

Senate Calendar

FRIDAY, APRIL 21, 2017

SENATE CONVENES AT: 9:00 A.M.

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ACTION CALENDAR

UNFINISHED BUSINESS OF THURSDAY, APRIL 20, 2017

House Proposal of Amendment

S. 22

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

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

Sec. 1. LEGISLATIVE FINDINGS

The General Assembly finds:

(1) According to Michael Botticelli, former Director of the Office of National Drug Control Policy, the National Drug Control Strategy recommends treating “addiction as a public health issue, not a crime.” Further, the strategy “rejects the notion that we can arrest and incarcerate our way out of the nation’s drug problem.”

(2) Vermont Chief Justice Paul Reiber has declared that “the classic approach of ‘tough on crime’ is not working in [the] area of drug policy” and that treatment-based models are proving to be a more effective approach for dealing with crime associated with substance abuse.

(3) A felony conviction record is a significant impediment to gaining and maintaining employment and housing, yet we know that stable employment and housing are an essential element to recovery from substance abuse and desistance of criminal activity that often accompanies addiction.

(4) In a 2014 study by the PEW Research Center, 67 percent of people polled said government should focus more on providing treatment to people who use illicit drugs and less on punishment. The Center later reported that states are leading the way in reforming drug laws to reflect this opinion. State-level actions have included lowering penalties for possession and use of illegal drugs, shortening mandatory minimums or curbing their applicability, removing automatic sentence enhancements, and establishing or extending the jurisdiction of drug courts and other alternatives to the regular criminal justice system.

(5) Vermont must look at alternative approaches to the traditional criminal justice model for addressing low-level illicit drug use if it is going to

reduce the effects of addiction and addiction-related crime in this State.

Sec. 2. STUDY

(a) The Office of Legislative Council shall examine the issue of a public health approach to low-level possession and use of illicit and regulated drugs, including fentanyl, in Vermont as an alternative to the traditional criminal justice model, looking to trends both nationally and internationally, with a goal of providing policymakers a range of approaches to consider during the 2018 legislative session.

(b) The Office of Legislative Council shall report its findings to the General Assembly on or before November 15, 2017.

Sec. 3. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail

establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(d) This section shall not apply to a manufacturer ~~which~~ that has obtained an exemption from the Attorney General of the United States under Section

711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) “Distributor” means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) “Knowingly” means having actual knowledge of the relevant facts.

(3) “Manufacturer” means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) “Wholesaler” means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 5. EFFECTIVE DATES

This section and Sec. 3 (ephedrine and pseudoephedrine) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

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

An act relating to alternative approaches to addressing low-level illicit drug use and the ephedrine and pseudoephedrine registry.

Proposal of amendment to House proposal of amendment to S. 22 to be offered by Senator Sears

Senator Sears moves that the Senate concur in the House proposal of amendment with further proposal of amendment by inserting four new sections to be Secs. 4a–4d to read as follows:

Sec. 4a. 18 V.S.A. § 4233a is added to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations,

compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

Sec. 4b. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a

depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 4c. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

- (1) murder in the first or second degree;
- (2) arson under sections 501-504 and 506 of this title;
- (3) sexual exploitation of children under sections 2822, 2823, and 2824 of this title;
- (4) receiving stolen property under sections 2561-2564 of this title; or
- (5) an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:
 - (A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana;
 - (B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;
 - (C) 18 V.S.A. § 4233(c), relating to trafficking in heroin;
 - (D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine; ~~or~~
 - (E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine; or
 - (F) 18 V.S.A. § 4233a(c), relating to trafficking in fentanyl.

Sec. 4d. USE OF U.S. FOOD AND DRUG ADMINISTRATION-
APPROVED DRUGS CONTAINING CANNABIDIOL

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing cannabidiol, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing cannabidiol by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing cannabidiol to a patient or a patient's authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued or by the patient's authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or more prescription drugs containing cannabidiol, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

House Proposal of Amendment

S. 56

An act relating to life insurance policies and the Vermont Uniform Securities Act.

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

* * * Secondary Addressee for Life Insurance * * *

Sec. 1. 8 V.S.A. § 3762(d) is added to read:

(d) No individual policy of life insurance covering an individual 64 years of age or older that has been in force for at least one year shall be canceled for nonpayment of premium unless, after expiration of the grace period and not less than 21 days before the effective date of any such cancellation, the insurer has mailed a notice of impending cancellation in coverage to the policyholder and to a specified secondary addressee if such addressee has been designated by name and address in writing by the policyholder. An insurer shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy on a form provided by the insurer, and annually thereafter, and the policyholder shall have the right to designate a secondary addressee, in writing, by name and address, at any time the policy is in force, by submitting such written notice to the insurer. If a life insurance policy provides a grace period longer than 51 days for nonpayment of premium, the notice of cancellation in coverage required by this subsection shall be mailed to the policyholder and to the secondary addressee not less than 21 days prior to the expiration of the grace period provided in such policies.

* * * Penalty Enhancements for Violations Involving a
Vulnerable Adult * * *

Sec. 2. 8 V.S.A. § 24 is amended to read:

§ 24. SENIOR INVESTOR PROTECTION

* * *

(e) The Commissioner, in addition to other powers conferred on the Commissioner by law, may increase the amount of an administrative penalty by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14).

* * * Securities Act Penalties, Generally; Vulnerable Adults * * *

Sec. 3. 9 V.S.A. § 5412(c) is amended to read:

(c) If the Commissioner finds that the order is in the public interest and subdivisions (d)(1) through (6), (8), (9), (10), (12), or (13) of this section authorize the action, an order under this chapter may censure, impose a bar on, or impose a civil penalty on a registrant in an amount not more than \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~, and recover the costs of the investigation from the registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control of the broker-dealer or investment adviser. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

Sec. 4. 9 V.S.A. § 5603(b)(2)(C) is amended to read:

(C) imposing a civil penalty up to \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act. The court may increase a civil penalty amount by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14). The limitations on civil penalties contained in this subdivision shall not apply to settlement agreements; and

Sec. 5. 9 V.S.A. § 5604(d) is amended to read:

(d) In a final order under subsection (b) or (c) of this section, the Commissioner may impose a civil penalty of not more than \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~. The Commissioner may also require a person to make restitution or provide disgorgement of any sums shown to have been obtained in violation of this chapter, plus interest at the legal rate. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

* * * Securities Act Housekeeping * * *

Sec. 6. 9 V.S.A. § 5302 is amended to read:

§ 5302. NOTICE FILING

* * *

(c) With respect to a security that is a federal covered security under 15 U.S.C. § ~~77r(b)(4)(E)~~ § 77r(b)(4)(F), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with section 5611 of this chapter signed by the issuer not later than 15 days after the first sale of the federal covered security in this State and the payment of a fee as set forth in subsection (e) of this section. The notice filing shall be effective for one year from the date the notice filing is accepted as complete by the Office of the Commissioner. On or before expiration, the issuer may annually renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under this chapter to be filed and by paying an annual renewal fee as set forth in subsection (e) of this section.

(d) Subject to the provisions of 15 U.S.C. § 77r(c)(2) and any rules adopted thereunder, with respect to any security that is a federal covered security under 15 U.S.C. § 77r(b)(3) or ~~(4)(A)-(C)~~ (4)(A)-(E) and (G) and that

is not otherwise exempt under sections 5201 through 5203 of this title, a rule adopted or order issued under this chapter may require any or all of the following with respect to such federal covered securities, at such time as the Commissioner may deem appropriate:

* * *

* * * Philanthropy Protection Act; Exemption Repeal * * *

Sec. 7. REPEAL

9 V.S.A. § 5615 (exempting Vermont from the Philanthropy Protection Act of 1995) is repealed.

* * * Cooperative Insurance; Bylaws * * *

Sec. 8. 8 V.S.A. § 3925 is amended to read:

§ 3925. BYLAWS; COMPULSORY PROVISIONS

The bylaws of a cooperative insurance corporation to which a certificate of authority is issued shall include substantially the following provisions:

(1) The corporate powers of such corporation shall be exercised by a board of directors, who shall be not less than five in number. Such directors shall be divided into classes and a portion only elected each year. They shall be elected for a term of not more than four years each and shall choose ~~from their number~~ a president, a secretary, and such other officers as may be deemed necessary. After the first year, the directors shall be chosen at an annual meeting to be held on the second Tuesday of January, unless some other day is designated in such bylaws, at which meeting each person insured shall have one vote and may be entitled to vote by proxy under such rules and regulations as may be prescribed by the bylaws.

(2) Such corporation shall keep proper books, including a policy register, in which the secretary shall enter the complete record of all its transactions and those of the board of directors and executive committee. Such books shall at all times show fully and truly the condition, affairs, and business of such corporation and shall be open for inspection by every person insured, each day from nine o'clock in the forenoon to four o'clock in the afternoon, Saturdays, Sundays, and legal holidays excepted.

(3) If authorized as an assessment cooperative insurance corporation as outlined in subsection 3920(a) of this title, such corporation may assess for the purposes specified in section 3927 of this title, and the bylaws shall specify the manner of giving notice of such assessments, which may be either personal or by mail, and, if by mail, shall be deemed complete if such notice is deposited, postage prepaid, in the post office at the place where the principal office of the corporation is located, directed to the person insured at his or her last known

place of residence or business. A person insured who neglects or refuses to pay his or her assessments, for that reason or for any other reason satisfactory to the board of directors or its executive committee, may be excluded from such corporation and, when thus excluded, the secretary shall cancel or withdraw his or her policy or policies, subject to the cancellation provisions in sections 3879 through 3882 and chapter 113, subchapter 2 of this title, provided that such person shall remain liable for his or her pro rata share of losses and expenses incurred on or before the date of his or her exclusion and for the penalty herein provided, in case an action is brought against him or her. If a member of such corporation is so excluded and his or her policy so canceled, the secretary shall forthwith enter such cancellation and the date thereof on the records kept in the office of the corporation and serve notice of such cancellation on the person so excluded, as provided herein for the service of notice of assessment. However, in such event, the person so excluded or whose policy is so canceled shall be entitled to the repayment of an equitable portion of the unearned paid premium on such policy. The officers of such corporation shall proceed to collect all assessments within 30 days after the expiration of the notice to pay the same. Neglect or refusal on their part so to proceed or to perform any of the duties imposed on them by law shall render them individually liable for the amount lost to any person, due to such neglect or refusal, and an action may be maintained by such person against such officers to collect such amount. An action may be brought by the corporation against a person insured therein to recover all assessments which he or she may neglect or refuse to pay, and there may be recovered from him or her in such action both the amount so assessed, with lawful interest thereon, and, as a penalty for such neglect or refusal, 50 percent of such assessment in addition thereto.

(4) Any person insured by an assessment cooperative insurance corporation may withdraw therefrom at any time by giving written notice to the corporation, stating the date of withdrawal, paying his or her share of all claims then existing against such corporation, and surrendering his or her policy or policies.

(5) Any person insured by a nonassessment cooperative insurance corporation may withdraw from it at any time by giving written notice to the corporation stating the date of withdrawal and surrendering his or her policy or policies.

(6) ~~Persons residing or owning property within the state of Vermont~~ any state where the corporation is authorized to do business may be insured upon the same terms and conditions as original members and such other terms as may be prescribed in the bylaws of the corporation.

(7) ~~Nonresidents owning property within the state of Vermont may be~~

~~insured therein and shall have all the rights and privileges of the corporation and be accountable as are other persons insured therein, but shall not be eligible to hold office in the corporation;~~

(8) The bylaws of such corporation may be amended at any time.

* * * Group Life Insurance; Employee Pay All * * *

Sec. 9. [DELETED.]

Sec. 10. [DELETED.]

Sec. 11. [DELETED.]

Sec. 12. [DELETED.]

Sec. 13. [DELETED.]

Sec. 14. [DELETED.]

Sec. 15. [DELETED.]

* * * Assistant Medical Examiners; Liability Protections * * *

Sec. 16. 18 V.S.A. § 511 is added to read:

§ 511. ACTIONS AGAINST MEDICAL EXAMINERS

Actions taken by any person given authority under this chapter, including an assistant medical examiner, shall be considered to be actions taken by a State employee for the purposes of 3 V.S.A. chapter 29 and 12 V.S.A. chapter 189 if such actions occurred within the scope of such person's duties.

* * * Portable Electronics Insurance; Notice Requirements * * *

Sec. 17. 8 V.S.A. § 4260 is amended to read:

§ 4260. NOTICE REQUIREMENTS

(a) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to the policy or is otherwise required by law, it shall be in writing. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this section. If the notice or correspondence is mailed, it shall be sent to the portable electronics vendor at the vendor's mailing address specified for such purpose and to its affected customers' last known mailing address on file with the insurer. The insurer or vendor of portable electronics shall maintain proof of mailing in a form authorized or accepted by the U.S. Postal Service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the portable electronics vendor at the vendor's electronic mail address specified for such purpose and to its affected customers' last known electronic mail address as

provided by each customer to the insurer or vendor of portable electronics. A customer is deemed to consent to receive notice and correspondence by electronic means if the insurer or vendor first discloses to the customer that by providing an electronic mail address the customer consents to receive electronic notice and correspondence at the address, and the customer provides an electronic mail address customer's provision of an electronic mail address to the insurer or vendor of portable electronics is deemed consent to receive notices and correspondence by electronic means at such address if notice of that consent is provided to the customer within 30 calendar days. The insurer or vendor of portable electronics shall maintain proof that the notice or correspondence was sent.

* * *

* * * Workers' Compensation; High-Risk Occupations and Industries * * *

Sec. 18. WORKERS' COMPENSATION; INDUSTRIES AND OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND FEW POLICY HOLDERS; STUDY; REPORT

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, the National Council on Compensation Insurance, and other interested stakeholders, shall identify and study industries and occupations in Vermont that experience a high risk of workplace and on-the-job injuries and whose workers' compensation insurance is characterized by high premiums and few policy holders in the insurance pool. The industries and occupations addressed in the study shall include, among others, logging and log hauling, as well as arborists, roofers, and occupations in saw mills and wood manufacturing operations. In particular, the Commissioner shall:

(1) examine difference in the potential for loss, premium rates, and experience and participation in the workers' compensation marketplace between the industries and occupations identified, and the average for all industries and occupations in Vermont;

(2) study potential methods for reducing workers' compensation premium rates and costs for high-risk industries and occupations, including risk pooling between multiple high-risk industries or occupations, creating self-insured trusts; creating voluntary safety certification programs, and programs or best practices employed by other states; and

(3) model the potential impact on workers' compensation premiums and costs from each of the methods identified pursuant to subdivision (2) of this subsection.

(b) On or before January 15, 2018, the Commissioner of Financial Regulation shall submit a written report to the House Committee on

Commerce and Economic Development and the Senate Committee on Finance regarding his or her findings and any recommendations for legislative action to reduce the workers' compensation premium rates and costs for the industries identified in the study.

* * * Workers' Compensation; Short-term and Seasonal Policies; Studies * * *

Sec. 19. [DELETED.]

Sec. 20. SHORT-TERM WORKERS' COMPENSATION POLICIES;
STUDY; REPORT

The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, shall examine potential measures to encourage the creation of affordable seasonal and short-term workers' compensation policies and measures to reduce the cost of workers' compensation insurance coverage for small employers in seasonal occupations. On or before January 15, 2018, the Commissioner shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her finding and any recommendations for legislative action.

Sec. 21. REGIONAL ASSIGNED RISK POOL; STUDY; REPORT

The Commissioner of Financial Regulation shall examine potential mechanisms for joining with neighboring states to create a regional assigned risk pool for workers' compensation insurance and whether the creation of a regional assigned risk pool could reduce the cost of administering Vermont's assigned risk pool. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with his or her findings and any recommendations for legislative action related to the implementation of a regional assigned risk pool for workers' compensation insurance.

Sec. 22. ADMINISTRATION OF ASSIGNED RISK POOL; STUDY;
REPORT

The Commissioner of Financial Regulation shall examine whether any premium savings or reductions in costs could be realized if the assigned risk pool for workers' compensation was administered directly by the Department of Financial Regulation rather than through a third-party. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with his or her findings and any recommendations for legislative action.

* * * Unemployment Compensation; Referee Final Decisions * * *

Sec. 23. [DELETED.]

Sec. 24. [DELETED.]

* * * Effective Date; Application * * *

Sec. 25. EFFECTIVE DATE; APPLICATION

(a) This act shall take effect on July 1, 2017.

(b) Sec. 17 shall apply to portable electronics insurance policies issued or renewed on or after July 1, 2017.

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

An act relating to insurance and securities.

NEW BUSINESS

Third Reading

H. 5.

An act relating to investment of town cemetery funds.

H. 74.

An act relating to nonconsensual sexual conduct.

Proposal of amendment to H. 74 to be offered by Senator Benning before Third Reading

Senator Benning moves to amend the Senate proposal of amendment in Sec. 3, 13 V.S.A. § 1030, in subsection (a), by striking out the following: “Intent to violate the order is not an element of the crime, however the State must prove the person intentionally committed the act that violated the order.”

H. 230.

An act relating to consent by minors for mental health treatment related to sexual orientation and gender identity.

H. 308.

An act relating to a committee to reorganize and reclassify Vermont’s criminal statutes.

Proposal of amendment to H. 308 to be offered by Senator Sears before Third Reading

Senator Sears moves to amend the Senate proposal of amendment in Sec. 1, 3 V.S.A. § 168, in subdivision (b)(9), after the word "Families" by inserting the words or designee

H. 326.

An act relating to eligibility and calculation of grant or subsidy amount for Reach Up, Reach Ahead, and the Child Care Services Program.

H. 508.

An act relating to building resilience for individuals experiencing adverse childhood experiences.

H. 513.

An act relating to making miscellaneous changes to education law.

**Amendments to proposal of amendment to H. 513 to be offered by
Senators Baruth, Balint, Benning, Bray, Ingram and Mullin before Third
Reading**

Senators Baruth, Balint, Benning, Bray, Ingram and Mullin move to amend the Senate proposal of amendment as follows:

First: By striking out Sec. 38 (Effective Dates), with its reader assistance, in its entirety.

Second: By adding three new sections, to be Secs. 38, 39, and 40, with reader assistances, to read:

* * * Student Rights; Freedom of Expression * * *

Sec. 38. 16 V.S.A. chapter 42 is added to read:

CHAPTER 42. STUDENT RIGHTS

§ 1623. FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) “Media adviser” means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) “School” means a public school operating in the State.

(3) “School-sponsored media” means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) “Student journalist” means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) “Student supervisor” is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) A school is prohibited from subjecting school-sponsored media, other than that listed in subsection (e) of this section, to prior restraint. A school may restrain the distribution of content in student media described in subsection (e), provided that the school's administration shall have the burden of providing lawful justification without undue delay. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

Sec. 39. 16 V.S.A. § 180 is added to read:

§ 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) “Media adviser” means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) “School” means a public postsecondary school operating in the State.

(3) “School-sponsored media” means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) “Student journalist” means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) “Student supervisor” is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) Absent a showing that a particular publication will cause direct, immediate, and irreparable harm that would warrant the issuance of a prior restraint order against the private media, school officials are not authorized to censor or subject to prior restraint the content of school-sponsored media. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

* * * Effective Dates * * *

Sec. 40. EFFECTIVE DATES

(a) This section and Secs. 1–5, 9–12, and 14–39 shall take effect on passage.

(b) Secs. 6–8 (speech-language pathologists) shall take effect on January 1, 2018.

(c) Sec. 13 (State-placed students) shall take effect beginning with the 2017–2018 school year.

**Proposal of amendment to H. 513 to be offered by Senator White before
Third Reading**

Senator White moves that the Senate amend the Senate proposal of amendment as follows:

First: By striking out Sec. 6 in its entirety and inserting in lieu thereof:

[Deleted.]

Second: By striking out Sec. 7 in its entirety and inserting in lieu thereof:

[Deleted.]

Third: By striking out Sec. 8 in its entirety and inserting in lieu thereof:

[Deleted.]

Fourth: In Sec. 38 (effective dates), by striking out subsection (b) in its entirety and by relettering the remaining section to be correct.

Second Reading

Favorable with Proposal of Amendment

H. 167.

An act relating to alternative approaches to addressing low-level illicit drug use.

Reported favorably with recommendation of proposal of amendment by Senator White for the Committee on Judiciary.

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

Sec. 1. MISDEMEANOR POSSESSION OF DRUGS; PRETRIAL
SERVICES

(a) It is the intent of the General Assembly to encourage persons cited or arrested for a misdemeanor drug possession charge to engage with pretrial services, and, if appropriate, enter treatment, and that, in turn, a person who complies with such conditions will be eligible for dismissal of the charge.

(b) The Attorney General, the Defender General, and the Executive Director of the Department of State's Attorneys and Sheriffs shall work collaboratively to develop a specific legislative proposal to accomplish this intent with an implementation date of July 1, 2018 and report to the Senate and House Committees on Judiciary and on Appropriations, the Senate Committee on Health and Welfare, and the House Committee on Human Services on or before November 1, 2017.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 21, 2017, page 462.)

**Proposal of amendment to H. 167 to be offered by Senators White,
Pearson, Rodgers and Sears**

Senators White, Pearson, Rodgers and Sears move that the Senate propose to the House to amend the bill as follows:

Before Sec. 1 by inserting a reader assistance to read

* * * Misdemeanor Possession of Drugs Study * * *

and by striking out Sec. 2 (effective date) and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 2. LEGISLATIVE FINDINGS AND INTENT

The General Assembly finds the following:

(1) According to a 2014 study commissioned by the administration and conducted by the RAND Corporation, marijuana is commonly used in Vermont with an estimated 80,000 residents having used marijuana in the last month.

(2) For over 75 years, Vermont has debated the issue of marijuana regulation and amended its marijuana laws numerous times in an effort to protect public health and safety. Criminal penalties for possession rose in the 1940s and 50s to include harsh mandatory minimums, dropped in the 1960s and 70s, rose again in the 1980s and 90s, and dropped again in the 2000s. A study published in the American Journal of Public Health found that no evidence supports the claim that criminalization reduces marijuana use.

(3) Vermont seeks to take a new comprehensive approach to marijuana use and abuse that incorporates prevention, education, regulation, treatment, and law enforcement which results in a net reduction in public harm and an overall improvement in public safety. Responsible use of marijuana by adults 21 years of age or older should be treated the same as responsible use of alcohol, the abuse of either treated as a public health matter, and irresponsible use of either that causes harm to others sanctioned with penalties.

(4) Policymakers recognize legitimate federal concerns about marijuana reform and seek through this legislation to provide better control of access and distribution of marijuana in a manner that prevents:

- (A) distribution of marijuana to persons under 21 years of age;
- (B) revenue from the sale of marijuana going to criminal enterprises;
- (C) diversion of marijuana to states that do not permit possession of marijuana;
- (D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;
- (E) violence and the use of firearms in the cultivation and distribution of marijuana;
- (F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;
- (G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- (H) possession or use of marijuana on federal property.

(5) Revenue generated by this act shall be used to provide for the implementation, administration, and enforcement of this chapter and to provide additional funding for State efforts on the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts to combat the illegal drug trade and impaired driving. As used in this subdivision, "criminal justice efforts" shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

* * * Prevention * * *

Sec. 3. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Agency of Agriculture, Food, and Markets, the Agency of Education, and the Governor's Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youth under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each Supervisory Union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youth in schools and other settings; and

(iii) expand family education programs.

(B) An informational and counter-marketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youth who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2018, the Department shall adopt rules to implement the education and prevention program described in subsection (a) of this section and implement the program on or before September 15, 2018.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youth in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youth shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

* * * Legal Possession; Civil and Criminal Penalties * * *

Sec. 4. LEGISLATIVE INTENT; CIVIL AND CRIMINAL PENALTIES

It is the intent of the General Assembly to eliminate all civil penalties for possession of one ounce or less of marijuana and a small number of marijuana plants for a person who is 21 years of age or older while retaining the current criminal penalties for possession of larger amounts of marijuana and criminal penalties for unauthorized dispensing or sale of marijuana. This act also retains the current civil and criminal penalties for possession of marijuana by a person under 21 years of age, which are the same as possession of alcohol by a person under 21 years of age.

Sec. 5. 18 V.S.A. § 4201(15) is amended to read:

(15)(A) "Marijuana" means any plant material of the genus ~~licenses or any preparation, compound, or mixture thereof except:~~

(A) ~~sterilized seeds of the plant;~~

~~(B) fiber produced from the stalks; or~~

~~(C) hemp or hemp products, as defined in 6 V.S.A. § 562 all parts of the plant Cannabis sativa L., except as provided by subdivision (B) of this subdivision (15), whether growing or harvested, and includes:~~

~~(i) the seeds of the plant;~~

~~(ii) the resin extracted from any part of the plant; and~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.~~

~~(B) “Marijuana” does not include:~~

~~(i) the mature stalks of the plant and fiber produced from the stalks;~~

~~(ii) oil or cake made from the seeds of the plant;~~

~~(iii) any compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or~~

~~(iv) the sterilized seed of the plant that is incapable of germination.~~

Sec. 6. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. For a first offense under this subdivision (A), a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041 except that the court may in its discretion defer sentence without the

filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening which may be considered at sentencing in the same manner as a presentence report.

(2) A person knowingly and unlawfully possessing two ounces of marijuana or 10 grams of hashish or knowingly and unlawfully cultivating more than ~~three plants~~ of four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(3) A person knowingly and unlawfully possessing more than one pound or ~~more~~ of marijuana or more than 2.8 ounces or ~~more~~ of hashish or knowingly and unlawfully cultivating more than ~~10 plants~~ of six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than ~~\$100,000.00~~ \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than 10 pounds or ~~more~~ of marijuana or more than one pound or ~~more~~ of hashish or knowingly and unlawfully cultivating more than ~~25 plants~~ of 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(6) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

* * *

Sec. 7. 18 V.S.A. § 4230a is amended to read:

§ 4230a. MARIJUANA POSSESSION BY A PERSON 21 YEARS OF AGE OR OLDER; CIVIL VIOLATION

(a)(1) ~~A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:~~

- ~~(1) not more than \$200.00 for a first offense;~~
- ~~(2) not more than \$300.00 for a second offense;~~
- ~~(3) not more than \$500.00 for a third or subsequent offense.~~

~~(b)(1) Except as otherwise provided in this section, a person 21 years of age or older who possesses one ounce or less of marijuana or five grams or less of hashish and two mature marijuana plants or fewer or four immature marijuana plants or fewer or who possesses paraphernalia for marijuana use shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law. The one-ounce limit of marijuana or five grams of hashish that may be possessed by a person 21 years of age or older shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.~~

~~(2)(A) A violation of this section shall not result in the creation of a criminal history record of any kind. A person shall not consume marijuana in a public place. "Public place" means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 or chapter 37 of this title or 16 V.S.A. § 140.~~

~~(B) A person who violates this subdivision (a)(2) shall be assessed a civil penalty as follows:~~

- ~~(i) not more than \$100.00 for a first offense;~~
- ~~(ii) not more than \$200.00 for a second offense; and~~
- ~~(iii) not more than \$500.00 for a third or subsequent offense.~~

~~(e)(1)(b) This section does not exempt any person from arrest or prosecution for being under the influence of marijuana while operating a vehicle of any kind and shall not be construed to repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana.~~

~~(2) This section is not intended to affect the search and seizure laws afforded to duly authorized law enforcement officers under the laws of this State. Marijuana is contraband pursuant to section 4242 of this title and subject to seizure and forfeiture unless possessed in compliance with chapter 86 of this title (therapeutic use of cannabis).~~

~~(3) This section shall not be construed to prohibit a municipality from regulating, prohibiting, or providing additional penalties for the use of marijuana in public places.~~

~~(d) If a person suspected of violating this section contests the presence of cannabinoids within 10 days of receiving a civil citation, the person may request that the State Crime Laboratory test the substance at the person's expense. If the substance tests negative for the presence of cannabinoids, the State shall reimburse the person at state expense.;~~

(1) exempt a person from arrest, citation, or prosecution for being under the influence of marijuana while operating a vehicle of any kind or for consuming marijuana while operating a motor vehicle;

(2) repeal or modify existing laws or policies concerning the operation of vehicles of any kind while under the influence of marijuana or for consuming marijuana while operating a motor vehicle;

(3) limit the authority of primary and secondary schools to impose administrative penalties for the possession of marijuana on school property;

(4) prohibit a municipality from adopting a civil ordinance to provide additional penalties for consumption of marijuana in a public place;

(5) prohibit a landlord from banning possession or use of marijuana in a lease agreement; or

(6) allow an inmate of a correctional facility to possess or use marijuana or to limit the authority of law enforcement, the courts, the Department of Corrections, or the Parole Board to impose penalties on offenders who use marijuana in violation of a court order, conditions of furlough, parole, or rules of a correctional facility.

~~(e)(c)~~(1) A law enforcement officer is authorized to detain a person if:

(A) the officer has reasonable grounds to believe the person has violated subsection (b) of this section; and

(B) the person refuses to identify himself or herself satisfactorily to the officer when requested by the officer.

(2) The person may be detained only until the person identifies himself or herself satisfactorily to the officer or is properly identified. If the officer is unable to obtain the identification information, the person shall forthwith be brought before a judge in the Criminal Division of the Superior Court for that purpose. A person who refuses to identify himself or herself to the Court on request shall immediately and without service of an order on the person be subject to civil contempt proceedings pursuant to 12 V.S.A. § 122.

~~(f)~~(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding

of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

(e) Nothing in this section shall be construed to do any of the following:

(1) require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana in the workplace;

(2) prevent an employer from adopting a policy that prohibits the use of marijuana in the workplace;

(3) create a cause of action against an employer that discharges an employee for violating a policy that restricts or prohibits the use of marijuana by employees; or

(4) prevent an employer from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, transportation, sale, or growing of marijuana on the employer's premises.

Sec. 8. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; CIVIL VIOLATION

(a) Offense. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish or two mature marijuana plants or fewer or four immature marijuana plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

* * *

Sec. 9. 18 V.S.A. § 4230e is added to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates no more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit. As used in this section, “dwelling unit” means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

(b)(1) Personal cultivation of marijuana only shall occur:

(A) on property lawfully in possession of the cultivator or with the consent of the person in lawful possession of the property; and

(B) in an enclosure that is screened from public view and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(2) A person who violates this subsection shall be assessed a civil penalty as follows:

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

Sec. 10. 18 V.S.A. § 4230f is added to read:

§ 4230f. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER 21 YEARS OF AGE

(a) No person shall:

(1) sell or furnish marijuana to a person under 21 years of age; or

(2) knowingly enable the consumption of marijuana by a person under 21 years of age.

(b) As used in this section, “enable the consumption of marijuana” means creating a direct and immediate opportunity for a person to consume marijuana.

(c) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(d) An employee of a marijuana establishment licensed pursuant to chapter 87 of this title, who, in the course of employment, violates subdivision (a)(1) of this section during a compliance check conducted by a law enforcement officer shall be:

(1) assessed a civil penalty of not more than \$100.00 for the first violation and a civil penalty of not less than \$100.00 nor more than \$500.00 for a second violation that occurs more than one year after the first violation; and

(2) subject to the criminal penalties provided in subsection (c) of this section for a second violation within a year of the first violation, and for a third or subsequent violation within three years of the first violation.

(e) An employee alleged to have committed a violation of subsection (d) of this section may plead as an affirmative defense that:

(1) the purchaser exhibited and the employee carefully viewed photographic identification that indicated the purchaser to be 21 years of age or older;

(2) an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(3) the sale was made in good faith, based upon the reasonable belief that the purchaser was of legal age to purchase marijuana.

(f) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle on a public highway, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(g) This section shall not apply to:

(1) A person under 21 years of age who sells or furnishes marijuana to a person under 21 years of age or who knowingly enables the consumption of marijuana by a person under 21 years of age. Possession of an ounce or less of marijuana by a person under 21 years of age shall be punished in accordance with sections 4230b–4230d of this title and dispensing or selling marijuana

shall be punished in accordance with sections 4230 and 4237 of this title.

(2) A dispensary registered pursuant to chapter 86 of this title.

Sec. 11. 18 V.S.A. § 4230g is added to read:

§ 4230g. SALE OR FURNISHING MARIJUANA TO A PERSON UNDER
21 YEARS OF AGE; CIVIL ACTION FOR DAMAGES

(a) A spouse, child, guardian, employer, or other person who is injured in person, property, or means of support by a person under 21 years of age who is impaired by marijuana, or in consequence of the impairment by marijuana of any person under 21 years of age, shall have a right of action in his or her own name, jointly or severally, against any person or persons who have caused in whole or in part such impairment by selling or furnishing marijuana to a person under 21 years of age.

(b) Upon the death of either party, the action and right of action shall survive to or against the party's executor or administrator. The party injured or his or her legal representatives may bring either a joint action against the impaired person under 21 years of age and the person or persons who sold or furnished the marijuana, or a separate action against either or any of them.

(c) An action to recover for damages under this section shall be commenced within two years after the cause of action accrues, and not after.

(d) In an action brought under this section, evidence of responsible actions taken or not taken is admissible if otherwise relevant. Responsible actions may include a marijuana establishment's instruction to employees as to laws governing the sale of marijuana to adults 21 years of age or older and procedures for verification of age of customers.

(e) A defendant in an action brought under this section has a right of contribution from any other responsible person or persons, which may be enforced in a separate action brought for that purpose.

(f)(1) Except as provided in subdivision (2) of this subsection, nothing in this section shall create a statutory cause of action against a social host for furnishing marijuana to any person without compensation or profit. However, this subdivision shall not be construed to limit or otherwise affect the liability of a social host for negligence at common law.

(2) A social host who knowingly furnishes marijuana to a person under 21 years of age may be held liable under this section if the social host knew, or a reasonable person in the same circumstances would have known, that the person who received the marijuana was under 21 years of age.

(3) As used in this subsection, "social host" means a person who is not the holder of a marijuana establishment license and is not required under

chapter 87 of this title to hold a marijuana establishment license.

Sec. 12. 18 V.S.A. § 4230h is added to read:

§ 4230h. CHEMICAL EXTRACTION VIA BUTANE OR HEXANE
PROHIBITED

(a) No person shall manufacture concentrated marijuana by chemical extraction or chemical synthesis using butane or hexane unless authorized as a dispensary pursuant to a registration issued by the Department of Public Safety pursuant to chapter 86 of this title.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than \$2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than \$5,000.00, or both.

* * * Commercial Marijuana Regulation * * *

Sec. 13. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. MARIJUANA ESTABLISHMENTS

Subchapter 1. General Provisions

§ 4501. DEFINITIONS

As used in this chapter:

(1) “Affiliate” means a person that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

(2) “Agency” means the Agency of Agriculture, Food, and Markets.

(3) “Applicant” means a person that applies for a license to operate a marijuana establishment pursuant to this chapter.

(4) “Child care facility” means a child care facility or family day care home licensed or registered under 33 V.S.A. chapter 35.

(5) “Commissioner” means the Commissioner of Public Safety.

(6) “Department” means the Department of Public Safety.

(7) “Dispensary” means a person registered under section 4474e of this title that acquires, possesses, cultivates, manufactures, transfers, transports, supplies, sells, or dispenses marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her center and to his or her registered caregiver for the registered patient’s use for symptom relief.

(8) “Enclosed, locked facility” shall be either indoors or outdoors, not visible to the public, and may include a building, room, greenhouse, fully enclosed fenced-in area, or other location enclosed on all sides and equipped with locks or other security devices that permit access only by:

(A) Employees, agents, or owners of the cultivator, all of whom shall be 21 years of age or older.

(B) Government employees performing their official duties.

(C) Contractors performing labor that does not include marijuana cultivation, packaging, or processing. Contractors shall be accompanied by an employee, agent, or owner of the cultivator when they are in areas where marijuana is being grown, processed, or stored.

(D) Registered employees of other cultivators, members of the media, elected officials, and other individuals 21 years of age or older visiting the facility, provided they are accompanied by an employee, agent, or owner of the cultivator.

(9) “Financier” means a person, other than a financial institution as defined in 8 V.S.A. § 11101, that makes an equity investment, a gift, loan, or otherwise provides financing to a person with the expectation of a financial return.

(10) “Marijuana” shall have the same meaning as provided in section 4201 of this title.

(11) “Marijuana cultivator” or “cultivator” means a person registered with the Agency to engage in commercial cultivation of marijuana in accordance with this chapter.

(12) “Marijuana establishment” means a marijuana cultivator, retailer, or testing laboratory licensed by the Agency to engage in commercial marijuana activity in accordance with this chapter.

(13) “Marijuana retailer” or “retailer” means a person licensed by the Agency to sell marijuana to consumers for off-site consumption in accordance with this chapter.

(14) “Marijuana testing laboratory” or “testing laboratory” means a person licensed by the Agency to test marijuana for cultivators and retailers in accordance with this chapter.

(15) “Owns or controls,” “is owned or controlled by,” and “under common ownership or control” mean direct ownership or beneficial ownership of an equity interest, or the equivalent thereof, of ten percent or more, and the power to direct, or cause the direction of, the management and policies of a person, whether through the ownership of voting securities, by contract, or

otherwise.

(16) “Person” shall include any natural person; corporation; municipality; the State of Vermont or any department, agency or subdivision of the State; and any partnership, unincorporated association, or other legal entity.

(17) “Plant canopy” means the square footage dedicated to live plant production and does not include areas such as office space or areas used for the storage of fertilizers, pesticides, or other products.

(18) “Principal” means an individual vested with the authority to conduct, manage, or supervise the business affairs of a person, and may include the president, vice-president, secretary, treasurer, manager, or similar executive officer of a business; a director of a corporation, nonprofit corporation, or mutual benefit enterprise; a member of a nonprofit corporation, cooperative, or member-managed limited liability company; and a partner of a partnership.

(19) “Public place” means any street, alley, park, sidewalk, public building other than individual dwellings, any place of public accommodation as defined in 9 V.S.A. § 4501, and any place where the possession of a lighted tobacco product is prohibited pursuant to section 1421 of this title or chapter 37 of this title.

(20) “Resident” means a person who is domiciled in Vermont, subject to the following:

(A) The process for determining the domicile of an individual shall be the same as that required by rules adopted by the Department of Taxes related to determining domicile for the purpose of the interpretation and administration of 32 V.S.A. § 5401(14).

(B) The domicile of a business entity is the State in which it is organized.

(21) “School” means a public school, independent school, or facility that provides early childhood education as those terms are defined in 16 V.S.A. § 11.

(22) “Secretary” means the Secretary of Agriculture, Food, and Markets.

§ 4502. MARIJUANA POSSESSED UNLAWFULLY SUBJECT TO SEIZURE AND FORFEITURE

Marijuana possessed unlawfully in violation of this chapter may be seized by law enforcement and is subject to forfeiture.

§ 4503. NOT APPLICABLE TO HEMP OR THERAPEUTIC USE OF CANNABIS

This chapter shall not apply to activities regulated by 7 V.S.A. chapter 34 (hemp) or chapter 86 (therapeutic use of cannabis) of this title.

§ 4504. CONSUMPTION OF MARIJUANA IN A PUBLIC PLACE PROHIBITED

This chapter shall not be construed to permit consumption of marijuana in a public place. Violations shall be punished in accordance with section 4230a of this title.

§ 4505. REGULATION BY LOCAL GOVERNMENT

(a)(1) A marijuana establishment shall obtain a permit from a town, city, or incorporated village prior to beginning operations within the municipality.

(2) A municipality that hosts a marijuana establishment may establish a board of marijuana control commissioners, who shall be the members of the municipal legislative body. The board shall administer the municipal permits under this subsection (a) for the marijuana establishments within the municipality.

(b) Nothing in this chapter shall be construed to prevent a town, city, or incorporated village from regulating marijuana establishments through local ordinances as set forth in 24 V.S.A. § 2291 or through land use bylaws as set forth in 24 V.S.A. § 4414.

(c)(1) A town, city, or incorporated village, by majority vote of those present and voting at annual or special meeting warned for the purpose, may prohibit the operation of a marijuana establishment within the municipality. The provisions of this subdivision shall not apply to a marijuana establishment that is operating within the municipality at the time of the vote.

(2) A vote to prohibit the operation of a marijuana establishment within the municipality shall remain in effect until rescinded by majority vote of those present and voting at an annual or special meeting warned for the purpose.

§ 4506. YOUTH RESTRICTIONS

(a) A marijuana establishment shall not dispense or sell marijuana to a person under 21 years of age or employ a person under 21 years of age.

(b) A marijuana establishment shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) A marijuana establishment shall not permit a person under 21 years of age to enter a building or enclosure on the premises where marijuana is

located. This subsection shall not apply to a registered patient visiting his or her designated dispensary even if that dispensary is located in a building that is located on the same premises of a marijuana establishment.

§ 4507. ADVERTISING

(a) Marijuana advertising shall not contain any statement or illustration that:

(1) is false or misleading;

(2) promotes overconsumption; or

(3) is designed to appeal to children or persons under 18 years of age by portraying anyone under 18 years of age or objects suggestive of the presence of anyone under 18 years of age, or containing the use of a figure, a symbol, or language that is customarily associated with anyone under 18 years of age.

(b) Outdoor marijuana advertising shall not be located within 1,000 feet of a preexisting public or private school or licensed or regulated child care facility.

(c) In accordance with section 4512 of this chapter, the Agency shall adopt regulations on marijuana establishment advertising that reflect the policies of subsection (a) of this section and place restrictions on the time, place, and manner, but not content, of the advertising.

(d) All advertising shall contain the following warnings:

(1) For use only by adults 21 years of age or older. Keep out of the reach of children.

(2) Marijuana has intoxicating effects and may impair concentration, coordination, and judgment. Do not operate a motor vehicle or heavy machinery or enter into any contractual agreement under the influence of marijuana.

Subchapter 2. Administration

§ 4511. AUTHORITY

(a) For the purpose of regulating the cultivation, processing, packaging, transportation, testing, purchase, and sale of marijuana in accordance with this chapter, the Agency shall have the following authority and duties:

(1) rulemaking in accordance with this chapter and 3 V.S.A. chapter 25;

(2) administration of a program for the licensure of marijuana establishments, which shall include compliance and enforcement; and

(3) submission of an annual budget to the Governor.

(b)(1) There is established the Marijuana Advisory Board within the Agency for the purpose of advising the Agency and other administrative agencies and departments regarding policy for the implementation and operation of this chapter. The Board shall be composed of the following members:

- (A) the Secretary of Agriculture, Food and Markets or designee;
- (B) the Commissioner of Public Safety or designee;
- (C) the Commissioner of Health or designee;
- (D) the Commissioner of Taxes or designee; and
- (E) a member of local law enforcement appointed by the Governor.

(2) The Secretary of Administration shall convene the first meeting of the Board on or before June 1, 2017 and shall attend Board meetings.

§ 4512. RULEMAKING

(a) The Agency shall adopt rules to implement this chapter on or before March 15, 2018, in accordance with subdivisions (1)–(4) of this subsection.

(1) Rules concerning any marijuana establishment shall include:

- (A) the form and content of license and renewal applications;
- (B) qualifications for licensure that are directly and demonstrably related to the operation of a marijuana establishment, including submission of an operating plan and the requirement for a fingerprint-based criminal history record check and regulatory record check pursuant to subsection 4522(d) of this title;
- (C) oversight requirements;
- (D) inspection requirements;
- (E) records to be kept by licensees and the required availability of the records;
- (F) employment and training requirements, including requiring that each marijuana establishment create an identification badge for each employee;
- (G) security requirements, including lighting, physical security, video, and alarm requirements;
- (H) restrictions on advertising, marketing, and signage;
- (I) health and safety requirements;
- (J) regulation of additives to marijuana, including those that are toxic

or designed to make the product more addictive, more appealing to children, or to mislead consumers;

(K) procedures for seed to sale traceability of marijuana, including any requirements for tracking software;

(L) regulation of the storage and transportation of marijuana;

(M) sanitary requirements;

(N) pricing guidelines with a goal of ensuring marijuana is sufficiently affordable to undercut the illegal market;

(O) procedures for the renewal of a license, which shall allow renewal applications to be submitted up to 90 days prior to the expiration of the marijuana establishment's license;

(P) procedures for suspension and revocation of a license; and

(Q) requirements for banking and financial transactions.

(2) Rules concerning cultivators shall include:

(A) labeling requirements for products sold to retailers; and

(B) regulation of visits to the establishments, including the number of visitors allowed at any one time and recordkeeping concerning visitors.

(3) Rules concerning retailers shall include:

(A) labeling requirements, including appropriate warnings concerning the carcinogenic effects and other potential negative health consequences of consuming marijuana, for products sold to customers;

(B) requirements for proper verification of age and residency of customers;

(C) restrictions that marijuana shall be stored behind a counter or other barrier to ensure a customer does not have direct access to the marijuana; and

(D) regulation of visits to the establishments, including the number of customers allowed at any one time and recordkeeping concerning visitors.

(4) Rules concerning testing laboratories shall include:

(A) procedures for destruction of all samples; and

(B) requirements for chain of custody recordkeeping.

(b) The Agency shall consult with the Department in the development and adoption of the following rules identified in subsection (a) of this section:

(1) regarding any marijuana establishment, subdivisions (1)(B), (G),

(K), (L), (P), and (Q);

(2) regarding cultivators, subdivision (2)(A)(vi);

(3) regarding retailers, subdivisions (4)(B), (C), and (E); and

(4) regarding testing laboratories, subdivisions (5)(B), (C), and (D).

§ 4513. IMPLEMENTATION

(a)(1) On or before April 15, 2018, the Agency shall begin accepting applications for cultivator licenses and testing laboratory licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before June 15, 2018, the Agency shall begin issuing cultivator licenses and testing laboratory licenses to qualified applicants.

(b)(1) On or before May 15, 2018, the Agency shall begin accepting applications for retail licenses. The initial application period shall remain open for 30 days. The Agency may reopen the application process for any period of time at its discretion.

(2) On or before September 15, 2018, the Agency shall begin issuing retailer licenses to qualified applicants. A license shall not permit a licensee to open the store to the public or sell marijuana to the public prior to January 2, 2019.

(c)(1) Prior to July 1, 2019, provided applicants meet the requirements of this chapter, the Agency shall issue:

(A) an unlimited number of cultivator licenses that permit a cultivation space of not more than 500 square feet;

(B) a maximum of 20 cultivator licenses that permit a cultivation space of more than 500 square feet but not more than 1,000 square feet;

(C) a maximum of 15 cultivator licenses that permit a cultivation space of more than 1,000 square feet up to 2,500 square feet;

(D) a maximum of 10 cultivator licenses that permit a cultivation space of more than 2,500 square feet up to 5,000 square feet;

(E) a maximum of five cultivator licenses that permit a cultivation space of more than 5,000 square feet up to 10,000 square feet;

(F) a maximum of five testing laboratory licenses; and

(G) a maximum of 42 retailer licenses.

(2) On or after July 1, 2019, the limitations in subdivision (1) of this subsection shall not apply and the Agency shall use its discretion to issue

licenses in a number and size for the purpose of competing with and undercutting the illegal market based on available data and recommendations of the Marijuana Program Review Commission. A cultivator licensed prior to July 1, 2019 may apply to the Agency to modify its license to expand its cultivation space.

§ 4514. CIVIL CITATIONS; SUSPENSION AND REVOCATION OF LICENSES

(a) The Agency shall have the authority to adopt rules for the issuance of civil citations for violations of this chapter and the rules adopted pursuant to section 4512 of this title. Any proposed rule under this section shall include the full, minimum, and waiver penalty amounts for each violation.

(b) The Agency shall have the authority to suspend or revoke a license for violations of this chapter in accordance with rules adopted pursuant to section 4512 of this title.

Subchapter 3. Licenses

§ 4521. GENERAL PROVISIONS

(a) Except as otherwise permitted by this chapter, a person shall not engage in the cultivation, preparation, processing, packaging, transportation, testing, or sale of marijuana without obtaining a license from the Agency.

(b) All licenses shall expire at midnight, April 30, of each year beginning no earlier than 10 months after the original license was issued to the marijuana establishment.

(c) Applications for licenses and renewals shall be submitted on forms provided by the Agency and shall be accompanied by the fees provided for in section 4528 of this section.

(d)(1) Except as provided in subdivision (2) of this subsection (d), an applicant and its affiliates may obtain only one license, either a cultivator license, a retailer license, or a testing laboratory license under this chapter.

(2) A dispensary or a subsidiary of a dispensary may obtain one of each type of license under this chapter, provided that a dispensary or its subsidiary obtains no more than one cultivator license, one retailer license, and one testing laboratory license total.

(e) Each license shall permit only one location of the establishment.

(f) A dispensary that obtains a retailer license pursuant to this chapter shall maintain the dispensary and retail operations in a manner that protects patient and caregiver privacy in accordance with rules adopted by the Agency. If the dispensary and retail establishment are located on the same premises, the

dispensary and retail establishment shall provide separate entrances and common areas designed to serve patients and caregivers and customers.

(g) Each licensee shall obtain and maintain commercial general liability insurance in accordance with rules adopted by the Agency. Failure to provide proof of insurance to the Agency, as required, may result in revocation of the license.

(h) All records relating to security, transportation, public safety, and trade secrets in an application for a license under this chapter shall be exempt from public inspection and copying under the Public Records Act.

(i) This subchapter shall not apply to possession regulated by chapters 84 or 86 of this title.

§ 4522. LICENSE QUALIFICATIONS AND APPLICATION PROCESS

(a) To be eligible for a marijuana establishment license:

(1) An applicant shall be a resident of Vermont.

(2) A principal of an applicant, and a person who owns or controls an applicant, shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(3) An applicant, principal of an applicant, or person who owns or controls an applicant, who is a natural person:

(A) shall be 21 years of age or older; and

(B) shall consent to the release of his or her criminal and administrative history records.

(b) A financier of an applicant shall have been a resident of Vermont for two or more years immediately preceding the date of application.

(c) As part of the application process, each applicant shall submit, in a format proscribed by the Agency, an operating plan. The plan shall include a floor plan or site plan drawn to scale that illustrates the entire operation being proposed. The plan shall also include the following:

(1) For a cultivator license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) transportation of product;

(E) destruction of waste product;

(F) description of growing operation, including growing media, size of grow space allocated for plant production, space allowed for any other business activity, description of all equipment to be used in the cultivation process, and a list of soil amendments, fertilizers, or other crop production aids, or pesticides, utilized in the production process;

(G) how the applicant will meet its operation's need for energy services at the lowest present value life-cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy efficiency and energy supply;

(H) testing procedures and protocols;

(I) description of packaging and labeling of products transported to retailers; and

(J) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) For a retailer license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product;

(E) description of packaging and labeling of products sold to customers;

(F) the products to be sold and how they will be displayed to customers; and

(G) any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(3) For a testing laboratory license, information concerning:

(A) security;

(B) traceability;

(C) employee qualifications and training;

(D) destruction of waste product; and

(E) the types of testing to be offered.

(d) The Department shall obtain a Vermont criminal history record, an out-of-state criminal history record, a criminal history record from the Federal Bureau of Investigation, and any regulatory records relating to the operation of

a business in this State or any other jurisdiction for each of the following who is a natural person:

- (1) an applicant or financier;
- (2) a principal of an applicant or financier; and
- (3) a person who owns or controls an applicant or financier.

(e) When considering applications for a marijuana establishment license, the Agency shall:

(1) give priority to a qualified applicant that is a dispensary or subsidiary of a dispensary;

(2) strive for geographic distribution of marijuana establishments based on population.

§ 4523. EDUCATION

(a) An applicant for a marijuana establishment license shall meet with a Agency designee for the purpose of reviewing Vermont laws and rules pertaining to the possession, purchase, storage, and sale of marijuana prior to receiving a license.

(b) A licensee shall complete an enforcement seminar every three years conducted by the Agency. A license shall not be renewed unless the records of the Agency show that the licensee has complied with the terms of this subsection.

(c) A licensee shall ensure that each employee involved in the sale of marijuana completes a training program approved by the Agency prior to selling marijuana and at least once every 24 months thereafter. A licensee shall keep a written record of the type and date of training for each employee, which shall be signed by each employee. A licensee may comply with this requirement by conducting its own training program on its premises, using information and materials furnished by the Agency. A licensee who fails to comply with the requirements of this section shall be subject to a suspension of no less than one day of the license issued under this chapter.

§ 4524. IDENTIFICATION CARD; CRIMINAL BACKGROUND CHECK

(a) The Agency shall issue each employee an identification card or renewal card within 30 days of receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the marijuana establishment and shall not be passed on to an employee. A person shall not work as an employee until that person has received an identification card issued under this section. Each card shall contain the following:

- (1) the name, address, and date of birth of the person;

(2) the legal name of the marijuana establishment with which the person is affiliated;

(3) a random identification number that is unique to the person;

(4) the date of issuance and the expiration date of the identification card; and

(5) a photograph of the person.

(b) Prior to acting on an application for an identification card, the Agency shall obtain from the Department the person's Vermont criminal history record, out-of-state criminal history record, and criminal history record from the Federal Bureau of Investigation. Each person shall consent to the release of criminal history records to the Agency and the Department on forms developed by the Vermont Crime Information Center.

(c) When the Department obtains a criminal history record, the Department shall promptly provide a copy of the record to the person and the marijuana establishment. The Department shall inform the person of the right to appeal the accuracy and completeness of the record pursuant to rules adopted by the Agency.

(d) The Department shall comply with all laws regulating the release of criminal history records and the protection of individual privacy. No person shall confirm the existence or nonexistence of criminal history record information to any person who would not be eligible to receive the information pursuant to this chapter.

(e) The Agency, in consultation with the Department, shall adopt rules for the issuance of an identification card and shall set forth standards for determining whether a person should be denied a registry identification card because his or her criminal history record indicates that the person's association with a marijuana establishment would pose a demonstrable threat to public safety. Previous nonviolent drug-related convictions shall not automatically disqualify an applicant. A marijuana establishment may deny a person the opportunity to serve as an employee based on his or her criminal history record. A person who is denied an identification card may appeal the Agency's determination in Superior Court in accordance with Rule 75 of the Vermont Rules of Civil Procedure.

(f) An identification card shall expire one year after its issuance or upon the expiration of the marijuana establishment's license, whichever occurs first.

§ 4525. CULTIVATOR LICENSE

(a) A cultivator licensed under this chapter may cultivate, package, label, transport, test, and sell marijuana to a licensed retailer.

(b) Cultivation of marijuana shall occur only in an enclosed, locked facility which is either indoors, or if outdoors, not visible to the public, and which can only be accessed by principal officers and employees of the licensee who have valid identification cards.

(c) An applicant shall designate on his or her operating plan the size of the premises and the amount of actual square footage that will be dedicated to plant canopy.

(d) Representative samples of each lot or batch of marijuana intended for human consumption shall be tested for safety and potency in accordance with rules adopted by the Agency.

(e) Each cultivator shall create packaging for its marijuana.

(1) Packaging shall include:

(A) The name and registration number of the cultivator.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Department in accordance with this chapter. Rules shall take into consideration that different labeling requirements may be appropriate depending on whether the marijuana is sold to a wholesaler, product manufacturer, or retailer.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(f)(1) Only unadulterated marijuana shall be offered for sale. If, upon inspection, the Agency finds any violative pesticide residue or other contaminants of concern, the Agency shall order the marijuana, either individually or in blocks, to be:

(A) put on stop-sale;

(B) treated in a particular manner; or

(C) destroyed according to the Agency's instructions.

(2) Marijuana ordered destroyed or placed on stop-sale shall be clearly separable from salable marijuana. Any order shall be confirmed in writing within seven days. The order shall include the reason for action, a description of the marijuana affected, and any recommended treatment.

(3) A person may appeal an order issued pursuant to this section within 15 days of receiving the order. The appeal shall be made in writing to the Secretary and shall clearly identify the marijuana affected and the basis for the appeal.

§ 4526. RETAILER LICENSE

(a) A retailer licensed under this chapter may:

(1) transport, possess, and sell marijuana to the public for consumption off the registered premises;

(2) purchase marijuana from a licensed cultivator; and

(3) provide marijuana to a licensed testing laboratory.

(b)(1) In a single transaction, a retailer may provide:

(A) one-half ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled in Vermont; or

(B) one-quarter of an ounce of marijuana to a person 21 years of age or older upon verification of a valid government-issued photograph identification card that indicates the person is domiciled outside Vermont.

(2) A retailer shall not knowingly and willfully sell an amount of marijuana to a person that causes the person to exceed the possession limit.

(c) A retailer shall only sell "useable marijuana" which means the dried flowers of marijuana, and does not include the seeds, stalks, leaves, and roots of the plant, and shall not package marijuana with other items, such as paraphernalia, for sale to customers.

(d)(1) Packaging shall include:

(A) The name and registration number of the retailer.

(B) The strain of marijuana contained. Marijuana strains shall be either pure breeds or hybrid varieties of marijuana and shall reflect properties of the plant.

(C) The potency of the marijuana represented by the percentage of

tetrahydrocannabinol and cannabidiol by mass.

(D) A “produced on” date reflecting the date that the cultivator finished producing marijuana.

(E) Warnings, in substantially the following form, stating, “Consumption of marijuana impairs your ability to drive a car and operate machinery,” “Keep away from children,” and “Possession of marijuana is illegal under federal law.”

(F) Any additional requirements contained in rules adopted by the Agency in accordance with this chapter.

(2) Packaging shall not be designed to appeal to persons under 21 years of age.

(e) A retailer shall display a safety information flyer developed or approved by the Agency and supplied to the retailer free of charge. The flyer shall contain information concerning the methods for administering marijuana, the potential dangers of marijuana use, the symptoms of problematic usage, and how to receive help for marijuana abuse.

(f) Internet sales and delivery of marijuana to customers are prohibited.

§ 4527. MARIJUANA TESTING LABORATORY

(a) A testing laboratory licensed under this chapter may acquire, possess, analyze, test, and transport marijuana samples obtained from a licensed marijuana establishment.

(b) Testing may address the following:

- (1) residual solvents;
- (2) poisons or toxins;
- (3) harmful chemicals;
- (4) dangerous molds, mildew, or filth;
- (5) harmful microbials, such as E.coli or salmonella;
- (6) pesticides; and
- (7) tetrahydrocannabinol and cannabidiol potency.

(c) A testing laboratory shall have a written procedural manual made available to employees to follow meeting the minimum standards set forth in rules detailing the performance of all methods employed by the facility used to test the analytes it reports.

(d) In accordance with rules adopted pursuant to this chapter, a testing laboratory shall establish a protocol for recording the chain of custody of all

marijuana samples.

(e) A testing laboratory shall establish, monitor, and document the ongoing review of a quality assurance program that is sufficient to identify problems in the laboratory systems when they occur.

§ 4528. FEES

(a) The Agency shall charge and collect initial license application fees and annual license renewal fees for each type of marijuana license under this chapter. Fees shall be due and payable at the time of license application or renewal.

(b)(1) The nonrefundable fee accompanying an application for a cultivator license pursuant to section 4525 of this chapter shall be:

(A) \$1,000.00 for a cultivation space that does not exceed 500 square feet.

(B) \$3,000.00. for a cultivation space of more than 500 square feet but not more than 1,000 square feet.

(C) \$7,500.00 for a cultivation space of 1,001–2,500 square feet.

(D) \$15,000.00 for a cultivation space of 2,501–5,000 square feet.

(E) \$30,000.00 for a cultivation space of 5,001–10,000 square feet.

(2) The nonrefundable fee accompanying an application for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The nonrefundable fee accompanying an application for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$500.00.

(4) If a person submits a qualifying application for a marijuana establishment license during an open application, pays the nonrefundable application fee, but is not selected to receive a license due to the limited number of licenses available, the person may reapply, based on availability, for such a license within two years by resubmitting the application with any necessary updated information, and shall be charged a fee that is fifty percent of the application fees set forth in subdivision (1)–(3) of this subsection if the original application was submitted prior to July 1, 2019.

(c)(1) The initial annual license fee and subsequent annual renewal fee for a cultivator license pursuant to section 4525 of this chapter shall be:

(A) \$1,000.00 for a cultivation space that does not exceed 500 square feet.

(B) \$3,000.00. for a cultivation space of more than 500 square feet

but not more than 1,000 square feet.

(C) \$7,500.00 for a cultivation space of 1,001–2,500 square feet.

(D) \$15,000.00 for a cultivation space of 2,501–5,000 square feet.

(E) \$30,000.00 for a cultivation space of 5,001–10,000 square feet.

(2) The initial annual license fee and subsequent annual renewal fee for a retailer license pursuant to section 4526 of this chapter shall be \$15,000.00.

(3) The initial annual license fee and subsequent annual renewal fee for a marijuana testing laboratory license pursuant to section 4527 of this chapter shall be \$2,500.00.

(d) The following administrative fees shall apply:

(1) Change of corporate structure fee (per person) shall be \$1,000.00.

(2) Change of name fee shall be \$1,000.00.

(3) Change of location fee shall be \$1,000.00.

(4) Modification of license premises fee shall be \$250.00.

(5) Addition of financier fee shall be \$250.00.

(6) Duplicate license fee shall be \$100.00.

§ 4529. MARIJUANA REGULATION AND RESOURCE FUND

(a) The Marijuana Regulation and Resource Fund is hereby created. The Fund shall be maintained by the Agency of Administration.

(b) The Fund shall be composed of:

(1) all application fees, license fees, renewal fees, and civil penalties collected pursuant to this chapter; and

(2) all taxes collected by the Commissioner of Taxes pursuant to this chapter.

(c)(1) Funds shall be appropriated as follows:

(A) For the purpose of implementation, administration, and enforcement of this chapter.

(B) Proportionately for the prevention of substance abuse, treatment of substance abuse, and criminal justice efforts by State and local law enforcement to combat the illegal drug trade and impaired driving. As used in this subdivision, “criminal justice efforts” shall include efforts by both State and local criminal justice agencies, including law enforcement, prosecutors, public defenders, and the courts.

(2) Appropriations made pursuant to subdivision (1) of this subsection shall be in addition to current funding of the identified priorities and shall not be used in place of existing State funding.

(d) All balances in the Fund at the end of any fiscal year shall be carried forward and remain part of the Fund. Interest earned by the Fund shall be deposited into the Fund.

(e) This Fund is established in the State Treasury pursuant to 32 V.S.A. chapter 7, subchapter 5. The Commissioner of Finance and Management shall anticipate receipts in accordance with 32 V.S.A. § 588(4)(C).

(f) The Secretary of Administration shall report annually to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting.

Subchapter 4. Marijuana Program Review Commission

§ 4546. PURPOSE; MEMBERS

(a) Creation. There is created a temporary Marijuana Program Review Commission for the purpose of facilitating efficient and lawful implementation of this act and examination of issues important to the future of marijuana regulation in Vermont.

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

(1) two members of the public appointed by the Governor;

(2) two members of the House of Representatives, appointed by the Speaker of the House;

(3) two members of the Senate, appointed by the Committee on Committees; and

(4) the Attorney General or designee.

(c) Term. Legislative members shall serve only while in office.

§ 4547. POWERS; DUTIES

(a) The Commission shall:

(1) collect information about the implementation, operation, and effect of this act from members of the public, State agencies, and private and public sector businesses and organizations;

(2) communicate with other states that have legalized marijuana and monitor those states regarding their implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(3) examine the issue of marijuana concentrates and edible marijuana products and whether Vermont safely can allow and regulate their manufacture and sale and, if so, how;

(4) keep updated on the latest information in Vermont and other jurisdictions regarding the prevention and detection of impaired driving as it relates to marijuana;

(5) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;

(6) examine whether Vermont should allow additional types of marijuana establishment licenses, including a processor license and product manufacturer license;

(7) review the statutes and rules for the therapeutic marijuana program and dispensaries and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries;

(8) monitor supply and demand of marijuana cultivated and sold pursuant to this act for the purpose of assisting the Agency of Agriculture, Food, and Markets and policymakers with determining appropriate numbers of licenses and limitations on the amount of marijuana cultivated and offered for retail sale in Vermont so that the adult market is served without unnecessary surplus marijuana;

(9) monitor the extent to which marijuana is accessed through both the legal and illegal market by persons under 21 years of age;

(10) identify strategies for preventing youth from using marijuana;

(11) identify academic and scientific research, including longitudinal research questions, that when completed may assist policymakers in developing marijuana policy in accordance with this act;

(12) consider whether to create a local revenue stream which may include a local option excise tax on marijuana sales or municipally assessed fees;

(13) recommend the appropriate maximum amount of marijuana sold by a retailer in a single transaction and whether there should be differing amounts for Vermonters and nonresidents; and

(14) report any recommendations to the General Assembly and the Governor, as needed.

(b) On or before January 15, 2020, the Commission shall issue a final report to the General Assembly and the Governor regarding its findings and any recommendations for legislative or administrative action.

§ 4548. ADMINISTRATION

(a) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Administration.

(b) Meetings.

(1) The Administration shall call the first meeting of the Commission to occur on or before August 1, 2017.

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

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

(4) The Commission shall cease meeting regularly after the issuance of its final report, but members shall be available to meet with Administration officials and the General Assembly until July 1, 2019 at which time the Commission shall cease to exist.

(c) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for as many meetings as the Chair deems necessary.

(2) Other members of the Commission 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.

Sec. 14. 32 V.S.A. chapter 207 is added to read:

CHAPTER 207. MARIJUANA TAXES

§ 7901. TAX IMPOSED

(a) There is imposed a marijuana excise tax equal to 25 percent of the sales price, as that term is defined in subdivision 9701(4) of this title, on each retail sale of marijuana in this State. The tax imposed by this section shall be paid by the buyer to the retailer. Each retailer shall collect from the buyer the full amount of the tax payable on each taxable sale.

(b) The tax imposed by this section is separate from the general sales and use tax imposed by chapter 233 of this title. The tax imposed under this section shall be separately itemized from any State and local retail sales tax on the sales receipt provided to the buyer.

(c) The following sales shall be exempt from the tax imposed under this section:

(1) sales under any circumstances in which the State is without power to impose the tax; and

(2) sales made by any dispensary, provided the marijuana will be provided only to registered qualifying patients directly or through their registered caregivers.

§ 7902. LIABILITY FOR TAX AND PENALTIES

(a) Any tax collected under this chapter shall be deemed to be held by the retailer in trust for the State of Vermont. Any tax collected under this chapter shall be accounted for separately so as to clearly indicate the amount of tax collected, and that the tax receipts are the property of the State of Vermont.

(b) Every retailer required to collect the tax imposed by this chapter shall be personally and individually liable for the amount of tax together with such interest and penalty as has accrued under this title. If the retailer is a corporation or other entity, the personal liability shall extend to any officer or agent of the corporation or entity who as an officer or agent of the same has the authority to collect the tax and transmit it to the Commissioner of Taxes as required in this chapter.

(c) A retailer shall have the same rights in collecting the tax from his or her purchaser or regarding nonpayment of the tax by the purchaser as if the tax were a part of the purchase price of the marijuana and payable at the same time; provided, however, if the retailer required to collect the tax has failed to remit any portion of the tax to the Commissioner of Taxes, the Commissioner of Taxes shall be notified of any action or proceeding brought by the retailer to collect the tax and shall have the right to intervene in such action or proceeding.

(d) A retailer required to collect the tax may also refund or credit to the purchaser any tax erroneously, illegally, or unconstitutionally collected. No cause of action that may exist under State law shall accrue against the retailer for the tax collected unless the purchaser has provided written notice to a retailer, and the retailer has had 60 days to respond.

(e) To the extent not inconsistent with this chapter, the provisions for the assessment, collection, enforcement, and appeals of the sales and use taxes in chapter 233 of this title shall apply to the tax imposed by this chapter.

§ 7903. BUNDLED TRANSACTIONS

(a) Except as provided in subsection (b) of this section, a retail sale of a bundled transaction that includes marijuana is subject to the tax imposed by this chapter on the entire selling price of the bundled transaction.

(b) If the selling price is attributable to products that are taxable and

products that are not taxable under this chapter, the portion of the price attributable to the nontaxable products are subject to the tax imposed by this chapter unless the retailer can identify by reasonable and verifiable standards the portion that is not subject to tax from its books and records that are kept in the regular course of business.

(c) As used in this section, “bundled transaction” means:

(1) the retail sale of two or more products where the products are otherwise distinct and identifiable, are sold for one nonitemized price, and at least one of the products includes marijuana subject to the tax under this chapter; or

(2) marijuana provided free of charge with the required purchase of another product.

§ 7904. RETURNS

(a) Any retailer required to collect the tax imposed by this chapter shall, on or before the 15th day of every month, return to the Department of Taxes, under oath of a person with legal authority to bind the retailer, a statement containing its name and place of business, the amount of marijuana sales subject to the excise tax imposed by this subchapter sold in the preceding month, and any other information required by the Department of Taxes, along with the tax due.

(b) Every retailer shall maintain, for not less than three years, accurate records showing all transactions subject to tax liability under this chapter. These records are subject to inspection by the Department of Taxes at all reasonable times during normal business hours.

§ 7905. LICENSES

(a) Every retailer required to collect the tax imposed by this chapter shall apply for a marijuana excise tax license in the manner prescribed by the Commissioner of Taxes. The Commissioner shall issue, without charge, to each registrant a license empowering him or her to collect the marijuana excise tax. Each license shall state the place of business to which it is applicable. The license shall be prominently displayed in the place of business of the registrant. The licenses shall be nonassignable and nontransferable and shall be surrendered to the Commissioner immediately upon the registrant’s ceasing to do business at the place named. A license to collect marijuana excise tax shall be in addition to the licenses required by sections 9271 (meals and rooms tax) and 9707 (sales and use tax) of this title and any license required by the Agency of Agriculture, Food, and Markets.

(b) The Agency of Agriculture, Food, and Markets may require the Commissioner of Taxes to suspend or revoke the tax license of any person for

failure to comply with any provision of this chapter.

Sec. 15. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

* * *

(18) “Vermont net income” means, for any taxable year and for any corporate taxpayer:

(A) the taxable income of the taxpayer for that taxable year under the laws of the United States, without regard to 26 U.S.C. § 168(k) of the Internal Revenue Code, and excluding income which under the laws of the United States is exempt from taxation by the states:

(i) increased by:

(I) the amount of any deduction for State and local taxes on or measured by income, franchise taxes measured by net income, franchise taxes for the privilege of doing business and capital stock taxes; and

(II) to the extent such income is exempted from taxation under the laws of the United States by the amount received by the taxpayer on and after January 1, 1986 as interest income from State and local obligations, other than obligations of Vermont and its political subdivisions, and any dividends or other distributions from any fund to the extent such dividend or distribution is attributable to such Vermont State or local obligations;

(III) the amount of any deduction for a federal net operating loss; and

(ii) decreased by:

(I) the “gross-up of dividends” required by the federal Internal Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the foreign tax credit; ~~and~~

(II) the amount of income which results from the required reduction in salaries and wages expense for corporations claiming the Targeted Job or WIN credits; and

(III) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

(21) “Taxable income” means federal taxable income determined

without regard to 26 U.S.C. § 168(k) and:

(A) Increased by the following items of income (to the extent such income is excluded from federal adjusted gross income):

(i) interest income from non-Vermont state and local obligations;

(ii) dividends or other distributions from any fund to the extent they are attributable to non-Vermont state or local obligations;

(iii) the amount of State and local income taxes deducted from federal adjusted gross income for the taxable year, but in no case in an amount that will reduce total itemized deductions below the standard deduction allowable to the taxpayer; and

(iv) the amount of total itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, or charitable contributions, deducted from federal adjusted gross income for the taxable year, that is in excess of two and one-half times the standard deduction allowable to the taxpayer; and

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from United States government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business;

and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; and

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) any federal deduction that the taxpayer would have been allowed for the cultivation, testing, processing, or sale of marijuana, as

authorized under 18 V.S.A. chapter 86 or 87, but for 26 U.S.C. § 280E.

* * *

Sec. 16. 32 V.S.A. § 9741(51) is added to read:

(51) Marijuana sold by a dispensary as authorized under 18 V.S.A. chapter 86 or by a retailer as authorized under 18 V.S.A. chapter 87.

* * * Impaired Driving * * *

Sec. 17. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR
POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating liquor” as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than \$500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~\$25.00~~ \$50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 18. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR
POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, “alcoholic beverages” shall have the same meaning as “intoxicating

liquor” as defined in section 1200 of this title.

(b) As used in this section, “passenger area” shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than \$25.00.

Sec. 19. 23 V.S.A. § 1219 is amended to read:

§ 1219. COMMERCIAL MOTOR VEHICLE; DETECTABLE AMOUNT;
OUT-OF-SERVICE

A person who is operating, attempting to operate, or in actual physical control of a commercial motor vehicle with any measurable or detectable amount of alcohol or marijuana in his or her system shall immediately be placed out-of-service for 24 hours by an enforcement officer. A law enforcement officer who has reasonable grounds to believe that a person has a measurable or detectable amount of alcohol or marijuana in his or her system on the basis of the person’s general appearance, conduct, or other substantiating evidence, may request the person to submit to a test, which may be administered with a preliminary screening device. The law enforcement officer shall inform the person at the time the test is requested that refusal to submit will result in disqualification. If the person refuses to submit to the test, the person shall immediately be placed out-of-service for 24 hours and shall be disqualified from driving a commercial motor vehicle as provided in section 4116 of this title.

Sec. 20. 23 V.S.A. § 4116 is amended to read:

§ 4116. DISQUALIFICATION

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of one year if convicted of a first violation of:

* * *

(4) refusal to submit to a test to determine the operator’s alcohol or marijuana concentration, as provided in section 1205, 1218, or 1219 of this title;

* * *

Sec. 21. VERMONT GOVERNOR'S HIGHWAY SAFETY PROGRAM

(a) Impaired driving, operating a motor vehicle while under the influence of alcohol or drugs, is a significant concern for the General Assembly. While Vermont has made a meaningful effort to educate the public about the dangers of drinking alcohol and driving, the public seems to be less aware of the inherent risks of driving while under the influence of drugs, whether it is marijuana, a validly prescribed medication, or other drugs. It is the intent of the General Assembly that the State reframe the issue of drunk driving as impaired driving in an effort to comprehensively address the risks of such behavior through prevention, education, and enforcement.

(b)(1) The Agency of Transportation, through its Vermont Governor's Highway Safety Program, shall expand its public education and prevention campaign on drunk driving to impaired driving, which shall include drugged driving.

(2) The Agency shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15, 2018 regarding implementation of this section.

Sec. 22. REPORTING IMPAIRED DRIVING DATA

The Commissioner of Public Safety and the Secretary of Transportation, in collaboration, shall report to the Senate and House Committees on Judiciary and on Transportation on or before January 15 each year regarding the following issues concerning impaired driving:

(1) the previous year's data in Vermont,

(2) the latest information regarding best practices on prevention and enforcement, and

(3) their recommendations for legislative action.

Sec. 23. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for the enforcement impaired driving.

* * * Appropriations and Positions * * *

Sec. 24. FISCAL YEAR 2018 APPROPRIATIONS FROM THE
MARIJUANA REGULATION AND RESOURCE FUND

In fiscal year 2018 the following amounts are appropriated from the Marijuana Regulation and Resource Fund:

(1) Department of Health: \$350,000.00 for initial prevention, education, and counter marketing programs.

(2) Department of Taxes: \$660,000.00 for the acquisition of an excise tax module and staffing expenses to administer the excise tax established in this act.

(3) Agency of Agriculture, Food and Markets:

(A) \$112,500.00 for the Vermont Agriculture and Environmental Lab.

(B) \$272,500.00 for staffing expenses related to rulemaking, program administration, and processing of applications and licenses.

(4) Agency of Administration: \$150,000.00 for expenses and staffing of the Marijuana Program Review Commission established in this act.

Sec. 25. EXECUTIVE BRANCH POSITION AUTHORIZATIONS

The establishment of the following new permanent classified positions is authorized in fiscal year 2018 as follows:

(1) In the Department of Health—one (1) Substance Abuse Program Manager.

(2) In the Department of Taxes—one (1) Business Analyst AC: Tax and one (1) Tax Policy Analyst.

(3) In the Agency of Agriculture, Food and Markets—one (1) Agriculture Chemist and two (2) Program Administrator.

(4) In the Marijuana Program Review Commission—one (1) exempt Commission Director.

Sec. 26. MARIJUANA REGULATION AND RESOURCE FUND
BUDGET AND REPORT

Annually, through 2019, the Secretary of Administration shall report to the Joint Fiscal Committee on receipts and expenditures through the prior fiscal year on or before the Committee's regularly scheduled November meeting on the following:

(1) an update of the administration's efforts concerning implementation, administration, and enforcement of this act;

(2) any changes or updates to revenue expectations from fees and taxes based on changes in competitive pricing or other information;

(3) projected budget adjustment needs for current year appropriations from the Marijuana Regulation and Resource Fund; and

(4) a comprehensive spending plan with recommended appropriations from the Fund for the next the fiscal year, by department, including an explanation and justification for the expenditures and how each recommendation meets the intent of this act.

* * * Miscellaneous * * *

Sec. 27. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(29) To prohibit or regulate, by means of a civil ordinance adopted pursuant to chapter 59 of this title, the number, time, place, manner, or operation of a marijuana establishment, or any class of marijuana establishments, located in the municipality; provided, however, that amendments to such an ordinance shall not apply to restrict further a marijuana establishment in operation within the municipality at the time of the amendment. As used in this subdivision, "marijuana establishment" is as defined in 18 V.S.A. chapter 87.

Sec. 28. 24 V.S.A. § 4414 is amended to read:

§ 4414. ZONING; PERMISSIBLE TYPES OF REGULATIONS

Any of the following types of regulations may be adopted by a municipality in its bylaws in conformance with the plan and for the purposes established in section 4302 of this title.

* * *

(16) Marijuana establishments. A municipality may adopt bylaws for the purpose of regulating marijuana establishments as defined in 18 V.S.A. chapter 87.

Sec. 29. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

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

(1) the Secretary of Commerce and Community Development or designee;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.

(c) Powers and duties. The Committee shall study:

(1) whether Vermont's workers' compensation and unemployment insurance systems are adversely impacted by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct post-accident, employer-wide, or post-rehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2017, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic

Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 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 December 31, 2017.

Sec. 30. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) A Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

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

* * *

(24) Violations of 18 V.S.A. §§ 4230a and 4230b, relating to possession public consumption of marijuana and 18 V.S.A. § 4230e relating to cultivation of marijuana.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

(a) This section and Secs. 1 (misdemeanor drug possession study), 2 (legislative findings and intent), 3 (marijuana youth education and prevention), 13 (marijuana establishments), 14 (marijuana taxes), and 29 (Workforce Study Committee) shall take effect on passage.

(b) Secs. 12 (chemical extraction via butane or hexane prohibited), 17 (consumption or possession of marijuana by the operator of a motor vehicle), 18 (consumption or possession of marijuana by a passenger of a motor vehicle), 21 (Vermont Governor's Highway Safety Program), 22 (reporting impaired driving data), 23 (training for law enforcement; impaired driving), 24 (appropriations), 25 (positions), 26 (Marijuana Regulation and Resource Fund budget and report), 27 (local authority to regulate marijuana establishments), and 28 (zoning) shall take effect on July 1, 2017.

(c) Sec. 15 (taxes; definitions) shall take effect on January 1, 2018 and shall apply to taxable year 2018 and after.

(d) Secs. 4 (legislative intent; civil and criminal penalties), 5 (marijuana definition), 6 (marijuana; criminal), 7 (marijuana; civil), 8 (marijuana possession by a person under 21 years of age), 9 (cultivation of marijuana by a person 21 years of age or older), 10 (sale or furnishing marijuana to a person under 21 years of age; criminal), 11 (sale of furnishing marijuana to a person under 21 years of age; civil action for damages), 16 (sales tax), 19 (commercial motor vehicle), 20 (disqualification; commercial motor vehicle), and 30 (Judicial Bureau; jurisdiction) shall take effect on January 2, 2019.

House Proposal of Amendment

S. 23

An act relating to juvenile jurisdiction.

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

Sec. 1. 13 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this subchapter:

* * *

(15)(A) “Conviction” means a judgment of guilt following a verdict or finding of guilt, a plea of guilty, a plea of nolo contendere, an Alford Plea, or a judgment of guilt pursuant to a deferred sentence. A sex offender whose sentence is deferred shall have no duty to register after successful completion of the terms of the deferred sentence agreement for the duration specified in the agreement.

(B) A sex offender treated as a youthful offender pursuant to 33 V.S.A. chapter 52A shall have no duty to register unless the offender’s youthful offender status is revoked and he or she is sentenced for the offense in the Criminal Division of Superior Court.

* * *

Sec. 2. 28 V.S.A. chapter 16 is added to read:

CHAPTER 16. YOUTHFUL OFFENDERS

§ 1161. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER REGARDING SUPERVISION OF YOUTHFUL OFFENDERS

In accordance with 33 V.S.A. chapter 52A, the Commissioner shall be charged with the following powers and responsibilities regarding supervision of youthful offenders:

(1) consistent with 33 V.S.A. § 5284(d), to designate a case manager

who, together with a case manager appointed by the Commissioner for Children and Families, will determine the lead Department to preside over the case plan and the provision of services to youths who are adjudicated as youthful offenders;

(2) together with the Commissioner for Children and Families, to maintain the general supervision of youths adjudicated as youthful offenders and placed on conditions of juvenile probation; and

(3) to supervise the administration of probation services and establish policies and standards regarding youthful offender probation investigation, supervision, case work, record keeping, and the qualification of probation officers working with youthful offenders.

§ 1162. METHODS OF SUPERVISION

(a) Electronic monitoring. The Commissioner may utilize an electronic monitoring system to supervise a youthful offender placed on juvenile probation.

(b) Graduated sanctions.

(1) If ordered by the court pursuant to a modification of a youthful offender disposition under 33 V.S.A. § 5285(c)(1), the Commissioner may sanction the youthful offender in accordance with rules adopted pursuant to subdivision (2) of this subsection.

(2) The Department of Corrections shall adopt rules pursuant to 3 V.S.A. chapter 25 that establish graduated sanction guidelines for a youthful offender who violates the terms of his or her probation.

Sec. 3. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters, unless the context otherwise requires:

* * *

(2) "Child" means any of the following:

* * *

(C) An individual who has been alleged to have committed or has committed an act of delinquency after becoming 10 years of age and prior to becoming ~~18~~ 22 years of age; provided, however:

(i) that an individual who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining ~~the age of 10~~ 12 years of age but not ~~the age of 14~~ years of age may be treated as an adult as

provided therein;

* * *

(9) “Delinquent act” means an act designated a crime under the laws of this State, or of another state if the act occurred in another state, or under federal law. A delinquent act shall include 7 V.S.A. §§ ~~656 and 657~~ § 656; however, it shall not include:

(A) snowmobile offenses in 23 V.S.A. chapter 29, subchapter 1 and motorboat offenses in 23 V.S.A. chapter 29, subchapter 2, except for violations of sections 3207a, 3207b, 3207c, 3207d, and 3323;

(B) pursuant to 4 V.S.A. § 33(b), felony motor vehicle offenses committed by an individual who is at least 16 years of age or older, except for violations of 23 V.S.A. chapter 13, subchapter 13 and of 23 V.S.A. § 1091.

* * *

(22) “Party” includes the following persons:

(A) the child with respect to whom the proceedings are brought;

(B) the custodial parent, the guardian, or the custodian of the child in all instances except a hearing on the merits of a delinquency petition;

(C) the noncustodial parent for the purposes of custody, visitation, and such other issues ~~which~~ that the Court court may determine are proper and necessary to the proceedings, provided that the noncustodial parent has entered an appearance;

(D) the State’s Attorney;

(E) the Commissioner for Children and Families;

(F) such other persons as appear to the ~~Court~~ court to be proper and necessary to the proceedings; and

(G) in youthful offender cases brought under 33 V.S.A. chapter 52A, the Commissioner of Corrections.

* * *

Sec. 4. 33 V.S.A. § 5112 is amended to read:

§ 5112. ATTORNEY AND GUARDIAN AD LITEM FOR CHILD

(a) The Court shall appoint an attorney for a child who is a party to a proceeding brought under the juvenile judicial proceedings chapters.

(b) The Court shall appoint a guardian ad litem for a child under 18 years of age who is a party to a proceeding brought under the juvenile judicial proceedings chapters. In a delinquency proceeding, a parent, guardian, or

custodian of the child may serve as a guardian ad litem for the child, providing his or her interests do not conflict with the interests of the child. The guardian ad litem appointed under this section shall not be a party to that proceeding or an employee or representative of such party.

Sec. 5. 33 V.S.A. chapter 52A is added to read:

CHAPTER 52A. YOUTHFUL OFFENDERS

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

§ 5281. MOTION IN CRIMINAL DIVISION OF SUPERIOR COURT

(a) A motion may be filed in the Criminal Division of the Superior Court requesting that a defendant under 22 years of age in a criminal proceeding who had attained 12 years of age but not 22 years of age at the time the offense is alleged to have been committed be treated as a youthful offender. The motion may be filed by the State's Attorney, the defendant, or the court on its own motion.

(b) Upon the filing of a motion under this section or the filing of a youthful offender petition pursuant to section 5280 of this title, the Family Division shall hold a hearing pursuant to section 5283 of this title. Pursuant to section 5110 of this title, the hearing shall be confidential. Copies of all records relating to the case shall be forwarded to the Family Division. Conditions of release and any Department of Corrections supervision or custody shall remain in effect until the Family Division accepts the case for treatment as a youthful offender and orders conditions of juvenile probation pursuant to section 5284 of this title, or the case is otherwise concluded.

(c)(1) If the Family Division rejects the case for youthful offender treatment pursuant to subsection 5284 of this title, the case shall be transferred

to the Criminal Division. The conditions of release imposed by the Criminal Division shall remain in effect, and the case shall proceed as though the motion for youthful offender treatment or youthful offender petition had not been filed.

(2) Subject to Rule 11 of the Vermont Rules of Criminal Procedure and Rule 410 of the Vermont Rules of Evidence, the Family Division's denial of the motion for youthful offender treatment and any information related to the youthful offender proceeding shall be inadmissible against the youth for any purpose in the subsequent Criminal Division proceeding.

(d) If the Family Division accepts the case for youthful offender treatment, the case shall proceed to a confidential merits hearing or admission pursuant to sections 5227–5229 of this title.

§ 5282. REPORT FROM THE DEPARTMENT

(a) Within 30 days after the case is transferred to the Family Division or a youthful offender petition is filed in the Family Division, unless the court extends the period for good cause shown, the Department for Children and Families shall file a report with the Family Division of the Superior Court.

(b) A report filed pursuant to this section shall include the following elements:

(1) a recommendation as to whether diversion is appropriate for the youth because the youth is a low to moderate risk to reoffend;

(2) a recommendation as to whether youthful offender status is appropriate for the youth; and

(3) a description of the services that may be available for the youth.

(c) A report filed pursuant to this section is privileged and shall not be disclosed to any person other than:

(1) the Department;

(2) the court;

(3) the State's Attorney;

(4) the youth, the youth's attorney, and the youth's guardian ad litem;

(5) the youth's parent, guardian, or custodian if the youth is under 18 years of age, unless the court finds that disclosure would be contrary to the best interest of the child;

(6) the Department of Corrections; or

(7) any other person when the court determines that the best interests of the youth would make such a disclosure desirable or helpful.

§ 5283. HEARING IN FAMILY DIVISION

(a) Timeline. A youthful offender status hearing shall be held no later than 35 days after the transfer of the case from the Criminal Division or filing of a youthful offender petition in the Family Division.

(b) Notice. Notice of the hearing shall be provided to the State's Attorney; the youth; the youth's parent, guardian, or custodian; the Department; and the Department of Corrections.

(c) Hearing procedure.

(1) If the motion is contested, all parties shall have the right to present evidence and examine witnesses. Hearsay may be admitted and may be relied on to the extent of its probative value. If reports are admitted, the parties shall be afforded an opportunity to examine those persons making the reports, but sources of confidential information need not be disclosed.

(2) All youthful offender proceedings shall be confidential.

(d) Burden of proof. The burden of proof shall be on the moving party to prove by a preponderance of the evidence that a child should be granted youthful offender status. If the court makes the motion, the burden shall be on the youth.

(e) Further hearing. On its own motion or the motion of a party, the court may schedule a further hearing to obtain reports or other information necessary for the appropriate disposition of the case.

§ 5284. YOUTHFUL OFFENDER DETERMINATION AND DISPOSITION ORDER

(a) In a hearing on a motion for youthful offender status, the court shall first consider whether public safety will be protected by treating the youth as a youthful offender. If the court finds that public safety will not be protected by treating the youth as a youthful offender, the court shall deny the motion and transfer the case to the Criminal Division of the Superior Court pursuant to subsection 5281(d) of this title. If the court finds that public safety will be protected by treating the youth as a youthful offender, the court shall proceed to make a determination under subsection (b) of this section.

(b)(1) The court shall deny the motion if the court finds that:

(A) the youth is not amenable to treatment or rehabilitation as a youthful offender; or

(B) there are insufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(2) The court shall grant the motion if the court finds that:

(A) the youth is amenable to treatment or rehabilitation as a youthful offender; and

(B) there are sufficient services in the juvenile court system and the Department for Children and Families and the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(c) If the court approves the motion for youthful offender treatment after an adjudication pursuant to subsection 5281(d) of this title, the court:

(1) shall approve a disposition case plan and impose conditions of juvenile probation on the youth; and

(2) may transfer legal custody of the youth to a parent, relative, person with a significant relationship with the youth, or Commissioner, provided that any transfer of custody shall expire on the youth's 18th birthday.

(d) The Department for Children and Families and the Department of Corrections shall be responsible for supervision of and providing services to the youth until he or she reaches 22 years of age. Both Departments shall designate a case manager who together shall appoint a lead Department to have final decision-making authority over the case plan and the provision of services to the youth. The youth shall be eligible for appropriate community-based programming and services provided by both Departments.

§ 5285. MODIFICATION OR REVOCATION OF DISPOSITION

(a) If it appears that the youth has violated the terms of juvenile probation ordered by the court pursuant to subdivision 5284(c)(1) of this title, a motion for modification or revocation of youthful offender status may be filed in the Family Division of the Superior Court. The court shall set the motion for hearing as soon as practicable. The hearing may be joined with a hearing on a violation of conditions of probation under section 5265 of this title. A supervising juvenile or adult probation officer may detain in an adult facility a youthful offender who has attained 18 years of age for violating conditions of probation.

(b) A hearing under this section shall be held in accordance with section 5268 of this title.

(c) If the court finds after the hearing that the youth has violated the terms of his or her probation, the court may:

(1) maintain the youth's status as a youthful offender, with modified conditions of juvenile probation if the court deems it appropriate;

(2) revoke the youth's status as a youthful offender and transfer the case

with a record of the petition, affidavit, adjudication, disposition, and revocation to the Criminal Division for sentencing; or

(3) transfer supervision of the youth to the Department of Corrections with all of the powers and authority of the Department and the Commissioner under Title 28, including graduated sanctions and electronic monitoring.

(d) If a youth's status as a youthful offender is revoked and the case is transferred to the Criminal Division pursuant to subdivision (c)(2) of this section, the court shall hold a sentencing hearing and impose sentence. When determining an appropriate sentence, the court may take into consideration the youth's degree of progress toward rehabilitation while on youthful offender status. The Criminal Division shall have access to all Family Division records of the proceeding.

§ 5286. REVIEW PRIOR TO 18 YEARS OF AGE

(a) If a youth is adjudicated as a youthful offender prior to reaching 18 years of age, the Family Division shall review the youth's case before he or she reaches 18 years of age and set a hearing to determine whether the court's jurisdiction over the youth should be continued past 18 years of age. The hearing may be joined with a motion to terminate youthful offender status under section 5285 of this title. The court shall provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families, and the Department of Corrections.

(b) After receiving a notice of review under this section, the State may file a motion to modify or revoke pursuant to section 5285 of this title. If such a motion is filed, it shall be consolidated with the review under this section and all options provided for under section 5285 of this title shall be available to the court.

(c) The following reports shall be filed with the court prior to the hearing:

(1) The Department for Children and Families and the Department of Corrections shall jointly report their recommendations, with supporting justifications, as to whether the Family Division should continue jurisdiction over the youth past 18 years of age and, if continued jurisdiction is recommended, propose a case plan for the youth to ensure compliance with and completion of the juvenile disposition.

(2) If the Departments recommend continued supervision of the youthful offender past 18 years of age, the Departments shall report on the services which would be available for the youth.

(d) If the court finds that it is in the best interest of the youth and consistent with community safety to continue the case past 18 years of age, it shall make an order continuing the court's jurisdiction up to 22 years of age. The

Department for Children and Families and the Department of Corrections shall jointly develop a case plan for the youth and coordinate services and share information to ensure compliance with and completion of the juvenile disposition.

(e) If the court finds that it is not in the best interest of the youth to continue the case past 18 years of age, it shall terminate the disposition order, discharge the youth, and dismiss the case in accordance with subsection 5287(c) of this title.

§ 5287. TERMINATION OR CONTINUANCE OF PROBATION

(a) A motion may be filed at any time in the Family Division requesting that the court terminate the youth's status as a youthful offender and discharge him or her from probation. The motion may be filed by the State's Attorney, the youth, the Department, or the court on its own motion. The court shall set the motion for hearing and provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families and the Department of Corrections.

(b) In determining whether a youth has successfully completed the terms of probation, the Court shall consider:

(1) the degree to which the youth fulfilled the terms of the case plan and the probation order;

(2) the youth's performance during treatment;

(3) reports of treatment personnel; and

(4) any other relevant facts associated with the youth's behavior.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the Family Division case. The Family Division shall provide notice of the dismissal to the Criminal Division, which shall dismiss the criminal case.

(d) Upon discharge and dismissal under subsection (c) of this section, all records relating to the case in the Criminal Division shall be expunged, and all records relating to the case in the Family Court shall be sealed pursuant to section 5119 of this title.

(e) If the court denies the motion to discharge the youth from probation, the court may extend or amend the probation order as it deems necessary.

§ 5288. RIGHTS OF VICTIMS IN YOUTHFUL OFFENDER PROCEEDINGS

(a) The victim in a proceeding involving a youthful offender shall have the

following rights:

(1) to be notified by the prosecutor in a timely manner when a court proceeding is scheduled to take place and when a court proceeding to which he or she has been notified will not take place as scheduled;

(2) to be present during all court proceedings subject to the provisions of Rule 615 of the Vermont Rules of Evidence and to express reasonably his or her views concerning the offense and the youth;

(3) to request notification by the agency having custody of the youth before the youth is released from a residential facility;

(4) to be notified by the prosecutor as to the final disposition of the case;

(5) to be notified by the prosecutor of the victim's rights under this section.

(b) In accordance with court rules, at a hearing on a motion for youthful offender treatment, the court shall ask if the victim is present and, if so, whether the victim would like to be heard regarding disposition. In ordering disposition, the court shall consider any views offered at the hearing by the victim. If the victim is not present, the court shall ask whether the victim has expressed, either orally or in writing, views regarding disposition and shall take those views into consideration in ordering disposition.

(c) No youthful offender proceeding shall be delayed or voided by reason of the failure to give the victim the required notice or the failure of the victim to appear.

(d) As used in this section, "victim" shall have the same meaning as in 13 V.S.A. § 5301(4).

Sec. 6. 33 V.S.A. § 5291 is amended to read:

§ 5291. DETENTION OR TREATMENT OF MINORS CHARGED AS
DELINQUENTS IN SECURE FACILITIES FOR THE
DETENTION OR TREATMENT OF DELINQUENT CHILDREN

~~(a) Unless ordered otherwise at or after a temporary care hearing, the Commissioner shall have sole authority to place the child who is in the custody of the Department in a secure facility for the detention or treatment of minors.~~

~~(b) Upon a finding at the temporary care hearing that no other suitable placement is available and the child presents a risk of injury to him or herself, to others, or to property, the Court may order that the child be placed in~~ Prior to disposition, the court shall have the sole authority to place a child who is in the custody of the Department in a secure facility used for the detention or

treatment of delinquent children until the Commissioner determines that a suitable placement is available for the child. The court shall not order placement in a secure facility without a recommendation from the Department that placement in a secure facility is necessary. Alternatively, the Court may order that the child be placed in a secure facility used for the detention or treatment of delinquent children for up to seven days. Any order for placement at a secure facility shall expire at the end of the seventh day following its issuance unless, after hearing, the Court extends the order for a time period not to exceed seven days. The court order shall include a finding that no other suitable placement is available and the child presents a risk of injury to others or to property.

(b) Absent good cause shown and notwithstanding section 5227 of this title, when a child is placed in a secure facility pursuant to subsection (a) of this section and remains in a secure facility for 45 days following the preliminary hearing, the merits hearing shall be held and merits adjudicated within 45 days of the date of the preliminary hearing or the court shall dismiss the petition with prejudice. If merits have been found, the court shall review the secure facility placement order at the merits hearing.

(c) If a child is placed in a secure facility pursuant to subsection (a) of this section and secure facility placement continues following the merits hearing review pursuant to subsection (b) of this section, the court shall, within 35 days of the merits adjudication:

(1) hold the disposition hearing, or, if disposition is not held within 35 days;

(2) hold a hearing to review the continued secure facility placement.

(d) A child placed in a secure facility on an order pursuant to subsections (a), (b), or (c) of this section with a finding that no other suitable placement is available and the child presents a risk of harm to others or to property shall be entitled to an independent, second evidentiary hearing, which shall be a hearing de novo by a single justice of the Vermont Supreme Court. The Chief Justice may make an appointment or special assignment in accordance with 4 V.S.A. § 22 to conduct the de novo hearing required by this subsection. Unless the parties stipulate to the admission of portions of the trial court record, the de novo review shall be a new evidentiary hearing without regard to the record compiled before the trial court.

(e) Following disposition, the Commissioner shall have the sole authority to place a child who is in the custody of the Department in a secure facility for the detention or treatment of delinquent children pursuant to the Department's administrative policies on admission.

Sec. 7. VERMONT SUPREME COURT; RULEMAKING

The Vermont Supreme Court shall review the youthful offender proceedings statutes and consider a proposed new or amended rule for adoption on or before July 1, 2018 to make clear that a youth is waiving the right to trial by jury in cases where a youth is adjudicated in the Family Division pursuant to 33 V.S.A. §§ 5281 and 5227–5229, youthful offender status is revoked, and a criminal record of the petition, adjudication, disposition and revocation is sent to the Criminal Division pursuant to 33 V.S.A. §5285 for sentencing.

Sec. 8. REPEALS

(a) 33 V.S.A. § 5104 (retention of jurisdiction over youthful offenders) is repealed on July 1, 2018.

(b) 33 V.S.A. § 5280 (commencement of youthful offender proceedings in the Family Division) is repealed on July 1, 2018.

(c) 33 V.S.A. § 5281 (motion in Criminal Division of Superior Court) is repealed on July 1, 2018.

(d) 33 V.S.A. § 5282 (report from the Department) is repealed on July 1, 2018.

(e) 33 V.S.A. § 5283 (hearing in Family Division) is repealed on July 1, 2018.

(f) 33 V.S.A. § 5284 (determination and order) is repealed on July 1, 2018.

(g) 33 V.S.A. § 5285 (modification or revocation of disposition) is repealed on July 1, 2018.

(h) 33 V.S.A. § 5286 (review prior to the age of 18) is repealed on July 1, 2018.

(i) 33 V.S.A. § 5287 (termination or continuance of probation) is repealed on July 1, 2018.

(j) 33 V.S.A. § 5288 (rights of victims in youthful offender proceedings) is repealed on July 1, 2018.

Sec. 9. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except for Secs. 2 (Chapter 16), 5 (Chapter 52A), and 6 (detention or treatment of minors charged as delinquents in secure facilities for the detention or treatment of delinquent children) which shall take effect on July 1, 2018.

Proposal of amendment to House proposal of amendment to S. 23 to be offered by Senator Sears

Senator Sears moves to concur in the House proposal of amendment with further proposals of amendment as follows:

First: In Sec. 5, 33 V.S.A. chapter 52A § 5283(c), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) Hearings under subsection 5284(a) of this title shall be open to the public. All other youthful offender proceedings shall be confidential.

Second: In Sec. 5, 33 V.S.A. chapter 52A § 5285(d), after the word “toward” by inserting the words or regression from

Third: In Sec. 6, 33 V.S.A. § 5291(a), after the word “injury” by inserting the following: to himself or herself, and after the word “others” by inserting the following: ;

Fourth: By inserting a new section to be numbered Sec. 7a to read as follows:

Sec. 7a. 2016 Acts and Resolves No.153, Sec. 39 is amended to read:

Sec. 39. EFFECTIVE DATES

* * *

(b) Sec. 16 (powers and responsibilities of the Commissioner regarding juvenile services) shall take effect on July 1, ~~2017~~ 2018.

* * *

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 495.

An act relating to miscellaneous agriculture subjects.

Reported favorably with recommendation of proposal of amendment by Senator Collamore for the Committee on Agriculture.

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

* * * Administrative Penalty Process * * *

Sec. 1. 6 V.S.A. § 13 is amended to read:

§ 13. ASSURANCES OF DISCONTINUANCE

(a) As an alternative to administrative or judicial proceedings, the ~~secretary~~ Secretary may accept an assurance of discontinuance of any violation. An assurance of discontinuance may include, ~~but need not be limited to:~~

- (1) specific actions to be taken;
- (2) abatement or mitigation schedules;
- (3) payment of a civil or administrative penalty and the costs of investigation; or
- (4) payment of an amount to be held in escrow pending the outcome of an action, or as restitution to aggrieved persons.

(b) An assurance of discontinuance shall be in writing, and may by its terms be filed with the ~~superior court~~ Superior Court having jurisdiction over the subject matter and become an order of the court. Evidence of a violation of an assurance of discontinuance shall be prima facie proof of the violation.

(c) Any violation of an assurance of discontinuance shall constitute a separate and distinct offense of the underlying regulatory program and shall be subject to the applicable general penalties for violations of the law under that program, in addition to any other applicable penalties.

(d) Costs of investigations collected under subsection (a) of this section shall be credited to a special fund and shall be available to the ~~agency~~ Agency to offset these costs.

Sec. 2. 6 V.S.A. § 16 is amended to read:

§ 16. NOTICE AND FAIR HEARING REQUIREMENTS

(a) The ~~secretary~~ Secretary shall use the following procedures in assessing the penalty under section 15 of this title: the alleged violator shall be given an opportunity for hearing after reasonable notice and the notice shall be served by personal service or by certified mail, ~~return receipt requested~~ sent to the last address of record on file with the Agency. If the alleged violator is not an applicant for or holder of a license, permit, registration, or certification issued by the Agency, the notice shall be served by personal service or by certified mail, return receipt requested. The notice shall include:

- (1) a A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (2) a A statement of the matter at issue, including reference to the particular statute or administrative rule allegedly violated and a factual description of the alleged violation;

(3) ~~the~~ The amount of the proposed administrative penalty; and required corrective action, abatement, or mitigation.

(4) ~~a~~ A warning that the decision shall become final and the penalty shall be imposed if no hearing is requested within 15 days of receipt service of the notice. The notice shall specify the requirements which that must be met in order to avoid being deemed to have waived the right to a hearing, or the manner of payment if the person elects to pay the penalty and waive a hearing.

(b) Any person who receives notification pursuant to this section shall be deemed to have waived the right to a hearing unless, within 15 days of the receipt of the notice, the person requests a hearing in writing. If the person waives the right to a hearing, the ~~secretary~~ Secretary shall issue a final order finding the person in default and imposing the penalty and any required corrective action, abatement, or mitigation. A copy of the final default order shall be ~~sent to~~ served upon the violator by certified mail, return receipt requested, or by personal service.

(c) When an alleged violator requests a hearing in a timely fashion, the ~~secretary~~ Secretary shall hold the hearing pursuant to 3 V.S.A. chapter 25.

Sec. 3. 6 V.S.A. § 17 is amended to read:

§ 17. COLLECTIONS

(a) The ~~secretary~~ Secretary may collect an unpaid administrative or civil penalty by filing a civil collection action in any ~~district or superior court,~~ Superior Court or through any other means available to ~~state~~ State agencies.

(b) The ~~secretary~~ Secretary may, subject to 3 V.S.A. chapter 25, suspend any license, certificate, registration, or permit issued pursuant to his or her authority for failure to pay a penalty under this chapter more than ~~60~~ 45 days after the penalty was ~~issued~~ imposed by order and served.

* * * Acceptance of Gifts of Real Property * * *

Sec. 4. 6 V.S.A. § 14 is amended to read:

§ 14. ACCEPTANCE OF GIFTS OF REAL PROPERTY

The ~~secretary~~ Secretary, with the approval of the ~~governor~~ Governor, may accept gifts of the rights and interests in real property in the manner provided by 10 V.S.A. chapter 155. Rights or interests in real property acquired by the Secretary through transactions funded in whole or in part by the Vermont Housing and Conservation Board are deemed as accepted by the Governor.

* * * Meat Inspection * * *

Sec. 5. 6 V.S.A. § 3306(i) is amended to read:

(i) All applicants for licensure or relicensure as a commercial slaughter facility shall submit a written humane livestock handling plan or a good commercial practices plan for poultry for review and approval by the Secretary of Agriculture, Food and Markets or designee. The Secretary may suspend, revoke, or condition any commercial slaughter facility license, after notice and opportunity for hearing, for a licensee's failure to adhere to the written plan.

* * * Weights and Measures * * *

Sec. 6. 9 V.S.A. § 2730(c) is amended to read:

(c) Any person wishing to obtain a license to operate a weighing or measuring device shall annually apply to the Secretary, on forms provided by the Secretary, on or before January 1. Each application shall be accompanied by a fee as specified in this section. Except for new applicants, any applicant who applies for a license after January 1 shall pay ~~an additional late fee equal to 10 percent of the specified fee~~ a late fee as provided for under 6 V.S.A. § 1(a)(13).

* * * Working Lands * * *

Sec. 7. 6 V.S.A. § 4607(b) is amended to read:

(b) Powers. The Vermont Working Lands Enterprise Board shall have the authority:

* * *

(6) ~~to establish an application process and, eligibility criteria, and criteria for prioritizing assistance for awarding grants, loans, incentives, and other investments in agricultural and forestry enterprises and in food and forest systems, provided that the Board shall prioritize assistance under this chapter to a person engaged in farming or forestry before providing assistance to a nonprofit organization or nonprofit corporation for a project that competes with a person engaged in farming or forestry.~~ The Board shall give first priority for awards under this subdivision to persons engaged in farming or forestry. Second priority shall be given to nonprofit organizations or nonprofit corporations that compete with persons engaged in farming or forestry.

* * *

Sec. 8. WORKING LANDS ENTERPRISE BOARD; CRITERIA FOR
PRIORITIZING AWARDS

On or before January 15, 2018, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry the guidelines that the Working Lands Enterprise Board shall use in prioritizing awards of assistance under 10 V.S.A. § 4607(b)(6).

* * * Multi-year Licensing * * *

Sec. 9. 6 V.S.A. § 1 is amended to read:

§ 1. GENERAL POWERS OF AGENCY; SECRETARY OF
AGRICULTURE, FOOD AND MARKETS

(a) The Agency of Agriculture, Food and Markets shall be administered by a Secretary of Agriculture, Food and Markets. The Secretary shall supervise and be responsible for the execution and enforcement of all laws relating to agriculture and standards of weight and measure. The Secretary may:

* * *

(13) Notwithstanding any law to the contrary in this title or Title 9 or 20, issue all licenses, permits, registrations, or certificates under a program administered by the Secretary for a term of up to three years; renew and issue such licenses, permits, registrations, and certificates on any calendar cycle; collect any annual fee set by law for such the multiyear licensure, permit, registration, or certificate on a pro-rated basis, which shall not exceed 150 percent of the annual fee for an 18-month cycle, 200 percent of the annual fee for a two-year cycle, or 300 percent of the annual fee for a three-year cycle; and conduct inspections at regulated premises at least once every three years when inspection is required by law. The authority to mandate licenses, permits, registrations, or certificates for more than one year shall not extend to any program administered by the Secretary ~~where for which~~ the annual fee is more than ~~\$125.00~~ \$175.00. The Secretary shall only provide refunds for overpayments of \$25.00 or more on a license, permit, registration, or certificate issued by the Secretary. The Secretary may assess a late fee of \$27.00, provided that the late fee is no greater than the fee due, in which case the late fee shall equal the fee due, for any license, registration, permit, or certification renewal that is received more than 30 days past expiration, unless a higher late renewal fee is otherwise prescribed by statute.

* * *

* * * Subsurface Tile Drainage * * *

Sec. 10. 6 V.S.A. § 4810a(b) is amended to read:

(b) On or before December 1, 2021, and prior to prefiling of a rule under 3 V.S.A. § 837, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry draft rules amending the required agricultural practices, in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. On or before January 15, 2018 July 1, 2022, the Secretary of Agriculture, Food and Markets shall ~~amend by rule initiate rulemaking to amend~~ the required agricultural practices, in order to

include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage, upon a determination that compliance is necessary to reduce adverse impacts to water quality from the subsurface tile drain.

* * * Use Value Appraisal; Agricultural Lands * * *

Sec. 11. 32 V.S.A. § 3752 is amended to read:

§ 3752. DEFINITIONS

As used in this subchapter:

(1) “Agricultural land” means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock ~~or to~~ cultivate trees bearing edible fruit, or produce an annual maple product, and ~~which that~~ is 25 acres or more in size, except as provided in this subdivision (1). Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets’ Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215. There shall be a presumption that the land is used for agricultural purposes if:

(A) it is owned by a farmer and is part of the overall farm unit; or

(B) it is used by a farmer as part of his or her farming operation under written lease for at least three years; or

(C) it has produced an annual gross income from the sale of farm crops in one of two, or three of the five, calendar years preceding of at least:

(i) \$2,000.00 for parcels of up to 25 acres; and

(ii) \$75.00 per acre for each acre over 25, with the total income required not to exceed \$5,000.00.

(iii) Exceptions to these income requirements may be made in cases of orchard lands planted to ~~fruit-producing~~ fruit-producing trees, bushes, or vines ~~which that~~ are not yet of bearing age. As used in this section, the term “farm crops” also includes animal fiber, cider, wine, and cheese, produced on the enrolled land or on a housesite adjoining the enrolled land, from agricultural products grown on the enrolled land.

* * *

(14) “Farm buildings” means all farm buildings and other farm improvements ~~which that~~ are actively used by a farmer as part of a farming operation, are owned by a farmer or leased to a farmer under a written lease for a term of three years or more, and are situated on land that is enrolled in a

use value appraisal program or on a housesite adjoining enrolled land. "Farm buildings" shall include up to \$100,000.00 of the value of a farm facility processing farm crops, a minimum of 75 percent of which are produced on the farm and shall not include any dwelling, other than a dwelling in use during the ~~preceding tax year~~ prior 12 months exclusively to house one or more farm employees, as defined in 9 V.S.A. § 4469a, and their families, as a nonmonetary benefit of the farm employment. This subdivision shall not affect the application of the definition of "farming" in 10 V.S.A. § 6001(22) or the definition of "farm structure" in 24 V.S.A. § 4413(d)(1).

* * *

Sec. 12. 32 V.S.A. § 3755 is amended to read:

§ 3755. ELIGIBILITY FOR USE VALUE APPRAISALS

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings ~~which~~ that meet the criteria contained in this subchapter and in the ~~regulations~~ rules adopted by the Board shall be eligible for use value appraisal.

* * *

(d) After ~~a parcel~~ of managed forestland has been removed from use value appraisal due to an adverse inspection report under subdivision 3756(i)(1) of this title, a new application for use value appraisal ~~will~~ shall not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

* * *

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

* * * Raw Milk * * *

Sec. 13. 6 V.S.A. § 2776 is amended to read:

§ 2776. DEFINITIONS

In this chapter:

(1) “Consumer” means a customer who purchases, barter for, receives delivery of, or otherwise acquires unpasteurized milk according to the requirements of this chapter.

(2) “Milk” shall have the same meaning as set forth in section 2672 of this title.

(3) “Personal consumption” means the use by a consumer of unpasteurized milk for food or to create a food product made with or from unpasteurized milk that is intended to be ingested by the consumer, members of his or her household, or any nonpaying guests.

~~(3)~~(4) “Unpasteurized milk” or “unpasteurized (raw) milk” means milk that is unprocessed.

~~(4)~~(5) “Unprocessed” means milk that has not been modified from the natural state it was in as it left the animal, other than filtering, packaging, and cooling.

* * * Department of Forests, Parks and Recreation;

Water Quality Assistance * * *

Sec. 14. 10 V.S.A. § 2622a is added to read:

§ 2622a. WATER QUALITY ASSISTANCE PROGRAM

(a) Creation of program. There is established the Water Quality Assistance Program under which the Commissioner of Forests, Parks and Recreation shall provide technical and financial assistance to timber harvesters and others for compliance with water quality requirements in the State. The Commissioner of Forests, Parks and Recreation shall coordinate with natural resources conservation districts in the implementation of the Program.

(b) Eligible assistance. Under the Program, the Commissioner of Forests, Parks and Recreation is authorized to expend monies for the following activities in order to facilitate compliance with water quality requirements:

(1) Award financial assistance in the form of grants to timber harvesters and others to purchase or construct skidder bridges and other equipment.

(2) Purchase premade skidder bridges and other equipment to loan or lease to timber harvesters and others.

(3) Purchase available, premade skidder bridges and other equipment and provide those bridges or equipment to cooperating processing plants for sale to timber harvesters and others at cost, subject to storage and handling fees.

(4) If premade skidder bridges are not available on the commercial

market, issue in a calendar year two requests for proposal for the construction of skidder bridges for delivery to cooperating processing plants for sale to timber harvesters and others at cost, subject to storage and handling fees. The Commissioner shall issue one request for proposal for the northern part of the State and one request for proposal for the southern part of the State.

(c) Financial assistance. An applicant for a grant under this section shall pay at least 10 percent of the total cost of the equipment. The dollar amount of a State grant shall be equal to the total cost of the equipment, less 10 percent of the total as paid by the applicant. A grant awarded under this section shall be awarded in accordance with terms and conditions established by the Commissioner.

(d) Spill kit. The Commissioner shall provide a person who purchases, constructs, or loans out a skidder bridge under subsection (b) of this section with a spill kit for containing or absorbing fluids released during timber harvesting activities.

Sec. 15. APPROPRIATIONS

Of the capital funds appropriated to the Agency of Natural Resources in FY 2018 for ecosystem restoration and protection, up to \$50,000.00 shall be used by the Department of Forests, Parks and Recreation for implementation of the Water Quality Assistance Program under 10 V.S.A. § 2622a.

* * * Forestry Equipment; Sales Tax; Gasoline Tax; Diesel Tax * * *

Sec. 16. 23 V.S.A. chapter 28, subchapter 1 is amended to read:

Subchapter 1: General Gasoline Tax

§ 3101. DEFINITIONS

As used in this chapter:

* * *

(3) As used in this subchapter, “gasoline or other motor fuel” or “motor fuel” shall not include the following: kerosene, diesel oil clear or undyed diesel “fuel” as defined in section 3002 of this title, “railroad fuel” as defined in section 3002 of this title, aircraft jet fuel, or natural gas in any form. Except for “railroad fuel” taxed under section 3003 of this title, the taxation or exemption from taxation of dyed diesel fuel is not addressed under this title.

* * *

Sec. 17. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail

sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(7)(A) Sales Except as provided in subdivision (B) of this subdivision (7), sales of:

(i) motor fuels taxed or exempted under 23 V.S.A. chapter 28;

(ii) dyed diesel used to power machinery described in subdivision (51) of this section; and

(iii) dyed diesel used to propel a vehicle off the highways of the State.

~~(B) provided, however, that aviation~~ Aviation jet fuel and natural gas used to propel a motor vehicle shall be taxed under this chapter with the proceeds to be allocated to the ~~transportation fund~~ Transportation Fund in accordance with 19 V.S.A. § 11.

* * *

(51) The following machinery, including repair parts, used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimiters, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors, elevators, and screens. The Department of Taxes shall publish guidance relating to the application of this exemption.

Sec. 18. 32 V.S.A. § 9706 is amended to read:

§ 9706. STATUTORY PURPOSES

* * *

(d) The statutory purpose of the exemption for fuels for railroads and boats, to propel vehicles, and to power machinery used in the timber industry, in subdivision 9741(7) of this title is to avoid the taxation of fuels:

(1) for the types of transportation for which public expenditure on infrastructure is unnecessary;

(2) that are already subject to taxation under 23 V.S.A. chapter 27 or 28 in support of public expenditure on infrastructure or are specifically exempt from taxation under either of those chapters; and

(3) in order to promote Vermont's commercial timber and forest products economy.

* * *

(kk) The statutory purpose of the exemption for timber cutting, removal, and processing machinery in subdivision 9741(51) of this title is to promote Vermont's commercial timber and forest products economy.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) This section and Secs. 13 (raw milk) and 14 (Forestry Water Quality Assistance Program) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2017.

(Committee vote: 5-0-0)

(No House amendments.)

H. 519.

An act relating to capital construction and State bonding.

Reported favorably with recommendation of proposal of amendment by Senator Flory for the Committee on Institutions.

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

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the \$147,282,287.00 authorized in this act, no more than \$73,805,141.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a Capital Construction and State Bonding Adjustment Bill. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services, and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on Institutions and of the House Committee on Corrections and Institutions are notified before that action is taken.

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

<u>(1) Statewide, planning, use, and contingency:</u>	<u>\$500,000.00</u>
<u>(2) Statewide, major maintenance:</u>	<u>\$6,000,000.00</u>
<u>(3) Statewide, BGS engineering and architectural project costs:</u>	<u>\$3,537,525.00</u>
<u>(4) Statewide, physical security enhancements:</u>	<u>\$270,000.00</u>
<u>(5) Montpelier, State House, Dome, Drum, and Ceres, design, permitting, construction, restoration, renovation, and lighting:</u>	<u>\$300,000.00</u>
<u>(6) Randolph, Agencies of Agriculture, Food and Markets and of Natural Resources, collaborative laboratory, construction:</u>	<u>\$4,500,000.00</u>
<u>(7) Springfield, Southern State Correctional Facility, completion of the steamline replacement:</u>	<u>\$300,000.00</u>
<u>(8) Waterbury, Waterbury State Office Complex, site work for the Hanks and Weeks buildings, and renovation of the Weeks building:</u>	<u>\$4,000,000.00</u>
<u>(9) Newport, Northern State Correctional Facility, door control replacement:</u>	<u>\$1,000,000.00</u>
<u>(10) Newport, Northern State Correctional Facility, parking expansion:</u>	<u>\$350,000.00</u>
<u>(11) Montpelier, 109 and 111 State Street, design:</u>	<u>\$600,000.00</u>
<u>(12) Department of Libraries, centralized facility, renovation:</u>	<u>\$1,500,000.00</u>
<u>(13) Burlington, 108 Cherry Street, parking garage, repairs:</u>	<u>\$5,000,000.00</u>
<u>(c) The following sums are appropriated in FY 2019:</u>	
<u>(1) Statewide, planning, use, and contingency:</u>	<u>\$500,000.00</u>
<u>(2) Statewide, major maintenance:</u>	<u>\$5,799,648.00</u>
<u>(3) Statewide, BGS engineering and architectural project costs:</u>	<u>\$3,432,525.00</u>
<u>(4) Statewide, physical security enhancements:</u>	<u>\$270,000.00</u>
<u>(5) Montpelier, State House, Dome, Drum, and Ceres, restoration, renovation, and lighting:</u>	<u>\$1,700,000.00</u>
<u>(6) Montpelier, 120 State Street, life safety and infrastructure improvements:</u>	<u>\$700,000.00</u>

(7) Randolph, Agencies of Agriculture, Food and Markets and of Natural Resources, collaborative laboratory, construction, fit-up, and equipment: \$3,944,000.00

(8) Waterbury, Waterbury State Office Complex, Weeks building, renovation and fit-up: \$900,000.00

(9) Newport, Northern State Correctional Facility, door control replacement: \$1,000,000.00

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

(11) Burlington, 108 Cherry Street, parking garage, repairs: \$5,000,000.00

(12) Montpelier, 133 State Street, renovations of mainframe workspace to Office Space (Agency of Digital Services): \$700,000.00

(d) Waterbury State Office Complex.

(1) The Commissioner of Buildings and General Services is authorized to use any appropriated funds remaining from the construction of the Waterbury State Office Complex for the projects described in subdivisions (b)(8) and (c)(8) of this section.

(2) On or before January 15, 2018, the Commissioner of Buildings and General Services shall evaluate the potential uses of the Stanley and Wasson buildings in the Waterbury State Office Complex.

Appropriation – FY 2018 \$27,857,525.00

Appropriation – FY 2019 \$27,946,173.00

Total Appropriation – Section 2 \$55,803,698.00

Sec. 3. HUMAN SERVICES

(a) The sum of \$200,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Agency of Human Services for cameras, locks, and perimeter intrusion at correctional facilities.

(b) The sum of \$300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in subsection (a) of this section.

Appropriation – FY 2018 \$200,000.00

Appropriation – FY 2019 \$300,000.00

Total Appropriation – Section 3 \$500,000.00

Sec. 4. JUDICIARY

(a) The sum of \$3,050,000.00 is appropriated in FY 2018 to the Judiciary for the case management IT system.

(b) It is the intent of the General Assembly to provide funding to complete the project described in subsection (a) of this section in FY 2019, and the Judiciary is encouraged to execute contracts for this project upon enactment of this act.

Appropriation – FY 2018 \$3,050,000.00

Total Appropriation – Section 4 \$3,050,000.00

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2018 to the Department of Buildings and General Services for the Agency of Commerce and Community Development:

(1) Major maintenance at historic sites statewide: \$200,000.00

(2) Stannard House, upgrades: \$30,000.00

(3) Schooner Lois McClure, repairs and upgrades: \$50,000.00

(b) The following sums are appropriated in FY 2018 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers:
\$15,000.00

(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping: \$125,000.00

(c) The sum of \$200,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at historic sites statewide.

(d) The following sums are appropriated in FY 2019 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers:
\$15,000.00

(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping: \$125,000.00

Appropriation – FY 2018 \$450,000.00

Appropriation – FY 2019 \$370,000.00

Total Appropriation – Section 5 \$820,000.00

Sec. 6. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2018 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program:
\$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services): \$100,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education): \$100,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

(9) To the Enhanced 911 Board for the Enhanced 911 Compliance Grants Program: \$75,000.00

(b) The following sums are appropriated in FY 2019 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development,

Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services): \$100,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education): \$100,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

Appropriation – FY 2018 \$1,475,000.00

Appropriation – FY 2019 \$1,400,000.00

Total Appropriation – Section 6 \$2,875,000.00

Sec. 7. EDUCATION

The sum of \$50,000.00 is appropriated in FY 2018 to the Agency of Education for funding emergency projects.

Appropriation – FY 2018 \$50,000.00

Total Appropriation – Section 7 \$50,000.00

Sec. 8. UNIVERSITY OF VERMONT

(a) The sum of \$1,400,000.00 is appropriated in FY 2018 to the University of Vermont for construction, renovation, and major maintenance.

(b) The sum of \$1,400,000.00 is appropriated in FY 2019 to the University of Vermont for the projects described in subsection (a) of this section.

Appropriation – FY 2018 \$1,400,000.00

Appropriation – FY 2019 \$1,400,000.00

Total Appropriation – Section 8 \$2,800,000.00

Sec. 9. VERMONT STATE COLLEGES

(a) The sum of \$2,000,000.00 is appropriated in FY 2018 to the Vermont State Colleges for construction, renovation, and major maintenance.

(b) The sum of \$2,000,000.00 is appropriated in FY 2019 to the Vermont State Colleges for the projects described in subsection (a) of this section.

<u>Appropriation – FY 2018</u>	<u>\$2,000,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$2,000,000.00</u>
<u>Total Appropriation – Section 9</u>	<u>\$4,000,000.00</u>

Sec. 10. NATURAL RESOURCES

(a) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) Drinking Water Supply, Drinking Water State Revolving Fund:
\$2,300,000.00

(2) Dam safety and hydrology projects: \$200,000.00

(3) State’s share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine, Ely Mine, and Williston (Commerce Street))
\$1,719,000.00

(b) The sum of \$2,750,000.00 is appropriated in FY 2018 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects.

(c) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including conservation camps and shooting ranges, hatchery improvements, wildlife management area infrastructure, and fishing access areas: \$1,200,000.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye Rearing, restoration and stocking infrastructure: \$30,000.00

(d) The sum of \$2,720,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Department of Fish and Wildlife for the construction of the Roxbury Hatchery.

(e) The following sums are appropriated in FY 2019 to the Agency of

Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) Drinking Water Supply, Drinking Water State Revolving Fund:
\$1,400,000.00

(2) Dam safety and hydrology projects: \$175,000.00

(3) State's share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine and Ely Mine): \$2,755,000.00

(f) The sum of \$2,750,000.00 is appropriated in FY 2019 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects.

(g) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including conservation camps and shooting ranges, hatchery improvements, wildlife management area infrastructure, and fishing access areas: \$1,100,000.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye Rearing, restoration and stocking infrastructure: \$30,000.00

Appropriation – FY 2018 \$10,919,000.00

Appropriation – FY 2019 \$8,210,000.00

Total Appropriation – Section 10 \$19,129,000.00

Sec. 11. CLEAN WATER INITIATIVES

(a) The following sums are appropriated in FY 2018 to the Agency of Agriculture, Food and Markets for the following projects described in this section:

(1) Best Management Practices and Conservation Reserve Enhancement Program: \$3,450,000.00

(2) Water quality grants and contracts: \$600,000.00

(b) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

(1) Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,000,000.00

(2) EcoSystem restoration and protection: \$6,000,000.00

(3) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, prior year partially funded projects: \$2,982,384.00

(4) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, new projects (Ryegate, Springfield, St. Johnsbury, and St. Albans): \$2,704,232.00

(c) The sum of \$1,400,000.00 is appropriated in FY 2018 to the Agency of Transportation for the Municipal Mitigation Program.

(d) The following sums are appropriated in FY 2018 to the Vermont Housing and Conservation Board for the following projects:

(1) Statewide water quality improvement projects or other conservation projects: \$2,800,000.00

(2) Water quality farm improvement grants or fee purchase projects that enhance water quality impacts by leveraging additional funds: \$1,000,000.00

(e) The sum of \$2,000,000.00 is appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for Best Management Practices and the Conservation Reserve Enhancement Program.

(f) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

(1) the Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,200,000.00

(2) EcoSystem restoration and protection: \$5,000,000.00

(3) Municipal Pollution Control Grants, new projects (Colchester, Rutland City, St. Albans, Middlebury): \$1,407,268.00

(4) Clean Water Act, implementation projects: \$11,010,704.00

(g) The sum of 2,750,000.00 is appropriated in FY 2019 to the Vermont Housing and Conservation Board for statewide water quality improvement projects or other conservation projects.

(h) It is the intent of the General Assembly that the Secretary of Natural Resources shall use the amount appropriated in subdivision (b)(4) of this section to fund new projects in Ryegate, Springfield, St. Johnsbury, and St. Albans; provided, however, that if the Secretary determines that one of these projects is not ready in FY 2018, the funds may be used for an eligible

new project as authorized by 10 V.S.A. chapter 55 and 24 V.S.A. chapter 120.

(i) On or before November 1, 2017, the Clean Water Fund Board, established in 10 V.S.A. § 1389, shall submit a report to the House Committees on Corrections and Institutions and on Natural Resources, Fish and Wildlife, and the Senate Committees on Institutions and on Natural Resources and Energy, providing a list of all clean water initiative programs and projects receiving funding in subsections (a)–(d) of this section and the amount of the investment.

(j) On or before January 15, 2018:

(1) the Clean Water Fund Board shall review and recommend Clean Water Act implementation programs funded from subdivision (f)(4) of this section; and

(2) the Board shall submit the list of programs recommended for FY 2019 to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and to the Governor for the FY 2019 capital budget report.

(k) In FY 2018 and FY 2019, any agency that receives funding from this section shall consult with the State Treasurer to ensure that the projects are capital eligible.

<u>Appropriation – FY 2018</u>	<u>\$21,936,616.00</u>
<u>Appropriation – FY 2019</u>	<u>\$23,367,972.00</u>
<u>Total Appropriation – Section 11</u>	<u>\$45,304,588.00</u>

Sec. 12. MILITARY

(a) The sum of \$750,000.00 is appropriated in FY 2018 to the Department of Military for maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds.

(b) The following sums are appropriated in FY 2019 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds:

\$850,000.00

(2) Bennington Armory, site acquisition:

\$60,000.00

Appropriation – FY 2018

\$750,000.00

Appropriation – FY 2019

\$910,000.00

Total Appropriation – Section 12

\$1,660,000.00

Sec. 13. PUBLIC SAFETY

(a) The sum of \$1,927,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for site acquisition, design, permitting, and construction documents for the Williston Public Safety Field Station.

(b) The sum of \$5,573,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for construction of the Williston Public Safety Field Station.

<u>Appropriation – FY 2018</u>	<u>\$1,927,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$5,573,000.00</u>
<u>Total Appropriation – Section 13</u>	<u>\$7,500,000.00</u>

Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The sum of \$75,000.00 is appropriated in FY 2018 to the Agency of Agriculture, Food and Markets for the Produce Safety Infrastructure Grant Improvement Program.

(b) The sum of \$75,000.00 is appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for the Produce Safety Infrastructure Grant Improvement Program.

<u>Appropriation – FY 2018</u>	<u>\$75,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$75,000.00</u>
<u>Total Appropriation – Section 14</u>	<u>\$150,000.00</u>

Sec. 15. VERMONT RURAL FIRE PROTECTION

(a) The sum of \$125,000.00 is appropriated in FY 2018 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the dry hydrant program.

(b) The sum of \$125,000.00 is appropriated in FY 2019 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the project described in subsection (a) of this section.

<u>Appropriation – FY 2018</u>	<u>\$125,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$125,000.00</u>
<u>Total Appropriation – Section 15</u>	<u>\$250,000.00</u>

Sec. 16. VERMONT VETERANS' HOME

(a) The sum of \$90,000.00 is appropriated in FY 2018 to the Vermont Veterans' Home for resident care furnishings.

(b) The sum of \$300,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Vermont Veterans' Home for kitchen renovations, and mold remediation.

(c) It is the intent of the General Assembly that the amount appropriated in subsection (a) of this section shall be used to match federal funds to purchase resident care furnishings for the Veterans' Home.

Appropriation – FY 2018 \$390,000.00

Total Appropriation – Section 16 \$390,000.00

Sec. 17. VERMONT HOUSING AND CONSERVATION BOARD

(a) The sum of \$1,200,000.00 is appropriated in FY 2018 to the Vermont Housing and Conservation Board for housing projects.

(b) The sum of \$1,800,000.00 is appropriated in FY 2019 to the Vermont Housing and Conservation Board for housing projects.

(c) The Vermont Housing and Conservation Board shall use funds appropriated in this section for:

(1) projects that are designed to keep residents out of institutions;

(2) the improvement of projects where there is already significant public investment and affordability or federal rental subsidies that would otherwise be lost;

(3) projects that would alleviate the burden in the most stressed rental markets and assist households into homeownership; or

(4) downtown and village center revitalization projects.

(d) The Vermont Housing and Conservation Board (VHCB) may use the amounts appropriated in this section to increase the amount it allocates to conservation grant awards pursuant to Sec. 11(d) and (g) of this act; provided, however, that VHCB increases any affordable housing investments by the same amount from funds appropriated to VHCB in the FY 2018 Appropriations Act.

Appropriation – FY 2018 \$1,200,000.00

Appropriation – FY 2019 \$1,800,000.00

Total Appropriation – Section 17 \$3,000,000.00

* * * Financing this Act * * *

Sec. 18. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures

authorized in Sec. 2 of this act:

- (1) of proceeds from the sale of property authorized in 2008 Acts and Resolves No. 200, Sec. 32 (1193 North Ave., Burlington): \$65,163.14
- (2) of the amount appropriated in 2009 Acts and Resolves No. 43, Sec. 11 (Waterbury, Emergency Operations Center): \$0.03
- (3) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2 (Brattleboro, State office building HVAC replacement and renovations): \$178,010.22
- (4) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2 (statewide, major maintenance): \$28,307.00
- (5) of the proceeds from the sale of property authorized in 2012 Acts and Resolves No. 104, Sec. 1(f) (43 Randall Street, Waterbury): \$101,156.39
- (6) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2 (statewide, contingency): \$44,697.20
- (7) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4 (Corrections, security upgrades): \$391.01
- (8) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 6 (Battle of Cedar Creek, roadside markers): \$28,253.60
- (9) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 5 (Judiciary, Lamoille County Courthouse): \$1,064.79
- (10) of the amount appropriated in 2013 Acts and Resolves No. 15, Sec. 17 (Veterans' Home, mold remediation): \$858,000.00
- (11) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 1 (project management system): \$250,000.00
- (12) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 1 (statewide, major maintenance): \$1,271,619.46
- (13) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 1 (Vergennes, Weeks School Master Plan): \$5.00
- (14) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 2 (Corrections, NSCF kitchen/serving line reconstruction): \$60,000.00
- (15) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 3 (Caledonia County Courthouse, wall stabilization): \$12,867.40
- (16) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 8 (Public Safety, Robert H. Wood): \$1,937.00
- (17) of the amount appropriated in 2015 Acts and Resolves No. 26,

<u>Sec. 2 (statewide, engineering and architectural costs):</u>	<u>\$6,912.30</u>
<u>(18) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2 (Burlington, 32 Cherry Street, HVAC controls upgrade):</u>	<u>\$550.38</u>
<u>(19) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2 (Caledonia County Courthouse, foundation):</u>	<u>\$384,000.00</u>
<u>(20) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2 (statewide, major maintenance):</u>	<u>\$7,187,408.54</u>
<u>(21) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 1 (statewide, major maintenance):</u>	<u>\$3,740,972.00</u>
<u>(b) The following unexpended funds appropriated to the Agency of Education for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:</u>	
<u>(1) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 3 (school construction):</u>	<u>\$155,398.62</u>
<u>(2) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 8 (emergency projects):</u>	<u>\$61,761.00</u>
<u>(c) The sum of \$353,529.29 in unexpended funds appropriated to the Agency of Agriculture, Food and Markets for capital construction projects in 2013 Acts and Resolves No. 51, Sec. 14 (nonpoint source pollution grants) is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.</u>	
<u>(d) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:</u>	
<u>(1) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12 (Forests, Parks and Recreation, projects):</u>	<u>\$1,530.41</u>
<u>(2) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 6 (water pollution control):</u>	<u>\$0.02</u>
<u>(3) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 11 (municipal pollution control grants, Pownal):</u>	<u>\$28,751.98</u>
<u>Total Reallocations and Transfers – Section 18</u>	<u>\$14,822,286.78</u>

Sec. 19. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

The State Treasurer is authorized to issue general obligation bonds in the amount of \$132,460,000.00 for the purpose of funding the appropriations of

this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

Total Revenues – Section 19 \$132,460,000.00

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 20. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) The Commissioner of Buildings and General Services is authorized to sell the building and adjacent land located at 26 Terrace Street in Montpelier (the Redstone Building) pursuant to the requirements of 29 V.S.A. § 166(b).

(b) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects.

Sec. 21. RANDALL STREET; VILLAGE OF WATERBURY

The Commissioner of Buildings and General Services is authorized to sell a portion of State property in the Village of Waterbury that borders Randall Street if the Commissioner determines that it serves the best interest of the State. The proceeds from the sale shall be appropriated to future capital construction projects.

Sec. 22. SALE OF 26 TERRACE STREET; MONTPELIER

Notwithstanding 29 V.S.A. § 166(d), the proceeds from the sale of 26 Terrace Street in Montpelier (the Redstone building) shall be transferred to Sec. 2(c)(2) of this act.

Sec. 23. 29 V.S.A. § 157 is amended to read:

§ 157. FACILITIES CONDITION ANALYSIS

(a) The Commissioner of Buildings and General Services shall:

* * *

(2) Conduct a facilities condition analysis each year of ~~ten~~ 20 percent of the building area and infrastructure under the Commissioner's jurisdiction so that within ~~ten~~ five years all property is assessed. At the end of the ~~ten~~ five

years, the process shall begin again. The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption.

* * *

Sec. 24. 2 V.S.A. § 62(a) is amended to read:

(a) The Sergeant at Arms shall:

* * *

(6) ~~maintain~~ Maintain in a good state of repair and provide security for all furniture, draperies, rugs, desks, ~~paintings~~ and ~~office equipment~~ other furnishings kept in the State House;

* * *

Sec. 25. 2 V.S.A. chapter 19 is amended to read:

CHAPTER 19. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

(a) A Legislative Advisory Committee on the State House is created.

(b) The Committee shall be composed of 11 members: ~~three members of the House of Representatives appointed by the speaker; three members of the Senate appointed by the Committee on Committees; the Chair of the Board of Trustees of the Friends of the Vermont State House; the Director of the Vermont Historical Society; the Director of the Vermont Council on the Arts; the Commissioner of Buildings and General Services; and the Sergeant-at-Arms~~

(1) three members of the House of Representatives, appointed biennially by the Speaker of the House;

(2) three members of the Senate, appointed biennially by the Committee on Committees;

(3) the Chair of the Board of Trustees of the Friends of the Vermont State House;

(4) the Director of the Vermont Historical Society;

(5) the Director of the Vermont Council on the Arts;

(6) the Commissioner of Buildings and General Services; and

(7) the Sergeant at Arms.

(c) The Committee shall biennially elect a chair from among its legislative members. A quorum shall consist of six members.

(d) ~~The Committee shall meet at the State House on the first Monday of each third month beginning in July, 1984, at least one time during the months of July and December or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.~~

* * *

§ 653. FUNCTIONS

(a) The Legislative Advisory Committee on the State House shall be consulted on all activities relating to the acquisition and care of paintings and historic artifacts and furnishings, and the refurbishing, renovation, preservation, and expansion of the building and its interior.

(b) The Sergeant at Arms and the Commissioner of Buildings and General Services, in discharging responsibilities under subdivision 62(a)(6) of this title and ~~29 V.S.A. § 154(a)~~ 29 V.S.A. §§ 154(a) and 154a, respectively, shall consider the recommendations of the ~~Advisory~~ Committee. The ~~Advisory~~ Committee's recommendations shall be advisory only.

Sec. 26. 29 V.S.A. § 154 is amended to read:

§ 154. PRESERVATION OF STATE HOUSE AND HISTORIC STATE BUILDINGS

(a) ~~The commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall give special consideration to the ~~state house~~ State House as a building of first historical importance and significance. He or she shall preserve the ~~state house~~ State House structure and its unique interior and exterior architectural form and design, with particular attention to the detail of form and design, in addition to keeping the buildings, its furnishings, facilities, appurtenances, appendages, and grounds surrounding and attached to it in the best possible physical and functional condition. ~~No~~ Any permanent change, alteration, addition, or removal in form, materials, design, architectural detail, furnishing, fixed in place or otherwise, interior or exterior, of the state house, State House may not be made without legislative mandate. Emergency and immediately necessary repairs may, however, be made without legislative mandate upon prior approval of the ~~governor~~ Governor.

(b) ~~The commissioner of buildings and general services, as time and funds permit, shall prepare such records as will permit the reproduction of state-owned historic buildings should any of them be destroyed. [Repealed.]~~

Sec. 27. 29 V.S.A. § 154a is added to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, and tours; and

(3) acquisition, management and care of State collections of art and historic furnishing, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a).

Sec. 28. 32 V.S.A. § 1001a is amended to read:

§ 1001a. REPORTS

(a) The Capital Debt Affordability Advisory Committee shall prepare and submit consistent with 2 V.S.A. § 20(a) a report on:

(1) ~~General~~ general obligation debt, pursuant to subsection 1001(c) of this title; and

(2) ~~How~~ how many, if any, Transportation Infrastructure Bonds have been issued and under what conditions. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the reports to be made under this section.

Sec. 29. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1 and 2015 Acts and Resolves No. 58, Sec. E.113.1, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2017~~ July 1, 2018.

* * * Human Services * * *

Sec. 30. SECURE RESIDENTIAL FACILITY; LAND

On or before June 30, 2018, the Commissioner of Buildings and General Services is authorized to purchase an option on land or purchase land for a permanent, secure residential facility; provided, however, that the size and

location of the land shall be consistent with the siting and design examination conducted by the Agency of Human Services, as required by 2015 Acts and Resolves No. 26, Sec. 30.

Sec. 31. AGENCY OF HUMAN SERVICES; FACILITIES

(a) It is the intent of the General Assembly that the State address the pressing facility needs for the following populations:

(1) individuals who no longer require hospitalization but who remain in need of long-term treatment in a secure residential facility setting;

(2) individuals who are not willing or able to engage in voluntary community treatment but do not require hospitalization;

(3) elders with significant psychiatric needs who meet criteria for skilled nursing facilities;

(4) elders with significant psychiatric and medical needs who do not meet criteria for skilled nursing facilities;

(5) children in need of residential treatment;

(6) juvenile delinquents in need of residential detention;

(7) offenders in correctional facilities; and

(8) any other at-risk individuals.

(b) The Secretary of Human Services, in consultation with the Commissioner of Buildings and General Services, shall evaluate and develop a plan to support the populations described in subsection (a) of this section. In developing the plan, the Secretary and Commissioner shall take into consideration the data collected and the report submitted by the Corrections Facility Planning Committee, pursuant to 2016 Acts and Resolves No. 160, Sec. 30. The evaluation and plan shall include the following:

(1) an evaluation and recommendation of the use, condition, and maintenance needs of existing facilities, including whether any facility should be closed, renovated, relocated, repurposed, or sold, provided that if a recommendation is made to close a facility, a plan must be developed that addresses the future use or sale of that facility;

(2) an analysis of the historic population trends of existing facilities, and anticipated future population trends, including age, gender, court involvement, and medical, mental health, and substance abuse conditions;

(3) an evaluation of whether the design and use of existing facilities adequately serve the current population and anticipated future populations;

(4) an evaluation of whether constructing new facilities would better

serve current or anticipated future populations, including whether the use of out-of-state facilities could be reduced or eliminated; and

(5) a recommendation on options for the Southeast State Correctional Facility, including whether to use, sell, or repurpose the Facility.

(c) On or before September 1, 2017, the Secretary shall provide an update on the status of the evaluation and plan to the Joint Legislative Committee on Justice Oversight.

(d) On or before January 15, 2018, the Secretary shall submit the plan and recommendations to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services, and the Senate Committees on Appropriations, on Health and Welfare, and on Institutions.

* * * Information Technology * * *

Sec. 32. INFORMATION TECHNOLOGY REVIEW

(a) The Executive Branch shall transfer, upon request, one vacant position for use in the Legislative Joint Fiscal Office (JFO) for a staff position, or the JFO may hire a consultant, to provide support to the General Assembly to conduct independent reviews of State information technology projects and operations.

(b) The Secretary of Administration and the Chief Information Officer shall:

(1) provide to the JFO access to the reviews conducted by Independent Verification and Validation (IVV) firms hired to evaluate the State's current and planned information technology project, as requested;

(2) ensure that IVV firms' contracts allow the JFO to make requests for information related to the projects that it is reviewing and that such requests are provided to the JFO in a confidential manner; and

(3) provide to the JFO access to all other documentation related to current and planned information technology projects and operations, as requested.

(c) The JFO shall maintain a memorandum of understanding with the Executive Branch relating to any documentation provided under subsection (b) of this section that shall protect security and confidentiality.

(d) In FY 2018 and FY 2019, the JFO is authorized to use up to \$250,000.00 of the amounts appropriated in Sec. 4 of this act to fund activities described in this section.

Sec. 33. AGENCY OF DIGITAL SERVICES; ORGANIZATION

(a) The Secretary and Chief Information Officer (CIO) of Digital Services and the Secretary of Administration shall:

(1) provide an update on the development of an organizational model and design of the new Agency that improves efficiency, data sharing, and coordination on information technology (IT) procurement;

(2) collaborate with State information technology staff to better utilize technology skills and resources and create efficiencies across all State agencies and departments; and

(3) examine functions of the new Agency such as budget, administrative support, and supervision, and its space requirements, to establish a more efficient delivery of services to the public.

(b) On or before January 15, 2018, the Secretary and CIO of Digital Services shall prepare and present to the House Committees on Appropriations, on Corrections and Institutions, on Energy and Technology, and on Government Operations, and to the Senate Committees on Appropriations, on Government Operations, and on Institutions:

(1) a report containing additional recommendations for restructuring the Agency;

(2) draft legislation necessary to conform existing statutes; and

(3) a report on the budgetary impacts and transitional costs of restructuring, including an update on savings related to staffing changes and consolidation of resources.

* * * Natural Resources * * *

Sec. 34. AGENCY OF NATURAL RESOURCES PLAN FOR
IMPLEMENTING BASIN PLANNING PROJECTS WITH
REGIONAL PLANNING COMMISSIONS

On or before December 15, 2017, the Secretary of Natural Resources shall submit to the House Committees on Corrections and Institutions and on Natural Resources, Fish and Wildlife and the Senate Committees on Institutions and on Natural Resources and Energy a plan or process for how and to the extent the Secretary shall:

(1) contract with regional planning commissions and the Natural Resources Conservation Council to assist in or produce tactical basin plans under 10 V.S.A. § 1253; and

(2) assign the development, implementation, and administration of water quality projects identified in the basin planning process to municipalities, regional planning commissions, or other organizations.

Sec. 35. DEPARTMENT OF FOREST, PARKS AND RECREATION;
LAND TRANSACTIONS

(a) The Commissioner of Forest, Parks and Recreation is authorized to:

(1) Amend certain terms and conditions of two conservation easements, in order to define and clarify the allowed uses for sugaring and other forestry-management-related structures and facilities, and including their associated infrastructure and utilities, and related site preparation activities on the following lands:

(A) approximately 31,343 acres, designated as the Hancock Legacy Easement 1996, on the map prepared by the Department of Forests, Parks and Recreation, entitled "Hancock Forest Legacy Easement Lands Essex and Orleans Counties, Vermont," dated December 27, 2016; and

(B) approximately 207 acres, designated as the Averill Inholdings Easement 2005, on the map prepared by the Department of Forests, Parks and Recreation, entitled "Hancock Forest Legacy Easement Lands Essex and Orleans Counties, Vermont," dated December 27, 2016.

(2) Sell to the Trust for Public Land, with the goal that the Trust will subsequently convey these tracts to the U.S. Forest Service for inclusion in the Green Mountain National Forest, the following two tracts:

(A) an approximately 113-acre tract in the Town of Mendon, designated as the Bertha Tract, on the map prepared by the Trust For Public Land, entitled "Rolston Rest Addition to Green Mountain National Forest," dated July 6, 2016; and

(B) an approximately 58-acre tract in the Town of Killington designated as the Burch Tract, on the map prepared by the Trust For Public Land, entitled "Rolston Rest Addition to Green Mountain National Forest," dated July 6, 2016.

(b) The sale described in subdivision (a)(2) of this section shall be pursuant to the terms of a mutually satisfactory purchase and sales agreement. The selling price shall be based on the fair market value for the Bertha Tract and Burch Tract, as determined by an appraisal. The sale of these tracts is contingent on support from the Towns of Mendon and of Killington. The proceeds of the sale shall be deposited in the Agency of Natural Resources' Land Acquisition Fund to be used to acquire additional properties for Long Trail protection purposes.

* * * Public Safety * * *

Sec. 36. PUBLIC SAFETY FIELD STATION; WILLISTON

(a) The Commissioner of Buildings and General Services is authorized to

purchase land for a public safety field station and an equipment storage facility. The location of the land shall be based on the results of the detailed proposal for the site location developed by the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, as required by 2016 Acts and Resolves No. 160, Sec. 34.

(b) The Commissioner of Buildings and General Services is authorized to sell the Williston Public Safety Field Station and adjacent land pursuant to the requirements of 29 V.S.A. § 166.

* * * Effective Date * * *

Sec. 37. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 5, 2017, pages 621-622.)

House Proposal of Amendment

S. 50

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

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

Sec. 1. 8 V.S.A. § 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.

ORDERED TO LIE

S. 88.

An act relating to increasing the smoking age from 18 to 21 years of age.

Pending Question: Shall the recommendation of amendment of the Committee on Health and Welfare be amended as moved by Senator Ingram?

CONCURRENT RESOLUTIONS FOR ACTION

H.C.R. 123-139 (For text of Resolutions, see Addendum to House Calendar for April 20, 2017)

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Melissa Bailey of Bolton – Commissioner, Department of Mental Health (term 1/5/17 – 2/28/17) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Melissa Bailey of Bolton – Commissioner, Department of Mental Health (term 3/1/17 – 2/28/19) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Al Gobeille of Shelburne - Secretary, Agency of Human Services (term 1/5/17 – 2/28/17) – By Sen. Ayer for the Committee on Health and Welfare. (3/30/17)

Al Gobeille of Shelburne - Secretary, Agency of Human Services (term 3/1/17 – 2/28/19) – By Sen. Ayer for the Committee on Health and Welfare. (3/30/17)

Cory Gustafson of Montpelier – Commissioner, Department of Vermont Health Access (term 1/5/17 – 2/28/17) – By Sen. Cummings for the Committee on Health and Welfare. (3/30/17)

Cory Gustafson of Montpelier – Commissioner, Department of Vermont Health Access (term 3/1/17 – 2/28/19) – By Sen. Cummings for the Committee on Health and Welfare. (3/30/17)

Monica Hutt of Williston – Commissioner, Department of Aging and Independent Living (term 1/5/17 - 2/28/17) - By Sen. McCormack for the Committee on Health and Welfare. (3/30/17)

Monica Hutt of Williston – Commissioner, Department of Aging and Independent Living (term 3/1/17 - 2/28/19) - By Sen. McCormack for the Committee on Health and Welfare. (3/30/17)

Mark A. Levine, M.D. of Shelburne – Commissioner, Department of Health (term 1/5/17 – 2/28/17) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Mark A. Levine, M.D. of Shelburne – Commissioner, Department of Health

(term 3/1/17 – 2/28/19) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Kenneth Schatz of South Burlington – Commissioner, Department for Children and Families (term 1/5/17 – 2/28/17) – By Sen. Ingram for the Committee on Health and Welfare. (3/30/17)

Kenneth Schatz of South Burlington – Commissioner, Department for Children and Families (term 1/5/17 – 2/28/19) – By Sen. Ingram for the Committee on Health and Welfare. (3/30/17)

David Fenster of Middlebury – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (4/18/17)

Elizabeth Mann of Norwich – Superior Court Judge – By Sen. Nitka for the Committee on Judiciary. (4/18/17)

Matthew Valerio of Proctor – Defender General – By Sen. Sears for the Committee on Judiciary. (4/18/17)

Sabina Haskell of Burlington – Chair, Vermont State Lottery Commission – Sen. Baruth for the Committee on Economic Development, Housing and General Affairs. (4/19/17)

Wendy Knight of Panton – Commissioner, Department of Tourism and Marketing – Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (4/19/17)

Diane Snelling of Hinesburg – Chair, Natural Resources Board (term 1/5/17 – 2/28/17) – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Diane Snelling of Hinesburg – Chair, Natural Resources Board (term 3/1/17 – 2/28/19) – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Michael Snyder of Stowe - Commissioner, Department of Forest, Parks and Recreation - Sen. Rodgers for the Committee on Natural Resources and Energy. (4/19/17)

Robin Lunge of Berlin – Member, Green Mountain Care Board – Sen. Ayer for the Committee on Health and Welfare. (4/21/17)

Lisa Menard of Waterbury – Commissioner, Department of Corrections – Sen. Branagan for the Committee on Institutions. (4/21/17)

Joan Goldstein of Royalton – Commissioner, Department of Economic Development – Sen. Balint for the Committee on Economic Development, Housing and General Affairs. (4/25/17)

Janette Bombardier of Colchester – Trustee, Vermont State Colleges Board of Trustees – Sen. Mullin for the Committee on Education. (4/19/17)

John Carroll of Norwich – Member, State Board of Education – Sen. Baruth for the Committee on Education. (4/19/17)

Elizabeth Courtney of Montpelier – Member, Natural Resources Board – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Martha Illick of Charlotte – Member, Natural Resources Board – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

John O’Keefe of Manchester – Member, State Board of Education – Sen. Baruth for the Committee on Education. (4/19/17)

Sam Guy of Morrisville – Member, Liquor Control Board – Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (4/20/17)

Emily Wadhams of Burlington – Member, Vermont Housing and Conservation Board – Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (4/20/17)

Susan Popowski of Northfield – Member, Vermont State Lottery Commission – Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (4/21/17)