* \* Highways; Utility Facilities \* \* \*

Sec. 18. 19 V.S.A. § 1111 is amended to read:

§ 1111. PERMITTED USE OF THE RIGHT-OF-WAY; RELOCATION OR ADJUSTMENT ORDERS

(a) Permits; relocation or adjustment orders.

(1) Permits must be obtained by anyone or any corporation wishing to use as described in this section any part of the highway right-of-way on either the State or town system. Notwithstanding any other statutory requirement, a

permit shall be required for any use of any highway right-of-way, consistent with the provisions of this section. In issuing a permit under this section for a use of a State highway right-of-way, the Secretary may require a transportation impact fee in accordance with 10 V.S.A. chapter 151, subchapter 5. Except for this transportation impact fee authority of the Secretary, the authority given to the Board, the Secretary, and the Attorney General under this section shall also apply to the legislative bodies of towns, or their designees.

(2) Except in emergencies, the Agency or the municipality shall seek input and consider input received from affected utilities before issuing a utility relocation or adjustment order. In specifying the times for utility relocation or adjustment work, the Agency or the municipality shall allocate to each a reasonable time for its role in the relocation or adjustment work after taking into account:

(A) the season of the year; and

(B) the respective duties and responsibilities of the pole or conduit owner and the involved utilities, including the need to install, transfer, or retire individual components in a specific sequence.

(3) When the Agency or a municipality issues a utility relocation or adjustment order in accordance with law in connection with highway maintenance or construction activities, and a utility fails to move or adjust its line or other facility within the time specified in the order, that utility shall be liable to the State or to the municipality for damages that the State or the municipality is required to pay a contractor for delay caused by the failure. However, a utility shall not be liable for such damages if its failure to move or adjust the line or facility is for reasons beyond its control, including: emergency restoration activities; inclement weather; timing restrictions imposed by law or permits; terms of collective bargaining agreements; or the failure of another utility to complete its assigned responsibilities for the installation, transfer, or retirement of its facilities. If the Agency or the selectboard cannot agree with a utility as to whether the utility is liable or as to the amount of damages under this subdivision (a)(3), the Agency or selectboard may bring an action in accordance with subsection (h) of this section.

\* \* \*

(h) Restraining prohibited acts; damages. Whenever the Secretary believes that any person is in violation of the provisions of this chapter, he or she may also bring an action in the name of the Agency in a court of competent jurisdiction against the person to collect civil penalties as provided for in subsection (j) of this section ~~and~~, for damages, and to restrain by temporary or permanent injunction the continuation or repetition of the violation. The

selectboard shall have the same authority for town highways. The Court may issue temporary or permanent injunctions without bond, and any other relief as may be necessary and appropriate for abatement of any violation. An action, injunction, or other enforcement proceeding by a municipality relating to the failure to obtain or comply with the terms and conditions of any permit issued by a municipality pursuant to this section shall be instituted within 15 years from the date the alleged violation first occurred and not thereafter. The burden of proving the date on which the alleged violation first occurred shall be on the person against whom the enforcement action is instituted.

\* \* \*

\* \* \* Effective Dates \* \* \*

#### Sec. 19. EFFECTIVE DATES AND RETROACTIVITY

(a) This section, Sec. 9 (future appropriations; repeal), and Sec. 15 (automated vehicles) shall take effect on passage. Notwithstanding 1 V.S.A. § 214, Sec. 9 shall apply retroactively to July 1, 2016.

(b) All other sections shall take effect on July 1, 2017.

(For text see House Journal March 3, 2017 )

#### **Public Hearings**

April 20, 2017 - Room 10, 10:00 AM-12:00 PM - Federal 2018 Farm bill - House Agriculture and Forestry; Senate Agriculture