

Senate Calendar

THURSDAY, MAY 02, 2013

SENATE CONVENES AT: 9:30 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

NEW BUSINESS

Third Reading

H. 50 An act relating to the sale, transfer, or importation of pets	1443
H. 101 An act relating to hunting, fishing, and trapping.....	1443
H. 315 An act relating to group health coverage for same-sex spouses.....	1443
H. 530 An act relating to making appropriations for the support of govt ...	1443
Amendment - Sen. Kitchell for Committee	1443
Amendment - Sen. Sears	1444
Amendment - Sen. Pollina	1444
Amendment - Sen. Lyons	1446
Amendment - Sen. Galbraith	1446
Amendment - Sen. Galbraith	1447
Amendment - Sen. Galbraith	1447

Second Reading

Favorable with Proposal of Amendment

H. 136 An act relating to cost-sharing for preventive services	
Health and Welfare Report - Sen. Ayer	1447
H. 182 An act relating to search and rescue	
Government Operations Report - Sen. McAllister	1451
Appropriations Report - Sen. Sears	1452
H. 522 An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse	
Health and Welfare Report - Sen. Fox	1454
Appropriations Report - Sen. Nitka	1485
Amendment - Sen. Sears	1486

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 26 An act relating to technical corrections
Government Operations Report - Sen. White 1486

H. 200 An act relating to civil penalties for possession of marijuana
Judiciary Report - Sen. Benning 1487

House Proposal of Amendment

S. 14 Payment of fair-share fees
House Proposal of Amendment 1507

S. 30 An act relating to siting of electric generation plants
House Proposal of Amendment 1520

ORDERED TO LIE

S. 55 Increasing efficiency in state govt finance and lending operations ... 1520

S. 165 Collective bargaining for deputy state’s attorneys 1520

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 24 (For text of Resolution, see Addendum to Senate Calendar for May 2, 2013)..... 1521

H.C.R. 123-140 (For text of Resolutions, see Addendum to House Calendar for May 2, 2013)..... 1521

ORDERS OF THE DAY

ACTION CALENDAR

NEW BUSINESS

Third Reading

H. 50.

An act relating to the sale, transfer, or importation of pets.

H. 101.

An act relating to hunting, fishing, and trapping.

H. 315.

An act relating to group health coverage for same-sex spouses.

H. 530.

An act relating to making appropriations for the support of government.

**AMENDMENT TO SENATE PROPOSAL OF AMENDMENT TO
H. 530 TO BE OFFERED BY SENATOR KITCHEL BEFORE THIRD
READING**

Senator Kitchel moves to amend the Senate proposal of amendment as follows:

First: By striking out Sec. B.113 in its entirety and inserting in lieu thereof a new Sec. B.113 to read as follows:

Sec. B.113 Buildings and general services - engineering

Personal services	2,327,747
Operating expenses	<u>474,850</u>
Total	2,802,597
Source of funds	
Interdepartmental transfers	<u>2,802,597</u>
Total	2,802,597

Second: By striking out Sec. B.204 in its entirety and inserting in lieu thereof a new Sec. B.204 to read as follows:

Sec. B.204 Judiciary

Personal services	32,218,222
Operating expenses	8,707,574
Grants	<u>70,000</u>
Total	40,995,796

Source of funds	
General fund	35,067,633
Special funds	3,235,319
Tobacco fund	39,871
Federal funds	714,176
Interdepartmental transfers	<u>1,938,797</u>
Total	40,995,796

Third: In Sec. E.113(a), by striking out the figure “\$2,802,647” and inserting in lieu thereof the figure \$2,802,597

Fourth: In Sec. E.222, by striking out the header “Sec. E.222 Agriculture, food and markets – administration” and inserting in lieu thereof a new header to read as follows:

Sec. E.225 Agriculture, food and markets – laboratories, agricultural resource management and environmental stewardship

Fifth: In Sec. E.300.1(a), by inserting the following at the end of the next to last sentence:

as well as the report on opioid addiction required in H.522 of the 2013 legislative session

**AMENDMENT TO SENATE PROPOSAL OF AMENDMENT TO
H. 530 TO BE OFFERED BY SENATOR SEARS BEFORE THIRD
READING**

Senator Sears moves to amend the Senate proposal of amendment by adding a new section to be numbered Sec. E.207.1 to read as follows:

Sec. E.207.1 BENNINGTON COUNTY TRANSPORT

(a) Notwithstanding any other provision of law to the contrary, the transport contract for Bennington County shall be returned to the Office of the Bennington County Sheriff.

**PROPOSAL OF AMENDMENT TO H. 530 TO BE OFFERED BY
SENATOR POLLINA BEFORE THIRD READING**

Senator Pollina moves to amend the Senate proposal of amendment as follows:

First: By striking out Secs. E.323 through E.323.6 and inserting in lieu thereof the following:

Sec. E.323 REPORT ON LONG-TERM REACH UP PARTICIPANTS

On or before January 15, 2014, the Commissioner for Children and Families shall submit a written report to the House Committees on Appropriations and

on Human Services and to the Senate Committees on Appropriations and on Health and Welfare regarding:

(1) the aggregated profile of participating families receiving long-term assistance from the Reach Up Program in excess of 60 months, including any common barriers that prevent participating families from moving to self-sufficiency;

(2) the anticipated impact that time limits related to eligibility for financial assistance would have on participating families; and

(3) the fiscal impact of time limits related to eligibility for financial assistance and any other changes to the Reach Up Program under consideration by the Department for Children and Families.

Sec. E.323.1 REACH UP POLICY WORK GROUP

(a)(1) The Commissioner for Children and Families or designee shall convene and chair a work group to examine public policy options for restructuring the Reach Up Program in a manner that encourages participating families to graduate from the Program.

(2) The Commissioner or designee shall convene the first meeting of the Work Group on or before July 15, 2013.

(b) The Work Group shall be composed of:

(1) individuals with expertise in administering the Reach Up Program;

(2) individuals with expertise in assisting Reach Up participants;

(3) one or more Reach Up participants;

(4) representatives of community service providers or other agencies outside State government; and

(5) Vermont advocates for children and families.

(c) On or before November 1, 2013, the Work Group shall submit a written report containing its findings and recommendations for restructuring the Reach Up Program to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare. Thereafter, the Work Group shall cease to exist.

(d) Members of the Work Group who are not state employees and who are not otherwise compensated by their employment or association for their participation shall be entitled to per diem compensation as provided in 32 V.S.A. § 1010.

Second: In Sec. F.100, by striking out subsection (a) and inserting in lieu thereof the following:

(a) This section and Secs. C.100 (fiscal year 2013 budget adjustment, Secretary of State), C.101 (fiscal year 2013 budget adjustment, Attorney General), C.102 (fiscal year 2013 budget adjustment, protection function total), C.103 (fiscal year 2013 budget adjustment, Transportation – program development), C.104 (fiscal year 2013 budget adjustment, Transportation Infrastructure Bonds Debt Service), C.105 (fiscal year 2013 budget adjustment, Debt service and Debt service function total), D.102 (tobacco litigation settlement fund balance), E.323 (Report on Long-Term Reach Up Participants), and E.323.1 (Reach Up Policy Work Group) of this act shall take effect on passage.

and by striking out subsections (g) and (h) in their entirety

**PROPOSAL OF AMENDMENT TO H. 530 TO BE OFFERED BY
SENATOR LYONS BEFORE THIRD READING**

Senator Lyons moves to amend the Senate proposal of amendment in Sec. E.323.1 by striking out subsection (d) in its entirety and insert in lieu thereof the following:

(d) Notwithstanding subsection (a) of this section, the Commissioner shall extend a hardship exemption to a participating family that does not have a qualifying deferment under section 1114 of this title and that has exceeded the cumulative 60-month lifetime eligibility period set forth in subsection (a) of this section, in the form of:

(1) the opportunity to participate in community service employment for a wage equivalent to that of the participating family's cash benefit under the Reach Up Program;

(2) supplemental benefits to the participating family's wages if the work requirement is otherwise being met; or

(3) financial assistance to the participating family if it is meeting its obligations under the family development plan.

**AMENDMENT TO SENATE PROPOSAL OF AMENDMENT TO
H. 530 TO BE OFFERED BY SENATOR GALBRAITH BEFORE
THIRD READING**

Senator Galbraith moves to amend the Senate proposal of amendment by striking out Sec. B.605 in its entirety and inserting in lieu thereof a new Sec. B.605 to read as follows:

Sec. B.605 Vermont student assistance corporation

Grants	<u>19,914,515</u>
Total	19,914,515
Source of funds	
General fund	<u>19,914,515</u>
Total	19,914,515

**AMENDMENT TO SENATE PROPOSAL OF AMENDMENT TO
H. 530 TO BE OFFERED BY SENATOR GALBRAITH BEFORE
THIRD READING**

Senator Galbraith moves to amend the Senate proposal of amendment by striking out Sec. E.605(b) in its entirety and insert in lieu thereof a new (b) to read as follows:

(b) Except as provided in subsection (a) of this section, not less than 95.5 percent of grants shall be used for direct student aid.

**AMENDMENT TO SENATE PROPOSAL OF AMENDMENT TO
H. 530 TO BE OFFERED BY SENATOR GALBRAITH BEFORE
THIRD READING**

Senator Galbraith moves to amend the Senate proposal of amendment in Sec. E.126, by striking out subsections (c) and (d) in their entirety.

Second Reading

Favorable with Proposal of Amendment

H. 136.

An act relating to cost-sharing for preventive services.

Reported favorably with recommendation of proposal of amendment by Senator Ayer for the Committee on Health and Welfare.

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. 8 V.S.A. § 4100a is amended to read:

§ 4100a. MAMMOGRAMS; COVERAGE REQUIRED

(a) Insurers shall provide coverage for screening by ~~low-dose~~ mammography for the presence of occult breast cancer, as provided by this subchapter. Benefits provided shall cover the full cost of the mammography service, subject to a co-payment no greater than the co-payment applicable to care or services provided by a primary care physician under the insured's policy, provided that no co-payment shall exceed \$25.00. Mammography services shall not be subject to deductible or coinsurance requirements.

(b) For females 40 years or older, coverage shall be provided for an annual screening. For females less than 40 years of age, coverage for screening shall be provided upon recommendation of a health care provider.

(c) After January 1, 1994, this section shall apply only to screening procedures conducted by test facilities accredited by the American College of Radiologists.

(d) For purposes of this subchapter:

(1) "Insurer" means any insurance company which provides health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical service corporations, and health maintenance organizations. The term does not apply to coverage for specified disease or other limited benefit coverage.

(2) ~~"Low dose mammography"~~ "Mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, screens, films and cassettes. ~~The average radiation dose to the breast shall be the lowest dose generally recognized by competent medical authority to be practicable for yielding acceptable radiographic images.~~

(3) "Screening" includes the ~~low dose~~ mammography test procedure and a qualified physician's interpretation of the results of the procedure, including additional views and interpretation as needed.

Sec. 2. 8 V.S.A. § 4100g is amended to read:

§ 4100g. COLORECTAL CANCER SCREENING, COVERAGE REQUIRED

(a) For purposes of this section:

(1) "Colonoscopy" means a procedure that enables a physician to examine visually the inside of a patient's entire colon and includes the concurrent removal of polyps, biopsy, or both.

(2) "Insurer" means insurance companies that provide health insurance as defined in subdivision 3301(a)(2) of this title, nonprofit hospital and medical services corporations, and health maintenance organizations. The term does not apply to coverage for specified disease or other limited benefit coverage.

(b) Insurers shall provide coverage for colorectal cancer screening, including:

(1) Providing an insured 50 years of age or older with the option of:

(A) Annual fecal occult blood testing plus one flexible sigmoidoscopy every five years; or

(B) One colonoscopy every 10 years.

(2) For an insured who is at high risk for colorectal cancer, colorectal cancer screening examinations and laboratory tests as recommended by the treating physician.

(c) For the purposes of subdivision (b)(2) of this section, an individual is at high risk for colorectal cancer if the individual has:

(1) A family medical history of colorectal cancer or a genetic syndrome predisposing the individual to colorectal cancer;

(2) A prior occurrence of colorectal cancer or precursor polyps;

(3) A prior occurrence of a chronic digestive disease condition such as inflammatory bowel disease, Crohn's disease, or ulcerative colitis; or

(4) Other predisposing factors as determined by the individual's treating physician.

(d) Benefits provided shall cover the colorectal cancer screening subject to a co-payment no greater than the co-payment applicable to care or services provided by a primary care physician under the insured's policy, provided that no co-payment shall exceed \$100.00 for services performed under contract with the insurer. Colorectal cancer screening services performed under contract with the insurer also shall not be subject to deductible or coinsurance requirements. In addition, an insured shall not be subject to any additional charge for any service associated with a procedure or test for colorectal cancer screening, which may include one or more of the following:

(1) removal of tissue or other matter;

(2) laboratory services;

(3) physician services;

(4) facility use; and

(5) anesthesia.

~~(e) If determined to be permitted by Centers for Medicare and Medicaid Services, for a patient covered under the Medicare program, the patient's out-of-pocket expenditure for a colorectal cancer screening shall not exceed \$100.00, with the hospital or other health care facility where the screening is performed absorbing the difference between the Medicare payment and the Medicare negotiated rate for the screening. [Deleted.]~~

Sec. 3. STATUTORY CONSTRUCTION; LEGISLATIVE INTENT

The express enumeration of the services associated with a procedure or test for colorectal cancer in 8 V.S.A. § 4100g(d) shall not be construed as indicating legislative intent with respect to the scope of covered services associated with any other procedure or test referenced in the Vermont Statutes Annotated.

Sec. 4. 8 V.S.A. § 4100a(a) is amended to read:

(a) Insurers shall provide coverage for screening by mammography for the presence of occult breast cancer, as provided by this subchapter. Benefits provided shall cover the full cost of the mammography service, ~~subject to a co-payment no greater than the co-payment applicable to care or services provided by a primary care physician under the insured's policy, provided that no co-payment shall exceed \$25.00. Mammography services and~~ shall not be subject to any co-payment, deductible, or coinsurance requirements, or other cost-sharing requirement or additional charge.

Sec. 5. 8 V.S.A. § 4100g(d) is amended to read:

~~(d) Benefits provided shall cover the colorectal cancer screening subject to a co-payment no greater than the co-payment applicable to care or services provided by a primary care physician under the insured's policy, provided that no co-payment shall exceed \$100.00 for services performed under contract with the insurer. Colorectal cancer screening services performed under contract with the insurer also~~ shall not be subject to any co-payment, deductible, or coinsurance requirements, or other cost-sharing requirement. In addition, an insured shall not be subject to any additional charge for any service associated with a procedure or test for colorectal cancer screening, which may include one or more of the following:

- (1) removal of tissue or other matter;
- (2) laboratory services;
- (3) physician services;
- (4) facility use; and
- (5) anesthesia.

Sec. 6. EFFECTIVE DATE

(a) Secs. 4 and 5 of this act shall take effect on October 1, 2013 and shall apply to all health benefit plans on and after October 1, 2013 on such date as a health insurer offers, issues, or renews the health benefit plan, but in no event later than October 1, 2014.

(b) The remaining sections of this act shall take effect upon passage.

(Committee vote: 5-0-0)

(No House amendments.)

H. 182.

An act relating to search and rescue.

Reported favorably with recommendation of proposal of amendment by Senator McAllister for the Committee on Government Operations.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, in 20 V.S.A. § 1845 (search and rescue report; response), in subdivision (b)(1), by adding a second sentence to read: The Department shall also ensure that notification is made to any municipal police and fire departments of the town in which the person is missing, any volunteer fire departments of that town, and any emergency medical service providers of that town which are in the search and rescue database.

Second: In Sec. 1, in 20 V.S.A. § 1847 (Search and Rescue Council), by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof the following:

(b)(1) Membership. The Council shall be composed of ten members who shall serve two-year terms commencing on July 1 of each odd-numbered year. Members of the Council shall be as follows:

(A) the Search and Rescue Coordinator;

(B) the Vermont State Police Search and Rescue Team Leader;

(C) one member of the House of Representatives, appointed by the Speaker of the House;

(D) one member of the Senate, appointed by the Senate Committee on Committees;

(E) one member of the Department of Fish and Wildlife, appointed by the Commissioner of the Department;

(F) one member of the public with experience in search and rescue operations, appointed by the Governor;

(G) one member of the National Ski Patrol or the Green Mountain Club with extensive experience in search and rescue operations, appointed by the Governor;

(H) one member of a professional or volunteer search and rescue organization, appointed by the Governor; and

(I) one volunteer firefighter and one career firefighter, appointed by the Governor.

Third: By striking out Sec. 4 (effective dates) in its entirety and inserting in lieu thereof the following two new sections:

Sec. 4. PUBLICATION AND DISTRIBUTION OF SEARCH AND RESCUE PROTOCOL

(a) The Search and Rescue Coordinator set forth in Sec. 1 of this act shall publish a search and rescue protocol that describes the procedure set forth in Sec. 1, in 20 V.S.A. § 1845, that is required to be followed by any public safety agency or any nonpublic entity that specializes in protecting the safety of the public and which is included in the search and rescue database. The protocol shall be published as a resource for those agencies and entities to understand their responsibilities under Sec. 1, 20 V.S.A. § 1845, of this act.

(b) The Search and Rescue Coordinator shall ensure that the protocol is distributed to those public safety agencies and nonpublic entities within five business days of its publication.

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 1, 20 V.S.A. § 1846 (search and rescue database), shall take effect no later than 15 days after passage of this act. The search and rescue database shall be established, populated, and used as set forth in 20 V.S.A. § 1846 upon its effective date; and

(2) Sec. 4 (publication and distribution of search and rescue protocol) shall take effect 15 days after the passage of this act.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 13, 2013, page 320, and page 321.)

Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Appropriations.

The Committee recommends that the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations and that it be further amended as follows:

First: In Sec. 1, in § 1820 (definitions), by striking out subdivision (1) and inserting in lieu thereof the following:

(1) “Missing person” means an individual:

(A) whose whereabouts is unknown; and

~~(B)(i) who is with either physically disabled, mentally disabled a physical disability, a mental disability, or a developmental disability; or~~

~~(ii) who is an unemancipated minor.~~

Second: In Sec. 1, in § 1847 (Search and Rescue Council), by striking out subdivision (b)(1) (membership) in its entirety and inserting in lieu thereof the following:

(b)(1) Membership. The Council shall be composed of eight members who shall serve two-year terms commencing on July 1 of each odd-numbered year. Members of the Council shall be as follows:

(A) the Search and Rescue Coordinator;

(B) the Vermont State Police Search and Rescue Team Leader;

(C) one member of the Department of Fish and Wildlife, appointed by the Commissioner of the Department;

(D) one member of the public with experience in search and rescue operations, appointed by the Governor;

(E) one member of the National Ski Patrol or the Green Mountain Club with extensive experience in search and rescue operations, appointed by the Governor;

(F) one member of a professional or volunteer search and rescue organization, appointed by the Governor; and

(G) one volunteer firefighter and one career firefighter, appointed by the Governor.

Third: In Sec. 1, in § 1847 (Search and Rescue Council), in subsection (f) (reimbursement), by striking out the last sentence

Fourth: By adding a new section to be Sec. 4a to read:

Sec. 4a. REPEAL

20 V.S.A. § 1847 (Search and Rescue Council) is repealed.

Fifth: By striking out Sec. 5 (Effective Dates) in its entirety and inserting in lieu thereof the following:

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) In Sec. 1 of this act, 20 V.S.A. § 1846 (search and rescue database) shall take effect no later than 15 days after passage of this act. The search and rescue database shall be established, populated, and used as set forth in 20 V.S.A. § 1846 upon its effective date;

(2) Sec. 4 (publication and distribution of search and rescue protocol) of this act shall take effect 15 days after the passage of this act; and

(3) Sec. 4a (repeal of 20 V.S.A. § 1847 (Search and Rescue Council) of this act shall take effect on June 30, 2017.

(Committee vote: 7-0-0)

H. 522.

An act relating to strengthening Vermont's response to opioid addiction and methamphetamine abuse.

Reported favorably with recommendation of proposal of amendment by Senator Fox for the Committee on Health and Welfare.

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:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

(a) This act is intended to provide a comprehensive approach to combating opioid addiction and methamphetamine abuse in Vermont through strategies that address prevention, treatment, and recovery, and increase community safety by reducing drug-related crime.

(b) It is the intent of the General Assembly that the initiatives described in this act should be integrated to the extent possible with the Blueprint for Health and Vermont's health care system and health care reform initiatives.

* * * Preventing Abuse of Prescription Drugs * * *

Sec. 2. 18 V.S.A. § 4201 is amended to read:

§ 4201. DEFINITIONS

As used in this chapter, unless the context otherwise requires:

* * *

(26) "Prescription" means an order for a regulated drug made by a physician, physician assistant, advanced practice registered nurse, dentist, or veterinarian licensed under this chapter to prescribe such a drug which shall be in writing except as otherwise specified herein in this subdivision. Prescriptions for such drugs shall be made to the order of an individual patient, dated as of the day of issue and signed by the prescriber. The prescription shall bear the full name ~~and~~, address, and date of birth of the patient, or if the patient is an animal, the name and address of the owner of the animal and the species of the animal. Such prescription shall also bear the full name, address, and registry number of the prescriber and, unless electronically prescribed, shall be written with ink, indelible pencil, or typewriter; if typewritten, it shall be signed by the ~~physician~~ prescriber. A written or typewritten prescription for a controlled substance, as defined in 21 C.F.R. Part 1308, shall contain the quantity of the drug written both in numeric and word form.

* * *

Sec. 2a. 18 V.S.A. § 4202(d) is amended to read:

(d) The regulations adopted by the ~~board of health~~ Board of Health under section 4201 of this title for the purpose of determining those drugs defined under that section may be adopted only after prior written notice to the ~~board of pharmacy~~ Board of Pharmacy and the ~~board of medical practice~~ Board of Medical Practice and after the ~~board of pharmacy~~ Board of Pharmacy and the ~~board of medical practice~~ Board of Medical Practice have had an opportunity to advise the ~~board of health~~ Board of Health with respect to the form and substance of those regulations or amendments and to recommend revisions thereof, except with respect to emergency rules adopted pursuant to 3 V.S.A. § 844, which may be adopted without notice by the Commissioner of Health.

Sec. 3. 18 V.S.A. § 4215b is added to read:

§ 4215b. IDENTIFICATION

Only a patient for whom a prescription was written, the owner of an animal for which a prescription was written, or a bona fide representative of the patient or animal owner, as defined by the Board of Pharmacy by rule after consultation with the Commissioner of Health, may pick up a prescription for a Schedule II, III, or IV controlled substance. Prior to dispensing a prescription for a Schedule II, III, or IV controlled substance, a pharmacist shall require the individual receiving the drug to provide a signature and show valid and current government-issued photographic identification as evidence that the individual is the patient for whom the prescription was written, the owner of the animal for which the prescription was written, or the bona fide representative of the patient or animal owner. If the individual does not have valid, current

government-issued photographic identification, the pharmacist may request alternative evidence of the individual's identity, as appropriate.

Sec. 3a. BOARD OF PHARMACY; RULEMAKING

The Board of Pharmacy shall adopt rules pursuant to 3 V.S.A. chapter 25 to define which persons shall be considered bona fide representatives of a patient or animal owner for the purposes of picking up a prescription for a Schedule II, III, or IV controlled substance pursuant to 18 V.S.A. § 4215b.

Sec. 4. 18 V.S.A. § 4218 is amended to read:

§ 4218. ENFORCEMENT

* * *

(d) Nothing in this section shall authorize the ~~department of public safety~~ Department of Public Safety and other authorities described in subsection (a) of this section to have access to VPMS (~~Vermont prescription monitoring system~~) (Vermont Prescription Monitoring System) created pursuant to chapter 84A of this title, except as provided in that chapter.

(e) The Department of Public Safety, in consultation with representatives of licensed Vermont pharmacies, shall adopt standard operating guidelines for accessing pharmacy records through the authority granted in this section. Any person authorized to access pharmacy records pursuant to subsection (a) of this section shall follow the Department of Public Safety's guidelines. These guidelines shall be a public record.

Sec. 5. DEPARTMENT OF PUBLIC SAFETY; REPORTING STANDARD OPERATING GUIDELINES

On or before December 15, 2013, the Commissioner of Public Safety shall submit to the House and Senate Committees on Judiciary, the House Committees on Human Services and on Health Care, and the Senate Committee on Health and Welfare the Department's written standard operating guidelines used to access pharmacy records at individual pharmacies pursuant to 18 V.S.A. § 4218. Subsequently, if the guidelines are substantively amended by the Department, it shall submit the amended guidelines to the same committees as soon as practicable.

Sec. 6. 18 V.S.A. § 4282 is amended to read:

§ 4282. DEFINITIONS

As used in this chapter:

* * *

(3) ~~“Trained law enforcement officer” shall include any officer designated by the department of public safety who has completed a training program established by rule by the department of health, which is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from VPMS.~~

(4) “VPMS” shall mean the Vermont prescription monitoring system established under this chapter.

(4) “Delegate” means an individual employed by a health care provider or pharmacy or in the Office of the Chief Medical Examiner and authorized by a health care provider or dispenser or by the Chief Medical Examiner to request information from the VPMS relating to a bona fide current patient of the health care provider or dispenser or to a bona fide investigation or inquiry into an individual’s death.

(5) “Department” means the Department of Health.

(6) “Drug diversion investigator” means an employee of the Department of Public Safety whose primary duties include investigations involving violations of laws regarding prescription drugs or the diversion of prescribed controlled substances, and who has completed a training program established by the Department of Health by rule that is designed to ensure that officers have the training necessary to use responsibly and properly any information that they receive from the VPMS.

(7) “Evidence-based” means based on criteria and guidelines that reflect high-quality, cost-effective care. The methodology used to determine such guidelines shall meet recognized standards for systematic evaluation of all available research and shall be free from conflicts of interest. Consideration of the best available scientific evidence does not preclude consideration of experimental or investigational treatment or services under a clinical investigation approved by an institutional review board.

Sec. 7. 18 V.S.A. § 4283 is amended to read:

§ 4283. CREATION; IMPLEMENTATION

~~(a) Contingent upon the receipt of funding, the department may establish~~
The Department shall maintain an electronic database and reporting system for monitoring Schedules II, III, and IV controlled substances, as defined in 21 C.F.R. Part 1308, as amended and as may be amended, that are dispensed within the state State of Vermont by a health care provider or dispenser or dispensed to an address within the state State by a pharmacy licensed by the Vermont board of pharmacy Board of Pharmacy.

* * *

(e) It is not the intention of the ~~department~~ Department that a health care provider or a dispenser shall have to pay a fee or tax or purchase hardware or proprietary software required by the ~~department~~ Department specifically for the use, establishment, maintenance, or transmission of the data. The ~~department~~ Department shall seek grant funds and take any other action within its financial capability to minimize any cost impact to health care providers and dispensers.

* * *

Sec. 8. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

(a) The data collected pursuant to this chapter and all related information and records shall be confidential, except as provided in this chapter, and shall not be subject to ~~public records law~~ the Public Records Act. The ~~department~~ Department shall maintain procedures to protect patient privacy, ensure the confidentiality of patient information collected, recorded, transmitted, and maintained, and ensure that information is not disclosed to any person except as provided in this section.

~~(b)(1)~~ The department shall be authorized to provide data to Department shall provide only the following persons with access to query the VPMS:

~~(1) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.~~

~~(2)(A)~~ A health care provider or, dispenser, or delegate who requests information is registered with the VPMS and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient.

(B) Personnel or contractors, as necessary for establishing and maintaining the VPMS.

(C) The Medical Director of the Department of Vermont Health Access, for the purposes of Medicaid quality assurance, utilization, and federal monitoring requirements with respect to Medicaid recipients for whom a Medicaid claim for a Schedule II, III, or IV controlled substance has been submitted.

(D) A medical examiner or delegate from the Office of the Chief Medical Examiner, for the purpose of conducting an investigation or inquiry into the cause, manner, and circumstances of an individual's death.

(E) A health care provider or medical examiner licensed to practice in another state, to the extent necessary to provide appropriate medical care to a Vermont resident or to investigate the death of a Vermont resident.

(2) The Department shall provide reports of data available to the Department through the VPMS only to the following persons:

(A) A patient or that person's health care provider, or both, when VPMS reveals that a patient may be receiving more than a therapeutic amount of one or more regulated substances.

~~(3)~~(B) A designated representative of a board responsible for the licensure, regulation, or discipline of health care providers or dispensers pursuant to a bona fide specific investigation.

~~(4)~~(C) A patient for whom a prescription is written, insofar as the information relates to that patient.

~~(5)~~(D) The relevant occupational licensing or certification authority if the ~~commissioner~~ Commissioner reasonably suspects fraudulent or illegal activity by a health care provider. The licensing or certification authority may report the data that are the evidence for the suspected fraudulent or illegal activity to a ~~trained law enforcement officer~~ drug diversion investigator.

~~(6)~~(E)(i) The ~~commissioner of public safety~~ Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, if the ~~commissioner of health~~ Commissioner of Health, personally, or a Deputy Commissioner of Health, personally, makes the disclosure, and has consulted with at least one of the patient's health care providers, and believes that when the disclosure is necessary to avert a serious and imminent threat to a person or the public.

(ii) The Commissioner of Public Safety, personally, or the Deputy Commissioner of Public Safety, personally, when he or she requests data from the Commissioner of Health, and the Commissioner of Health believes, after consultation with at least one of the patient's health care providers, that disclosure is necessary to avert a serious and imminent threat to a person or the public.

(iii) The Commissioner or Deputy Commissioner of Public Safety may disclose such data received pursuant to this subdivision (E) as is necessary, in his or her discretion, to avert the serious and imminent threat.

~~(7) Personnel or contractors, as necessary for establishing and maintaining the VPMS.~~

(F) A prescription monitoring system or similar entity in another state pursuant to a reciprocal agreement to share prescription monitoring

information with the Vermont Department of Health as described in section 4288 of this title.

(c) A person who receives data or a report from VPMS or from the ~~department~~ Department shall not share that data or report with any other person or entity not eligible to receive that data pursuant to subsection (b) of this section, except as necessary and consistent with the purpose of the disclosure and in the normal course of business. Nothing shall restrict the right of a patient to share his or her own data.

(d) The ~~commissioner~~ Commissioner shall offer health care providers and dispensers training in the proper use of information they may receive from VPMS. Training may be provided in collaboration with professional associations representing health care providers and dispensers.

(e) A ~~trained law enforcement officer~~ drug diversion investigator who may receive information pursuant to this section shall not have access to VPMS except for information provided to the officer by the licensing or certification authority.

(f) The ~~department~~ Department is authorized to use information from VPMS for research, trend analysis, and other public health promotion purposes provided that data are aggregated or otherwise de-identified. The Department shall post the results of trend analyses on its website for use by health care providers, dispensers, and the general public. When appropriate, the Department shall send alerts relating to identified trends to health care providers and dispensers by electronic mail.

(g) Following consultation with the Unified Pain Management System Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the Unified Pain Management System Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

(i) Knowing disclosure of transmitted data to a person not authorized by subsection (b) of this section, or obtaining information under this section not relating to a bona fide specific investigation, shall be punishable by imprisonment for not more than one year or a fine of not more than \$1,000.00, or both, in addition to any penalties under federal law.

(j) All information and correspondence relating to the disclosure of information by the Commissioner to a patient's health care provider pursuant to subdivision (b)(2)(A) of this section shall be confidential and privileged, exempt from public inspection and copying under the Public Records Act, immune from subpoena or other disclosure, and not subject to discovery or introduction into evidence.

(k) Each request for disclosure of data pursuant to subdivision (b)(2)(B) of this section shall document a bona fide specific investigation and shall specify the case number of the investigation.

Sec. 9. 18 V.S.A. § 4287 is amended to read:

§ 4287. RULEMAKING

The ~~department~~ Department shall adopt rules for the implementation of VPMS as defined in this chapter consistent with 45 C.F.R. Part 164, as amended and as may be amended, that limit the disclosure to the minimum information necessary for purposes of this act ~~and shall keep the senate and house committees on judiciary, the senate committee on health and welfare, and the house committee on human services advised of the substance and progress of initial rulemaking pursuant to this section.~~

Sec. 10. 18 V.S.A. § 4288 is added to read:

§ 4288. RECIPROCAL AGREEMENTS

The Department of Health may enter into reciprocal agreements with other states that have prescription monitoring programs so long as access under such agreement is consistent with the privacy, security, and disclosure protections in this chapter.

Sec. 11. 18 V.S.A. § 4289 is added to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of chronic pain and for other medical conditions to be determined by the licensing authority. The standards developed by the licensing authorities shall be consistent with rules adopted by the Department of Health.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS by November 15, 2013.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered

user of VPMS, the Commissioner of Health shall notify the applicable licensing authority and the provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The Commissioner of Health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(d) Health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) at least annually for patients who are receiving ongoing treatment with an opioid Schedule II, III, or IV controlled substance;

(2) when starting a patient on a Schedule II, III, or IV controlled substance for nonpalliative, long-term pain therapy of 90 days or more; and

(3) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title.

(e) The Commissioner of Health shall, after consultation with the Unified Pain Management System Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS:

(1) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain; and

(2) when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain.

(f) Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:

(1) query the VPMS; and

(2) report to the VPMS, which shall be no less than once every seven days.

(g) Each professional licensing authority for health care providers and dispensers shall consider the statutory requirements, rules, and standards

adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

Sec. 11a. REPORTING OF DISPENSER STANDARDS

No later than March 31, 2014, each professional licensing authority for dispensers shall submit the standards required by 18 V.S.A. § 4289(e) to the VPMS Advisory Committee established in 18 V.S.A. § 4286.

Sec. 12. 18 V.S.A. § 4290 is added to read:

§ 4290. REPLACEMENT PRESCRIPTIONS AND MEDICATIONS

(a) As used in this section, “replacement prescription” means an unscheduled prescription request in the event that the document on which a patient’s prescription was written or the patient’s prescribed medication is reported to the prescriber as having been lost or stolen.

(b) When a patient or a patient’s parent or guardian requests a replacement prescription for a Schedule II, III, or IV controlled substance, the patient’s health care provider shall query the VPMS prior to writing the replacement prescription to determine whether the patient may be receiving more than a therapeutic dosage of the controlled substance.

(c) When a health care provider writes a replacement prescription pursuant to this section, the provider shall clearly indicate as much by writing the word “REPLACEMENT” on the face of the prescription. The health care provider shall document the writing of the replacement prescription in the patient’s medical record.

Sec. 13. VPMS ADVISORY COMMITTEE

(a)(1) The Commissioner shall maintain an advisory committee to assist in the implementation and periodic evaluation of the Vermont Prescription Monitoring System (VPMS).

(2) The Committee shall make recommendations regarding ways to improve the utility of the VPMS and its data.

(3) The Committee shall have access to aggregated, deidentified data from the VPMS.

(b) The VPMS Advisory Committee shall be chaired by the Commissioner of Health or designee and shall include the following members:

(1) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(2) a representative from the Vermont Medical Society;

(3) a representative from the American College of Emergency Physicians - Vermont Chapter;

(4) a representative from the Vermont State Nurses Association;

(5) a representative from the Vermont Board of Medical Practice;

(6) a representative from the Vermont Board of Pharmacy;

(7) a representative from the Vermont Pharmacists Association;

(8) a representative from the Vermont State Dental Society;

(9) the Commissioner of Public Safety;

(10) a representative of the Vermont Attorney General;

(11) a representative of the Vermont Substance Abuse Treatment Providers Association;

(12) a mental health provider or a certified alcohol and drug abuse counselor;

(13) a consumer in recovery from prescription drug abuse;

(14) a consumer receiving medical treatment for chronic pain; and

(15) any other member invited by the Commissioner.

(c) The Committee shall meet at least once annually but may be convened at any time by the Commissioner or the Commissioner's designee.

(d) On or before January 15, 2014, the Committee shall provide recommendations to the House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare regarding ways to maximize the effectiveness and appropriate use of the VPMS database, including adding new reporting capabilities, in order to improve patient outcomes and avoid prescription drug diversion. The Committee shall also report on the feasibility of obtaining real-time information from the VPMS and on its evaluation of whether increasing the frequency of dispenser reporting to the VPMS from at least once every seven days to at least once every 24 hours, or more frequently, would yield substantial benefits.

(e) The Committee shall cease to exist on July 1, 2014.

Sec. 13a. REPORT ON INTEGRATION OF ELECTRONIC MEDICAL RECORDS AND THE VERMONT PRESCRIPTION MONITORING SYSTEM

On or before December 1, 2014, the Department of Health shall provide to the House Committees on Human Services and on Health Care, the Senate

Committee on Health and Welfare, and the House and Senate Committees on Judiciary a report evaluating the potential for the integration of electronic medical records with the VPMS. The report shall include an assessment of the feasibility of the integration, identification of potential barriers to the integration, and an estimate of the costs associated with the integration.

Sec. 13b. REPORT ON PREVENTION ACTIVITIES

(a) The Agency of Education and the Department of Health shall use the School Health Profile to survey public and approved independent middle and high schools in Vermont to determine the quality and effectiveness of substance abuse prevention education in Vermont's schools.

(b) On or before January 15, 2015, the Secretary of Education and the Commissioner of Health shall report their evaluation of the quality and effectiveness of substance abuse prevention education in Vermont based on the results of the survey required by this section, as well as their recommendations for evidence-based and data-driven practices to be incorporated into school quality standards in the health education domain, to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Education and on Judiciary.

* * * Improving Access to Treatment and Recovery * * *

Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL

(a) There is hereby created a Unified Pain Management System Advisory Council for the purpose of advising the Commissioner of Health on matters relating to the appropriate use of controlled substances in treating chronic pain and addiction and in preventing prescription drug abuse.

(b) The Unified Pain Management System Advisory Council shall consist of the following members:

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

(2) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs or designee;

(3) the Commissioner of Mental Health or designee;

(4) the Director of the Blueprint for Health or designee;

(5) the Chair of the Board of Medical Practice or designee, who shall be a clinician;

(6) a representative of the Vermont State Dental Society, who shall be a dentist;

(7) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;

(8) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;

(9) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

(10) a representative of the Vermont Medical Society, who shall be a primary care clinician;

(11) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

(12) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;

(13) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

(14) a representative of the Vermont Ethics Network;

(15) a representative of the Hospice and Palliative Care Council of Vermont;

(16) a representative of the Office of the Health Care Ombudsman;

(17) the Medical Director for the Department of Vermont Health Access;

(18) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(19) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;

(20) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(21) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;

(22) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(23) a retail pharmacist, to be selected by the Vermont Pharmacists Association;

(24) an advanced practice registered nurse full-time faculty member from the University of Vermont's Department of Nursing; and

(25) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain.

(c) Advisory Council members who are not employed by the State or whose participation is not supported through their employment or association shall be entitled to a per diem and expenses as provided by 32 V.S.A. § 1010.

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating chronic noncancer pain and addiction and in preventing prescription drug abuse.

(2) The Advisory Council shall evaluate the use of nonpharmacological approaches to treatment for chronic pain, including the appropriateness, efficacy, and cost-effectiveness of using complementary and alternative therapies such as chiropractic, acupuncture, and massage.

(e) The Commissioner of Health may adopt rules pursuant to 3 V.S.A. chapter 25 regarding the appropriate use of controlled substances after seeking the advice of the Council.

Sec. 14a. COMPLEMENTARY AND ALTERNATIVE TREATMENT REPORT

On or before January 15, 2014, the Commissioner of Health shall provide to the House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare the findings and recommendations of the Unified Pain Management System Advisory Council's initial evaluation of the use of nonpharmacological approaches to treatment for chronic pain, including the use of complementary and alternative therapies. The Commissioner shall provide the Committees with additional recommendations as appropriate as the Advisory Council continues to consider nonpharmacological approaches to treating chronic pain.

Sec. 14b. DEPARTMENT OF HEALTH; ACCESS TO OPIOID TREATMENT

(a) The prevalence of opioid addiction and the lack of sufficient access to opioid treatment in Vermont pose an imminent peril to the public health, welfare, and safety to our citizens.

(b) The Vermont Department of Health shall study how Vermont can increase access to opioid treatment, including methadone and suboxone, by establishing a program whereby state-licensed physicians who are affiliated with a licensed opioid maintenance treatment program may provide methadone or suboxone to opioid-dependent people.

(c) The Commissioner of Health shall consult with the following people:

(1) The Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(2) a representative from the Vermont Medical Society;

(3) a representative from the Vermont State Nurses Association;

(4) a representative from the Vermont Board of Medical Practice;

(5) a representative from the Vermont Board of Pharmacy;

(6) a representative from the Vermont Pharmacists Association;

(7) the Commissioner of Public Safety;

(8) a representative of the Vermont Attorney General;

(9) a representative of the Vermont Substance Abuse Treatment Providers Association;

(10) a mental health provider or a certified alcohol and drug abuse counselor;

(11) a consumer in recovery from prescription drug abuse;

(12) a representative from a clinical laboratory providing drug testing and clinical support services to addiction treatment programs;

(13) the Commissioner of Corrections;

(14) The Defender General; and

(15) any other member designated by the Commissioner of Health.

(d)(1) The Department of Health shall adopt rules establishing a program whereby state-licensed physicians who are affiliated with a licensed opioid maintenance treatment program may provide methadone or suboxone to opioid-dependent people. Such rules may be adopted as emergency rules in accordance with 3 V.S.A. chapter 25. The Department may adopt and enforce such reasonable rules and procedures as are deemed necessary to carry out the administration of the provisions of this section.

(2) The Commissioner of Health shall report its findings, including any recommendations or proposed legislation to the House Committees on Health

Care and on Human Services and Senate Committees on Judiciary and on Health and Welfare on or before January 15, 2014.

Sec. 14c. 33 V.S.A. § 703 is amended to read:

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

(a) ~~The alcohol and drug abuse council~~ Alcohol and Drug Abuse Council is established within the ~~agency of human services~~ Agency of Human Services to promote the reduction of problems arising from alcohol and drug abuse by advising the Secretary on policy areas that can inform agency programs.

(b) The ~~council~~ Council shall consist of ~~eleven~~ 11 members:

(1) ~~the secretary of the agency of human services, commissioner of public safety, commissioner of education, commissioner of liquor control, and commissioner of motor vehicles~~ Secretary of Human Services, Commissioner of Public Safety, Secretary of Education, Commissioner of Liquor Control, and Commissioner of Motor Vehicles or their designees;

(2) one member shall be a member of a mental health or substance abuse agency who shall be appointed by the ~~governor~~ Governor; and

(3) five members shall be appointed by the ~~governor~~ Governor of which every consideration shall be given, if possible, to equal geographic apportionment. ~~One of these~~ Consideration will be given for one of these members shall to be a certified practicing teacher and one of these members shall to be a school administrator.

(c) The term of office of members appointed pursuant to subdivisions (b)(2) and (b)(3) of this section shall be three years.

(d) ~~The secretary of the agency of human services~~ council membership shall annually elect a member to serve as chairperson.

(e) All members shall be voting members.

(f) At the expiration of the term of an appointed member, or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the ~~council~~ Council may be reappointed.

(g) Each member of the ~~council~~ Council not otherwise receiving compensation from the ~~state~~ State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation ~~of \$30.00 for each day as provided in 32 V.S.A. § 1010(b).~~ Each member shall be entitled to his or her actual and necessary expenses.

Sec. 15. OPIOID ADDICTION TREATMENT IN HOSPITALS

Pursuant to 18 V.S.A. § 4240(b)(5), the Department of Health, in collaboration with the Vermont Association of Hospitals and Health Systems, the Vermont Association for Mental Health and Addiction Recovery, and the Vermont Council of Developmental and Mental Health Services, shall, subject to available resources, develop evidence-based guidelines and training for hospitals regarding:

- (1) screening for addiction;
- (2) performing addiction interventions;
- (3) making referrals to addiction treatment and recovery services for victims admitted to or treated in a hospital emergency department; and
- (4) informing hospitals about the specific addiction treatment and recovery services available in the hospital's service area.

Sec. 15a. REPORT ON OPIOID ADDICTION TREATMENT PROGRAMS

(a) On or before December 15, 2013, the Commissioners of Health and of Vermont Health Access shall provide a written report to the House Committees on Health Care and on Human Services, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding opioid addiction treatment and recovery services being provided in Vermont.

(b) The report shall include:

- (1) each program's capacity, including the number of persons currently served and the program's maximum capacity;
- (2) the number of persons on the waiting list for each program, if applicable, and the average length of time a person spends on the program's waiting list before services become available;
- (3) specific information regarding the number of persons served by each program that uses buprenorphine, buprenorphine/naloxone, or methadone for the treatment of opioid addiction and the number of persons on the waiting list for that program, if any;
- (4) specific information about the implementation of the Hub and Spoke Opioid Integrated Treatment Initiative, including a description of specialty addiction treatment programs and general medical practices currently providing medication-assisted treatment (MAT) and the number of persons currently being served in specialty addiction treatment programs and in Blueprint primary care practices toward a goal of reducing current waiting lists statewide by 90 percent by January 15, 2015;

(5) how opioid addiction treatment services are integrated with existing recovery and counseling programs in Vermont; and

(6) the Department of Health's plans for addressing the need for additional opioid addiction treatment programs, including a description of the resources that the Department would need to meet the statewide demand for specialty services, of continued barriers to treatment, and of particular workforce needs.

* * * Safe Disposal of Prescription Medication * * *

Sec. 16. UNUSED DRUG DISPOSAL PROGRAM PROPOSAL

(a) On or before January 15, 2014, the Commissioners of Health and of Public Safety shall provide recommendations to the House and Senate Committees on Judiciary, the House Committees on Human Services and on Health Care, and the Senate Committee on Health and Welfare regarding the design and implementation of a voluntary statewide drug disposal program for unused over-the-counter and prescription drugs at no charge to the consumer. In preparing their recommendations, the Commissioners shall consider successful unused drug disposal programs in Vermont, including the Bennington County Sheriff's Department's program, and programs in other states.

(b) On or before July 1, 2014, the Commissioners of Health and of Public Safety shall implement the voluntary unused drug disposal program developed pursuant to subsection (a) of this section and shall take steps to publicize the program and to make all Vermont residents aware of opportunities to avail themselves of it.

* * * Preventing Deaths from Opioid Overdose * * *

Sec. 17. 18 V.S.A. § 4240 is added to read:

§ 4240. PREVENTION AND TREATMENT OF OPIOID-RELATED OVERDOSES

(a) As used in this section:

(1) "Health care professional" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a physician's assistant certified to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 31, or an advanced practice registered nurse authorized to prescribe and dispense prescription drugs pursuant to 26 V.S.A. chapter 28.

(2) "Opioid antagonist" means a drug that, when administered, negates or neutralizes in whole or part the pharmacological effects of an opioid in the body.

(3) “Victim” means the person who has overdosed on an opioid drug or who is believed to have overdosed on an opiate drug.

(b) For the purpose of addressing prescription and nonprescription opioid overdoses in Vermont, the Department shall develop and implement a prevention, intervention, and response strategy, depending on available resources, that shall:

(1) provide educational materials on opioid overdose prevention to the public free of charge, including to substance abuse treatment providers, health care providers, opioid users, and family members of opioid users;

(2) increase community-based prevention programs aimed at reducing risk factors that lead to opioid overdoses;

(3) increase timely access to treatment services for opioid users, including medication-assisted treatment;

(4)(A) educate substance abuse treatment providers on methods to prevent opioid overdoses;

(B) provide education and training on overdose prevention, intervention, and response to individuals living with addiction and participating in opioid treatment programs, syringe exchange programs, residential drug treatment programs, or correctional services;

(5) facilitate overdose prevention, drug treatment, and addiction recovery services by implementing and expanding hospital referral services for individuals treated for an opioid overdose; and

(6) develop a statewide opioid antagonist pilot program that emphasizes access to opioid antagonists to and for the benefit of individuals with a history of opioid use.

(c)(1) A health care professional acting in good faith may directly or by standing order prescribe, dispense, and distribute an opioid antagonist to the following persons, provided the person has been educated about opioid-related overdose prevention and treatment in a manner approved by the Department:

(A) a person at risk of experiencing an opioid-related overdose; or

(B) a family member, friend, or other person in a position to assist a person at risk of experiencing an opioid-related overdose.

(2) A health care professional who prescribes, dispenses, or distributes an opioid antagonist in accordance with subdivision (1) of this subsection shall be immune from civil or criminal liability with regard to the subsequent use of the opioid antagonist, unless the health professional’s actions with regard to prescribing, dispensing, or distributing the opioid antagonist constituted

recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(d)(1) A person may administer an opioid antagonist to a victim if he or she believes, in good faith, that the victim is experiencing an opioid-related overdose.

(2) After a person has administered an opioid antagonist pursuant to subdivision (1) of this subsection (d), he or she shall immediately call for emergency medical services if medical assistance has not yet been sought or is not yet present.

(3) A person shall be immune from civil or criminal liability for administering an opioid antagonist to a victim pursuant to subdivision (1) of this subsection unless the person's actions constituted recklessness, gross negligence, or intentional misconduct. The immunity granted in this subdivision shall apply whether or not the opioid antagonist is administered by or to a person other than the person for whom it was prescribed.

(e) A person acting on behalf of a community-based overdose prevention program shall be immune from civil or criminal liability for providing education on opioid-related overdose prevention or for purchasing, acquiring, distributing, or possessing an opioid antagonist unless the person's actions constituted recklessness, gross negligence, or intentional misconduct.

(f) Any health care professional who treats a victim and who has knowledge that the victim has been administered an opioid antagonist within the preceding 30 days shall refer the victim to professional substance abuse treatment services.

Sec. 18. STATEWIDE OPIOID ANTAGONIST PILOT PROGRAM

(a) The Department of Health shall develop and administer a statewide pilot program for the purpose of distributing opioid antagonists to:

(1) individuals at risk of an opioid overdose;

(2) the family and friends of an individual at risk of experiencing an opioid overdose; and

(3) others who may be in a position to assist individuals experiencing an opioid overdose.

(b) In developing and implementing the pilot program, the Department shall collaborate with community-based substance abuse organizations that

have experience delivering opioid-related prevention and treatment services as determined by the Commissioner.

(c) The pilot program shall be in effect from July 1, 2013 through June 30, 2016. During the term of the pilot program, the Department shall purchase, provide for the distribution of, and monitor the use of opioid antagonists distributed in accordance with this section.

(d) On or before January 15, 2016, the Department of Health shall submit a report to the House Committees on Human Services, on Health Care, and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary evaluating the statewide opioid antagonist pilot program. The report shall include findings that pertain to the cost and effectiveness of the program and recommendations as to whether the program should be continued after June 30, 2016.

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

§ 5208. HEALTH DEPARTMENT; REPORT ON STATISTICS

(a) Beginning Notwithstanding the provisions of 2 V.S.A. § 20(d), beginning October 1, 2011 and every two years thereafter, the Vermont ~~department of health~~ Department of Health shall report to the ~~house committee on human services and the senate committee on health and welfare~~ House Committees on Human Services and on Health Care and the Senate Committee on Health and Welfare regarding the number of persons who died during the preceding two calendar years in hospital emergency rooms, other hospital settings, in their own homes, in a nursing home, in a hospice facility, and in any other setting for which information is available, as well as whether each decedent received hospice care within the last 30 days of his or her life. Beginning with the 2013 report, the ~~department~~ Department shall include information on the number of persons who died in hospital intensive care units, assisted living facilities, or residential care homes during the preceding two calendar years.

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

or law enforcement officers. Beginning in 2015, the report shall include similar data from prior years to allow for comparison.

* * * Protecting Communities from
Methamphetamine Abuse * * *

Sec. 19. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(b) Sale.

(1) A drug product containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base shall not be distributed at retail to the general public unless it is maintained in a locked display case or behind the counter out of the public's reach.

(2)(A) A retail establishment shall not knowingly ~~sell~~ complete a sale to a person within a calendar day any if the drug product or combination of drug products containing purchased would surpass a total of more than 3.6 grams within a 24-hour period or nine grams within a 30-day period of ephedrine base, pseudoephedrine base, or phenylpropanolamine base or their isomers.

(B) This subdivision shall not apply to drug products dispensed pursuant to a valid prescription.

(3) A person or business which violates this subdivision shall:

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

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

(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 to 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.

~~(d)~~(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. 19a. 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 a co-worker 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 to 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 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)~~(d) 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. 20. THE EFFECT OF METHAMPHETAMINE PRODUCTION ON HOUSING

(a) The Commissioner of Health shall recommend guidance for occupancy of a structure that was used in the production of methamphetamine.

(b) The Commissioner shall examine:

(1) Approaches for identifying housing that is or has been used for methamphetamine production and methods for making such housing safe, including:

(A) standards for reoccupancy;

(B) whether purchasers or tenants of housing that has been affected by methamphetamine production should be provided with notification of such, and if so, how; and

(C) methods taken by other states in identifying, quarantining, and cleaning such housing as well as methods used by other states to notify affected parties.

(2) The public health effects of long-term exposure to housing that is or has been contaminated by by-products resulting from production of methamphetamine.

(c) The Commissioner shall report his or her findings, including any recommendations or proposed legislation to the House Committees on General, Housing and Military Affairs, on Judiciary, on Health Care, and on Human Services and the Senate Committees on Economic Development, Housing and General Affairs, on Judiciary, and on Health and Welfare on or before June 15, 2014.

* * * Community Safety * * *

Sec. 21. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person shall be imprisoned for not more than three months or fined not more than \$500.00, or both, if, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given by:

~~(1)(A)~~ Actual ~~actual~~ communication by the person in lawful possession or his or her agent or by a law enforcement officer acting on behalf of such person or his or her agent; ~~or~~

~~(2)(B)~~ Signs ~~signs~~ or placards so designed and situated as to give reasonable notice; ~~or~~

(C) in the case of abandoned property:

(i) signs or placards, posted by the owner, the owner's agent, or a law enforcement officer, and so designed and situated as to give reasonable notice; or

(ii) actual communication by a law enforcement officer.

(2) As used in this subsection, "abandoned property" means:

(A) Real property on which there is a vacant structure that for the previous 60 days has been continuously unoccupied by a person with the legal right to occupy it and with respect to which the municipality has by first class

mail to the owner's last known address provided the owner with notice and an opportunity to be heard; and

(i) property taxes have been delinquent for six months or more; or

(ii) one or more utility services have been disconnected.

(B) A railroad car that for the previous 60 days has been unmoved and unoccupied by a person with the legal right to occupy it.

(b) Prosecutions for offenses under subsection (a) of this section shall be commenced within 60 days following the commission of the offense and not thereafter.

(c) A person who enters a building other than a residence, whose ~~normal~~ access is normally locked, whether or not the access is actually locked, or a residence in violation of an order of any court of competent jurisdiction in this ~~state~~ State shall be imprisoned for not more than one year or fined not more than \$500.00, or both.

(d) A person who enters a dwelling house, whether or not a person is actually present, knowing that he or she is not licensed or privileged to do so shall be imprisoned for not more than three years or fined not more than \$2,000.00, or both.

Sec. 22. [DELETED.]

Sec. 22a. 9 V.S.A. chapter 97 is amended to read:

CHAPTER 97. PAWNBROKERS

* * *

§ 3865. RECORDS OF A PAWNBROKER OR SECONDHAND DEALER

(a) In each year a pawnbroker or secondhand dealer resells over ~~\$500.00~~ \$2,500.00 of items pawned, pledged, or sold to the pawnbroker or secondhand dealer, he or she shall maintain the following records for each transaction in that year:

(1) a legible statement written at the time of the transaction stating the amount of money lent or paid for the items pawned, pledged, or sold, the time of the transaction, and the rate of interest to be paid on the loan, as applicable;

(2) a legible statement of the name, current address, telephone number, and vehicle license number of the person pawning, pledging, or selling the items;

(3) a legible written description and photograph, or alternatively a video, of the items pawned, pledged, or sold;

(4) a photocopy of a government-issued identification card issued to the person pawning, pledging, or selling the items, if available.

(b) At all reasonable times, the records required under subsection (a) of this section shall be open to the inspection of law enforcement. A law enforcement agency shall make a reasonable effort to notify a dealer before conducting an inspection pursuant to this section unless providing notice would interfere with a criminal investigation or any other legitimate law enforcement purpose.

(c) In this section:

(1) “Precious metal” means gold, silver, platinum, or palladium.

(2) “Secondhand dealer” means a person engaged in the business of purchasing used or estate precious metal, coins, ~~antiques, furniture,~~ jewelry, or similar items for the purpose of resale.

* * *

§ 3871. PENALTIES

(a) A licensee who violates a provision of sections ~~3863–3870~~ 3863–3864 or 3866–3870 of this title, shall be fined not more than \$100.00 nor less than \$10.00 for each offense.

(b) A pawnbroker or precious metal dealer who violates a provision of section 3865 or 3872 of this chapter:

(1) may be assessed a civil penalty not to exceed \$1,000.00 for a first violation; and

(2) shall be fined not more than \$25,000.00 for a second or subsequent violation.

* * *

Sec. 22b. PUBLIC OUTREACH TO VERMONT PRECIOUS METAL DEALERS

The Department of Public Safety shall design and implement a public outreach campaign to inform and educate pawnbrokers, precious metal dealers, and others affected by 9 V.S.A. chapter 97 of the current statutory provisions governing the purchase and sale of precious metals, including:

(1) the items that should be regulated as “precious metal” or other secondhand goods;

(2) the type of transactions governed by the chapter;

(3) the recordkeeping requirements of the chapter;

(4) the 10-day holding period requirement;

(5) methods for increasing communication with the Department of Public Safety regarding possible suspicious activity within their business transactions; and

(6) other information supporting the purpose of the campaign.

Sec. 22c. INTERIM STUDY COMMITTEE ON THE REGULATION OF
PRECIOUS METAL DEALERS

(a) Creation of committee. There is created an Interim Study Committee on the Regulation of Precious Metal Dealers, the purpose of which shall be to examine the current practices in the trade of precious metals in Vermont, the nexus of that trade to drug-related and other illegal activity, and to provide recommendations to the General Assembly on the most effective means of regulating the trade to decrease the amount of related illegal activity and promote the recovery of stolen property.

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

(1) a Vermont-based representative from the New England Jewelers Association;

(2) a representative from the Vermont Antique Dealers Association;

(3) a Vermont-based coin dealer appointed by the Governor;

(4) a representative of local law enforcement from the Vermont Police Association;

(5) a Vermont-based auctioneer appointed by the Governor;

(6) a private citizen who has been affected by the theft of precious metals appointed by the Governor;

(7) a representative from a Vermont-based business that uses precious metal for manufacturing or industrial purposes appointed by the Governor;

(8) a representative from the jewelry manufacturing industry appointed by the Governor;

(9) a representative from the Vermont State's Attorneys and Sheriffs' Association;

(10) the Commissioner of Public Safety or designee, who shall serve as Chair of the Committee;

(11) the Vermont Attorney General or designee;

(12) a member of the House of Representatives, appointed by the Speaker of the House; and

(13) a member of the Senate, appointed by the Senate Committee on Committees.

(c) Powers and duties.

(1) The Committee shall study methods for increasing cooperation between law enforcement and precious metal dealers in an effort to prevent the theft of these items and retrieve stolen goods, including the following:

(A) the advisability, cost, and effectiveness of creating and maintaining a stolen property database and website for the purpose of posting pictures and information about stolen items;

(B) the creation of a licensing system for precious metal dealers, including what information would be required of applicants, who would be eligible for a license, and how the licensing program would be implemented;

(C) refinement of the recordkeeping requirements for precious metal dealers, including the possibility of requiring sales of a certain amount to be recorded electronically; and

(D) any other issues related to precious metal as the Committee deems appropriate.

(2) For purposes of its study of these issues, the Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) Report. On or before January 1, 2014, the Committee shall report to the Senate Committees on Economic Development, Housing and General Affairs and on Judiciary, and the House Committees on Commerce and Economic Development and on Judiciary its findings and any recommendations for legislative action.

(e) Meetings.

(1) Seven members of the Committee shall be physically present at the same location to constitute a quorum.

(2) Action shall be taken only if there is both a quorum and an affirmative vote of the members physically present and voting.

(3) The Committee may meet no more than five times, and shall cease to exist on January 2, 2014.

(4) Legislative members of the Committee shall be entitled to the same per diem compensation and reimbursement as provided to members of

standing committees under 2 V.S.A. § 406. Nonlegislative members of the Committee who are not state employees and who are not otherwise compensated by their employer or association shall be entitled to per diem compensation as provided in 32 V.S.A. § 1010.

* * * Effective Dates * * *

Sec. 23. EFFECTIVE DATES; SUNSET

(a) This section and Secs. 2a (emergency rules), 3a (board of pharmacy; rulemaking), 11(e) (Health Department rules), 11(f) (licensing authority standards), 13 (VPMS Advisory Committee), 13b (prevention report), 20 (study committee on the effects of the production of methamphetamine and other illegal drugs on housing), 22a (9 V.S.A. chapter 97A; secondhand dealers), 22b (public outreach; precious metal dealers), and 22c (interim study; precious metal dealers) of this act shall take effect on passage.

(b) Secs. 10 (18 V.S.A. § 4288; reciprocal agreements), 12 (18 V.S.A. § 4290; replacement prescriptions), and 19 (18 V.S.A. § 4234b; ephedrine and pseudoephedrine), and Sec. 8(b)(2)(G) (18 V.S.A. § 4284(b)(2)(G); interstate data sharing) of this act shall take effect on October 1, 2013.

(c) Sec. 11(d) (VPMS query requirements) of this act shall take effect on November 15, 2013.

(d) Sec. 19a (18 V.S.A. § 4234b; ephedrine and pseudoephedrine) of this act shall take effect on September 30, 2016.

(e) The remaining sections of this act shall take effect on July 1, 2013.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 21, 2013, page 488, March 22, 2013 pages 533, 535, 536, and 537.)

Reported favorably with recommendation of proposal of amendment by Senator Nitka for the Committee on Appropriations.

The Committee recommends that the Senate propose to the House to amend the bill, as recommended by the Committee on Health and Welfare, with the following amendments thereto:

First: In Sec. 22c, in subsection (b), by inserting and at the end of subdivision (10), by striking the semicolon at the end of subdivision (11) and inserting in lieu thereof a period, and by striking out subdivisions (12) and (13) in their entirety

Second: In Sec. 22c, in subsection (e), by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read:

(4) Members of the Committee who are not state employees and who are not otherwise compensated for their participation by their employer or association shall be entitled to per diem compensation as provided in 32 V.S.A. § 1010(b).

(Committee vote: 7-0-0)

**PROPOSAL OF AMENDMENT TO H. 522 TO BE OFFERED BY
SENATOR SEARS**

Senator Sears moves to amend the proposal of amendment of the Committee on Health and Welfare by striking out Secs. 4 and 5 in their entirety

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 26.

An act relating to technical corrections.

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

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: By inserting a new Sec. 6 as follows:

Sec. 6. 10 V.S.A. § 1106(a) is amended to read:

(a) There is hereby established a special fund to be known as the Vermont ~~unsafe dam revolving loan fund~~ Unsafe Dam Revolving Loan Fund which shall be used to provide grants and loans to municipalities, nonprofit entities, and private individuals, pursuant to rules ~~proposed~~ adopted by the ~~agency of natural resources and enacted by the general assembly~~ Agency of Natural Resources, for the reconstruction, repair, removal, breaching, draining, or other action necessary to reduce the threat of a dam or portion of a dam determined to be unsafe pursuant to section 1095 of this chapter.

* * *

Second: In Sec. 24, in the introductory language, by striking the date “2012” and inserting in lieu thereof the date “2011” and by inserting “, as amended by 2012 Acts and Resolves No. 104, Sec. 8,” before the words “is amended to read”

Third: By inserting a new Sec. 30 as follows:

Sec. 30. LEGISLATIVE COUNCIL; STATUTORY REVISION;
PHYSICIAN ASSISTANTS

The Office of Legislative Council, in its statutory revision capacity, is directed to make amendments to the Vermont Statutes Annotated as are necessary to change the term “physician’s assistant” to “physician assistant” and the term “physician’s assistants” to “physician assistants” and to correct any reference to physician assistant certification to refer instead to physician assistant licensure in order to conform with the change in the terminology of the title of physician assistants and their type of regulation as set forth in 2011 Acts and Resolves No. 61, Sec. 4. Such changes may also be made when new legislation is proposed or in preparing an individual act for codification in the Vermont Statutes Annotated or for publication in the Acts and Resolves.

And by renumbering all sections of the bill to be numerically correct

(Committee vote: 5-0-0)

(No House amendments.)

H. 200.

An act relating to civil penalties for possession of marijuana.

Reported favorably with recommendation of proposal of amendment by Senator Benning 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:

* * * Criminal Penalties and Civil Penalties for Marijuana Possession * * *

Sec. 1. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) ~~A No~~ No person shall knowingly and unlawfully possessing possess more than one ounce of marijuana or more than five grams of hashish or cultivate marijuana. 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 under this subdivision~~ A person convicted of a second or subsequent offense ~~under this subdivision~~ of knowingly and unlawfully possessing more than one ounce of

marijuana or more than five grams of hashish or cultivating marijuana 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 ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of two ounces or more containing any~~ marijuana or knowingly and unlawfully cultivating more than three plants of marijuana 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 ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of one pound or more containing any~~ of marijuana or knowingly and unlawfully cultivating more than 10 plants of marijuana shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(4) A person knowingly and unlawfully possessing ~~marijuana in an amount consisting of one or more preparations, compounds, mixtures, or substances of an aggregate weight of 10 pounds or more of~~ marijuana or knowingly and unlawfully cultivating more than 25 plants of marijuana shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(5) Prior to accepting a plea of guilty or a plea of nolo contendere from a defendant charged with a violation of this subsection, the court shall address the defendant personally in open court, informing the defendant and determining that the defendant understands that admitting to facts sufficient to warrant a finding of guilt or pleading guilty or nolo contendere to the charge may have collateral consequences such as loss of education financial aid, suspension or revocation of professional licenses, and restricted access to public benefits such as housing. If the court fails to provide the defendant with notice of collateral consequences in accordance with this subdivision and the defendant later at any time shows that the plea and conviction 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.

* * *

(d) Only the portion of a marijuana-infused product that is attributable to marijuana shall count toward the possession limits of this section. The weight of marijuana that is attributable to marijuana-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).

Sec. 2. 18 V.S.A. § 4230a–d are added to read:

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

(a) 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 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.

(2) A violation of this section shall not result in the creation of a criminal history record of any kind.

(c)(1) 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.

(e)(1) Upon request by a law enforcement officer who reasonably suspects that a person has committed or is committing a violation of this section, the person shall give his or her name and address to the law enforcement officer and shall produce a motor vehicle operator's license, an identification card, a passport, or another suitable form of identification.

(2) A law enforcement officer is authorized to detain a person if:

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

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

(3) The person may be detained only until the person identifies himself or herself satisfactorily to the officer. 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) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be retained by the State 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 retained by the State. The remaining 50 percent shall be paid to the Court Diversion Program for funding of the Youth Substance Abuse Safety Program as required by section 4230b of this title.

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

(a) Offense. Except as otherwise provided in section 4230c of this title, 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 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 90 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 180 days, for a second offense.

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

(c) Summons and Complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(d) Registration in Youth Substance Abuse Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Abuse Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f)(1) Diversion Program Requirements. Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a state-certified or state-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the Diversion Program has imposed, the Diversion Program shall:

(A) void the summons and complaint with no penalty due; and

(B) send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required Program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.

(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section.

§ 4230c. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; THIRD OR SUBSEQUENT OFFENSE; CRIME

No person shall knowingly and unlawfully possess marijuana. 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 commits a crime if the person has been adjudicated at least twice previously in violation of section 4230b of this title and shall be imprisoned not more than 30 days or fined not more than \$600.00, or both.

§ 4230d. MARIJUANA POSSESSION BY A PERSON UNDER 16 YEARS OF AGE; DELINQUENCY

No person shall knowingly and unlawfully possess marijuana. A person under the age of 16 years who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The 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.

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

§ 1102. JUDICIAL BUREAU; JURISDICTION

* * *

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

* * *

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

* * *

Sec. 5. 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.

* * *

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

Sec. 6. 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.

* * *

* * * Enhanced Penalties for Tax Offenses Based on Income Derived
from Illegal Activity * * *

Sec. 7. 32 V.S.A. § 3202 is amended to read:

§ 3202. INTEREST AND PENALTIES

(a) Failure to pay; interest. When a taxpayer fails to pay a tax liability imposed by this title (except the motor vehicle purchase and use tax) on the date prescribed therefor, the ~~commissioner~~ Commissioner may assess and the taxpayer shall then pay; a sum of interest computed at the rate per annum established by the ~~commissioner~~ Commissioner pursuant to section 3108 of this title on the unpaid amount of that tax liability for the period from the prescribed date to the date of full payment of the liability.

(b) Penalties.

(1) Failure to file. When a taxpayer fails to file a tax return required by this title (other than a return required by subchapter 5 of chapter 151 of this title for estimation of nonwithheld income tax), on the date prescribed therefor or the date as extended pursuant to section 5868 of this title, unless the taxpayer affirmatively shows that such failure is due to reasonable cause and not due to willful neglect, then in addition to any interest payable pursuant to subsection (a) of this section, the ~~commissioner~~ Commissioner may assess and the taxpayer shall then pay; a penalty which shall be equal to five percent of the outstanding tax liability for each month, or portion thereof, that the tax return is not filed; provided, however, that in no event shall the amount of any penalty imposed under this subdivision exceed 25 percent of the tax liability unpaid on the prescribed date of payment. If the return is not filed within 60 days after the date prescribed therefor, there shall be assessed a minimum penalty of \$50.00 regardless of whether there is a tax liability.

(2) Failure to pay estimated tax. When a taxpayer fails to make payments as required by subchapter 5 of chapter 151 of this title (estimations of nonwithheld income tax), the ~~commissioner~~ Commissioner may assess and the taxpayer shall then pay a penalty which shall be equal to one percent of the outstanding tax liability for each month, or portion thereof, that the tax liability is not paid in full; provided, however, that in no event shall the amount of any

penalty assessed under this subdivision exceed 25 percent of the tax liability unpaid on the prescribed date of payment.

(3) Failure to pay. When a taxpayer fails to pay a tax liability imposed by this title (other than a return required by subchapter 5 of chapter 151 of this title for estimation of nonwithheld income tax); on the date prescribed therefor, then in addition to any interest payable pursuant to subsection (a) of this section, the ~~commissioner~~ Commissioner may assess and the taxpayer shall then pay a penalty which shall be equal to for income tax under subchapters 2 and 3 of chapter 151 of this title, one percent, and for all other taxes five percent, of the outstanding tax liability for each month, or portion thereof, that the tax liability is not paid in full; provided, however, that in no event shall the amount of any penalty assessed under this subdivision exceed 25 percent of the tax liability unpaid on the prescribed date of payment.

(4) Negligent failure to pay. When a taxpayer fails to pay a tax liability imposed by this title and the failure is due to negligence or constitutes a substantial understatement of tax, in addition to any interest payable pursuant to subsection (a) of this section, the ~~commissioner~~ Commissioner may assess and the taxpayer shall then pay a penalty which shall be equal to 25 percent of that portion of the underpayment. For purposes of this subdivision, “negligence” means any failure to make a reasonable attempt to comply with the provisions of the tax code and “substantial understatement” means an understatement of 20 percent or more of the tax.

(5) Fraudulent failure to pay. When a taxpayer fraudulently or with willful intent to defeat or evade a tax liability imposed by this title, either fails to pay a tax liability on the date prescribed therefor or requests and receives a refund of a tax liability, in addition to any interest payable pursuant to subsection (a) of this section, the ~~commissioner~~ Commissioner may assess and the taxpayer shall then pay; a penalty equal to the amount of the tax liability unpaid on the prescribed date of payment or received as a refund subsequent to that date.

(6) Violation based on income from illegal activity. The penalties provided in subdivisions (1)–(5) of this subsection shall be doubled if the violation is based on income derived from illegal activity. The penalty provided in this subdivision (6) shall be in addition to any other civil or criminal penalties provided by law.

(7) A failure to pay shall not be subject to more than one of the penalties set forth in subdivisions (3), (4), and (5) of this subsection.

Sec. 8. 32 V.S.A. § 5894 is amended to read:

§ 5894. LIABILITY FOR FAILURE OR DELINQUENCY

(a) Failure to supply information. An individual, fiduciary, or officer or employee of any corporation or partner or employee of any partnership, who, with intent to evade any requirement of this chapter or any lawful requirement of the ~~commissioner~~ Commissioner hereunder, fails to supply any information required by or under this chapter shall be fined not more than \$1,000.00 or be imprisoned not more than one year, or both.

(b) Failure to file. An individual, fiduciary, or officer or employee of any corporation or partner or employee of any partnership who knowingly fails to file a tax return when due shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(c) Failure to pay. An individual, fiduciary, or officer or employee of any corporation or partner or employee of any partnership, who with intent to evade a tax liability fails to pay a tax when due shall, if the amount of tax evaded is \$500.00 or less in a single calendar year, be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(d) Failure to file or failure to pay; in excess of \$500.00. An individual, fiduciary, or officer or employee of a corporation or partner or employee of a partnership, who with intent to evade a tax liability fails to file a tax return when required to do so or fails to pay a tax when due shall, if the amount of tax evaded is in excess of \$500.00 in a single calendar year, be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(e) False or fraudulent return. An individual, fiduciary, or officer or employee of a corporation or partner or employee of a partnership who knowingly makes, signs, verifies or files with the ~~commissioner~~ Commissioner a false or fraudulent tax return shall be imprisoned not more than one year or fined not more than \$1,000.00, or both. An individual, fiduciary, or officer or employee of a corporation or partner or employee of a partnership, who with intent to evade a tax liability makes, signs, verifies or files with the ~~commissioner~~ Commissioner a false or fraudulent tax return shall, if the amount of tax evaded is more than \$500.00, be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(f) An individual, fiduciary, officer, or employee of any corporation or a partner or employee of any partnership who violates subsections (a)–(e) of this section based on income derived from illegal activity shall be imprisoned not more than three years or fined not more than \$10,000.00, or both. The penalty provided in this subsection shall be in addition to any other civil or criminal penalties provided by law.

* * * Expungement of a Misdemeanor Possession of Marijuana
Criminal Record * * *

Sec. 9. 13 V.S.A. § 7601(3) is amended to read:

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of intoxicating liquor or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana.

* * * Alcoholic Beverage Offenses by a Person Under 21 Years of Age * * *

Sec. 10. 7 V.S.A. § 656 and 657 are amended to read:

§ 656. MINORS PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING LIQUORS ALCOHOLIC BEVERAGES; FIRST OR SECOND OFFENSE; CIVIL VIOLATION

(a)(1) Prohibited conduct. A ~~minor~~ 16 person under 21 years of age or older shall not:

~~(1)~~(A) falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages or spirituous liquor from any licensee, state liquor agency, or other person or persons;

(2)(B) possess malt or vinous beverages or spirituous liquor for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor; or

~~(3)~~(C) consume malt or vinous beverages or spirituous liquors. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages or spirituous liquors; or in a jurisdiction where the indicators of consumption are observed.

(2) Offense. Except as otherwise provided in section 657 of this title, a person under 21 years of age who knowingly and unlawfully violates subdivision (1) of this subsection 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:

(A) 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 90 days, for a first offense; and

(B) 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 180 days, for a second offense.

~~(b)(1) A law enforcement officer shall issue a notice of violation, in a form approved by the court administrator, to a person who violates this section if the person has not previously been adjudicated in violation of this section or convicted of violating section 657 of this title. The notice of violation shall require the person to provide his or her name and address, and shall explain procedure under this section, including that:~~

~~(A) the person must contact the diversion board in the county where the offense occurred within 15 days;~~

~~(B) failure to contact the diversion board within 15 days will result in the case being referred to the judicial bureau, where the person, if found liable for the violation, will be subject to a penalty of \$300.00 and a 90 day suspension of the person's operator's license, and may face substantially increased insurance rates;~~

~~(C) no money should be submitted to pay any penalty until after adjudication; and~~

~~(D) the person shall notify the diversion board if the person's address changes.~~

~~(2) When a person is issued a notice of violation under subdivision (1) of this subsection, the law enforcement officer shall complete a summons and complaint for the offense and send it to the diversion board in the county where the offense occurred. The summons and complaint shall not be filed with the judicial bureau at that time.~~

~~(3) Within 15 days after receiving a notice of violation issued under subdivision (1) of this subsection, the person shall contact the diversion board in the county where the offense occurred and register for the teen alcohol safety program. If the person fails to do so, the diversion board shall file the summons and complaint with the judicial bureau for adjudication under chapter 29 of Title 4. The diversion board shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation, and shall provide two copies to the person charged with the violation.~~

~~(c) A person who violates this section commits a civil violation and shall be subject to a civil penalty of \$300.00, and the person's operator's license and privilege to operate a motor vehicle shall be suspended for a period of 90 days.~~

~~The state may obtain a violation under this section or a conviction under section 657 of this title, but not both.~~

~~(d) If a person fails to pay a penalty imposed under this section by the time ordered, the judicial bureau shall notify the commissioner of motor vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.~~

~~(e) Upon adjudicating a person in violation of this section, the judicial bureau shall notify the commissioner of motor vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the department for motor vehicle driving records. The identities of persons in the registry shall only be revealed to a law enforcement officer determining whether the person has previously violated this section.~~

~~(f)(1) Upon receipt from a law enforcement officer of a summons and complaint completed under subdivision (b)(2) of this section, the diversion board shall send the person a notice to report to the diversion board. The notice to report shall provide that:~~

~~(A) The person is required to complete all conditions related to the offense imposed by the diversion board, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.~~

~~(B) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other conditions related to the offense imposed by the diversion board, the case will be referred to the judicial bureau, where the person, if found liable for the violation, shall be assessed a penalty of \$300.00, the person's driver's license will be suspended for 90 days, and the person's automobile insurance rates may increase substantially.~~

~~(C) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other conditions related to the offense imposed by the diversion board, no penalty shall be imposed and the person's operator's license will not be suspended.~~

~~(2)(A) Upon being contacted by a person who has been issued a notice of violation under subdivision (b)(1) of this section, the diversion board shall register the person in the teen alcohol safety program. Pursuant to the teen alcohol safety program, the diversion board shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense, and in every case shall include a condition requiring satisfactory completion of substance abuse screening and, if deemed appropriate following~~

~~the screening, substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a state certified or state licensed substance abuse counselor or substance abuse treatment provider to provide the services.~~

~~(B) Substance abuse screening required under this subsection shall be completed within 60 days after the diversion board receives a summons and complaint completed under subdivision (b)(2) of this section. The person shall complete all conditions at his or her own expense.~~

~~(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other conditions related to the offense which the diversion board has imposed, the diversion board shall:~~

~~(A) void the summons and complaint with no penalty due; and~~

~~(B) send copies of the voided summons and complaint to the judicial bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the judicial bureau under this subdivision, the diversion board shall redact all language containing the person's name, address, social security number or any other information which identifies the person.~~

~~(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other conditions related to the offense imposed by the diversion board, or if the person fails to pay the diversion board any required program fees, the diversion board shall file the summons and complaint with the judicial bureau for adjudication under chapter 29 of Title 4. The diversion board shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation, and shall provide two copies to the person charged with the violation.~~

~~(5) A person aggrieved by a decision of the diversion board or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.~~

~~(g) The state's attorney may dismiss without prejudice a violation brought under this section.~~

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person under 21 years of age who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

(1) the person shall contact the Diversion Program in the county where the offense occurred within 15 days;

(2) failure to contact the Diversion Program within 15 days will result in the case being referred to the Judicial Bureau, where the person, if found liable for the violation, will be subject to a civil penalty and a suspension of the person's operator's license and may face substantially increased insurance rates;

(3) no money should be submitted to pay any penalty until after adjudication; and

(4) the person shall notify the Diversion Program if the person's address changes.

(c) Summons and Complaint. When a person is issued a notice of violation under this section, the law enforcement officer shall complete a summons and complaint for the offense and send it to the Diversion Program in the county where the offense occurred. The summons and complaint shall not be filed with the Judicial Bureau at that time.

(d) Registration in Youth Substance Abuse Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance Abuse Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse education or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the

person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

(f)(1) Diversion Program Requirements. Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a state-certified or state-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

(2) Substance abuse screening required under this subsection shall be completed within 60 days after the Diversion Program receives a summons and complaint. The person shall complete all conditions at his or her own expense.

(3) When a person has satisfactorily completed substance abuse screening, any required substance abuse education or substance abuse counseling, and any other condition related to the offense which the diversion program has imposed, the diversion program shall:

(A) void the summons and complaint with no penalty due; and

(B) send copies of the voided summons and complaint to the Judicial Bureau and to the law enforcement officer who completed them. Before sending copies of the voided summons and complaint to the Judicial Bureau under this subdivision, the Diversion Program shall redact all language containing the person's name, address, Social Security number, and any other information which identifies the person.

(4) If a person does not satisfactorily complete substance abuse screening, any required substance abuse education or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program or if the person fails to pay the Diversion Program any required program fees, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29.

The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

(5) A person aggrieved by a decision of the Diversion Program or alcohol counselor may seek review of that decision pursuant to Rule 75 of the Vermont Rules of Civil Procedure.

(g) Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.

(h) Record of Adjudications. Upon adjudicating a person in violation of this section, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall maintain a record of all such adjudications which shall be separate from the registry maintained by the Department for motor vehicle driving records. The identity of a person in the registry shall be revealed only to a law enforcement officer determining whether the person has previously violated this section.

§ 657. MINORS PERSON UNDER 21 YEARS OF AGE
MISREPRESENTING AGE, OR PROCURING OR, POSSESSING
LIQUORS ALCOHOL AND DRIVING EDUCATION; OR
CONSUMING ALCOHOLIC BEVERAGES; THIRD OR
SUBSEQUENT OFFENSE; CRIME

(a) A minor shall not:

(1) falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages or spirituous liquor from any licensee, state liquor agency, or other person or persons; or

(2) possess malt or vinous beverages or spirituous liquor for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor; or

(3) consume malt or vinous beverages or spirituous liquors. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages or spirituous liquors, or in a jurisdiction where the indicators of consumption are observed.

(b) A law enforcement officer shall issue a citation for a violation of this section if a person has been previously adjudicated in violation of this section or section 656 of this title.

~~(c) After the issuing officer issues a summons and complaint to the judicial bureau for a first offense pursuant to section 656 of this title, the state's attorney may withdraw the complaint filed with the judicial bureau and file an information charging a violation of this section in the criminal division of the superior court. The state may obtain a conviction under either this section or section 656 of this title, but not both.~~

~~(d) A person who violates this section:~~

~~(1) shall be fined not more than \$600.00 or imprisoned not more than 30 days, or both; and~~

~~(2) if the person has previously been convicted of violating this section or adjudicated in violation of section 656 of this title, the person's operating license, nonresident operating privilege or the privilege of an unlicensed person to operate a motor vehicle shall be suspended for 120 days.~~

~~(e) The state's attorney shall require as a condition of diversion that:~~

~~(1) a person who is charged with a violation of this section who holds a license to operate a motor vehicle, and who has previously been convicted of violating this section or adjudicated in violation of section 656 of this title, relinquish the license for a period of 60 days; and~~

~~(2) attend an alcohol and driving program at the person's own expense.~~

~~(f) A person who is convicted of violating this section who holds a license to operate a motor vehicle shall, as a condition of probation, be required to complete an alcohol and driving program at the person's own expense.~~

~~(g) The alcohol and driving program shall be administered by the office of alcohol and drug abuse programs and shall take into consideration the needs of minors.~~

~~(h) The state's attorney may dismiss without prejudice an action brought under this section, and may file a civil violation in the judicial bureau. A person under 21 years of age who engages in conduct in violation of subdivision 656(a)(1) of this title commits a crime if the person has been adjudicated at least twice previously in violation of subdivision 656(a)(1) of this title and shall be imprisoned not more than 30 days or fined not more than \$600.00, or both.~~

Sec. 11. 7 V.S.A. § 657a is added to read:

§ 657a. PERSON UNDER 16 YEARS OF AGE MISREPRESENTING AGE OR PROCURING OR POSSESSING ALCOHOLIC BEVERAGES; DELINQUENCY

A person under 16 years of age who engages in conduct in violation of subdivision 656(a)(1) of this title commits a delinquent act and shall be subject

to 33 V.S.A. chapter 52. The 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.

* * * Task Force * * *

Sec. 12. TASK FORCE

(a) Creation of task force. There is created a Task Force for the purpose of developing recommendations to the General Assembly to address drugged driving in Vermont and to address appropriate penalties for possession of alcohol and possession of an ounce or less of marijuana by a person under 21 years of age as provided in this act.

(b) Membership. The Task Force shall be composed of four members as follows:

- (1) the Commissioner of Public Safety or designee;
- (2) the Commissioner of Health or designee;
- (3) the Executive Director of State's Attorneys and Sheriffs or designee;
- (4) the Defender General or designee;
- (5) the Commissioner of Motor Vehicles or designee;
- (6) the Court Diversion Director or designee; and
- (7) a student assistance professional appointed by the Governor.

(c) Report. On or before November 1, 2013, the Task Force shall report to the House and Senate Committees on Judiciary its findings and any recommendations for legislative action.

* * * Application and Effective Dates * * *

Sec. 13. APPLICATION

(a) Secs. 1-4, 10, and 11 shall apply prospectively to conduct that occurs on or after July 1, 2013. A person who is cited or arrested for possession of one ounce or less of marijuana or five grams or less of hashish or for an underage alcohol offense under 7 V.S.A. § 656 or 657 prior to July 1, 2013 shall be subject to the penalties provided by law at the time the conduct occurred.

(b) An offense in which the prohibited conduct occurred prior to July 1, 2013 shall not be deemed a prior offense for the purpose of determining increased penalties for second and subsequent offenses as provided in this act.

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 12 and 13 of this act shall take effect on passage.

(b) Sec. 6 of this act shall take effect on July 1, 2014.

(c) The remaining sections of this act shall take effect on July 1, 2013.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for April 12, 2013, pages 743 and 746, and April 16, 2013, page 762.)

House Proposal of Amendment

S. 14.

An act relating to payment of fair-share fees.

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

* * * State Employees * * *

Sec. 1. 3 V.S.A. § 902 is amended to read:

§ 902. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(19) “Collective bargaining service fee” means a fee deducted by an employer from the salary or wages of an employee who is not a member of an employee organization, which is paid to the employee organization which is the exclusive bargaining agent for the bargaining unit of the employee. The collective bargaining service fee shall not exceed 85 percent of the amount payable as dues by members of the employee organization, and shall be deducted in the same manner as dues are deducted from the salary or wages of members of the employee organization, and shall be used to defray the costs incurred by the employee organization in fulfilling its duty to represent the employees in their employment relations with the state of chargeable activities.

Sec. 2. 3 V.S.A. § 903 is amended to read:

§ 903. EMPLOYEES’ RIGHTS AND DUTIES; PROHIBITED ACTS

(a) Employees shall have the right to self-organization; to form, join, or assist employee organizations; to bargain collectively through representatives of their own choice, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities, except as provided in ~~subsection (b)~~ subsections (b) and (c) of this section, and to appeal grievances as provided in this chapter.

(b) ~~No~~ A state employee may not strike or recognize a picket line of an employee or labor organization while in the performance of his or her official duties.

(c) An employee who exercises the right not to join the employee organization representing the employee's collective bargaining unit shall pay the collective bargaining service fee to the representative of the bargaining unit in the same manner as employees who pay membership fees to the representative. The employee organization shall indemnify and hold the employer harmless from any and all claims stemming from the implementation or administration of the collective bargaining service fee. Nothing in this section shall require an employer to discharge an employee who does not pay the collective bargaining service fee.

(d) All employers, their officers, agents, and employees or representatives shall exert every reasonable effort to make and maintain agreements concerning matters allowable under section 904 of this title and to settle all disputes, whether arising out of the application of those agreements, or growing out of any dispute between the employer and the employees thereof.

Sec. 3. 3 V.S.A. § 904 is amended to read:

§ 904. SUBJECTS FOR BARGAINING

(a) All matters relating to the relationship between the employer and employees shall be the subject of collective bargaining except those matters which are prescribed or controlled by statute. Such matters appropriate for collective bargaining to the extent they are not prescribed or controlled by statute include ~~but are not limited to:~~

* * *

(9) ~~Rules~~ rules and regulations for personnel administration, except the following: rules and regulations relating to persons exempt from the classified service under section 311 of this title and rules and regulations relating to applicants for employment in state service and employees in an initial probationary status, including any extension or extensions thereof provided such rules and regulations are not discriminatory by reason of an applicant's race, color, creed, sex, or national origin; and

(10) ~~A collective bargaining service fee~~ the manner in which to enforce an employee's obligation to pay the collective bargaining service fee.

* * *

Sec. 4. 3 V.S.A. § 941 is amended to read:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND REPRESENTATION

* * *

(k) Nothing in this chapter requires an individual to seek the assistance of his or her collective bargaining unit or its representative(s) in any grievance proceeding. He or she may represent himself or herself or be represented by counsel of his or her own choice or may avail himself or herself of the unit representative in grievance proceedings. ~~Employees who are eligible for membership in a collective bargaining unit who exercise their right not to join such unit may upon agreement with the unit representative avail themselves of the services of the unit representative(s) in grievance proceedings upon payment to the unit of a fee established by the unit representative, provided that in the event a collective bargaining service fee is negotiated, the unit representative shall represent nonmember employees in grievance proceedings without charge.~~

Sec. 5. 3 V.S.A. § 962 is amended to read:

§ 962. EMPLOYEES

It shall be an unfair labor practice for an employee organization or its agents:

* * *

(10) To charge a collective bargaining fee ~~negotiated pursuant to section 904 of this title~~ unless such employee organization has established and maintained a procedure to provide nonmembers with:

(A) an audited financial statement that identifies the major categories of expenses, and divides them into chargeable and nonchargeable expenses;

(B) an opportunity to object to the amount of the agency fee sought, any amount reasonably in dispute to be placed in escrow;

(C) prompt arbitration by the board to resolve any objection over the amount of the collective bargaining fee.

Sec. 5a. 3 V.S.A. § 1008 is added to read:

§ 1008. CONTRACT RATIFICATION; ANNUAL VOTE

Annually, the employees of the bargaining unit shall meet and discuss whether employees who have chosen not to join the employee organization shall be allowed to vote on the ratification of any collective bargaining agreement entered into pursuant to this chapter. After discussion, employees

that are members of the employee organization shall vote on whether to allow employees who have chosen not to join the employee organization to vote on the ratification of any collective bargaining agreement.

* * * Judiciary Employees * * *

Sec. 6. 3 V.S.A. § 1011 is amended to read:

§ 1011. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(4) “Collective bargaining service fee,” means a fee deducted by an employer from the salary or wages of an employee who is not a member of an employee organization, and that fee is paid to the employee organization that is the exclusive bargaining agent for the bargaining unit of the employee. A collective bargaining service fee shall not exceed 85 percent of the amount payable as dues by members of the employee organization; shall be deducted in the same manner as dues are deducted from the salary or wages of members of the employee organization; and shall be used to defray the costs ~~incurred by the employee organization in fulfilling its duty to represent the employees in their employment relations with the employer~~ of chargeable activities.

* * *

Sec. 7. 3 V.S.A. § 1012 is amended to read:

§ 1012. EMPLOYEES’ RIGHTS AND DUTIES; PROHIBITED ACTS

(a) Employees shall have the right to self-organization; to form, join, or assist employee organizations; to bargain collectively through their chosen representatives; to engage in concerted activities of collective bargaining or other mutual aid or protection; to refrain from any or all those activities, except as provided in ~~subsection (b)~~ subsections (b) and (c) of this section; and to appeal grievances as provided in this chapter.

(b) ~~No~~ An employee may not strike or recognize a picket line of an employee organization while performing the employee’s official duties.

(c) An employee who exercises the right not to join the employee organization representing the employee’s certified unit pursuant to section 1021 of this title shall pay a collective bargaining service fee to the representative of the bargaining unit in the same manner as employees who pay membership fees to the representative. The employee organization shall indemnify and hold the employer harmless from any and all claims stemming from the implementation or administration of the collective bargaining service

fee. Nothing in this section shall require an employer to discharge an employee who does not pay the collective bargaining service fee.

(e)(d) The employer and employees and the employee's representative shall exert every reasonable effort to make and maintain agreements concerning matters allowable under section 1013 of this title and to settle all disputes, whether arising out of the application of those agreements or growing out of any dispute between the employer and the employees.

Sec. 8. 3 V.S.A. § 1013 is amended to read:

§ 1013. SUBJECTS FOR BARGAINING

All matters relating to the relationship between the employer and employees are subject to collective bargaining, to the extent those matters are not prescribed or controlled by law, including:

* * *

(10) A collective bargaining service fee the manner in which to enforce an employee's obligation to pay the collective bargaining service fee.

Sec. 9. 3 V.S.A. § 1027 is amended to read:

§ 1027. EMPLOYEES

It shall be an unfair labor practice for an employee organization or its agents:

* * *

(10) To charge a ~~negotiated~~ collective bargaining fee unless the employee organization has established and maintained a procedure to provide nonmembers with all the following:

(A) An audited financial statement that identifies the major categories of expenses and divides them into chargeable and nonchargeable expenses.

(B) An opportunity to object to the amount of the fee requested and to place in escrow any amount reasonably in dispute.

(C) Prompt arbitration by the board to resolve any objection over the amount of the collective bargaining fee.

Sec. 9a. 3 V.S.A. § 1044 is added to read:

§ 1044. CONTRACT RATIFICATION; ANNUAL VOTE

Annually, the employees of the bargaining unit shall meet and discuss whether employees who have chosen not to join the employee organization

shall be allowed to vote on the ratification of any collective bargaining agreement entered into pursuant to this chapter. After discussion, employees that are members of the employee organization shall vote on whether to allow employees who have chosen not to join the employee organization to vote on the ratification of any collective bargaining agreement.

* * * Teachers * * *

Sec. 10. 16 V.S.A. § 1981 is amended to read:

§ 1981. DEFINITIONS

As used in this chapter unless the context requires otherwise:

* * *

~~(7) "Agency fee" means a fee for representation in collective bargaining, not exceeding teachers' or administrators' organization dues, payable to the organization which is the exclusive bargaining agent for teachers or administrators in a bargaining unit, from individuals who are not members of the organization~~ means a fee deducted by an employer from the salary or wages of an employee who is not a member of an employee organization, which is paid to the employee organization that is the exclusive bargaining agent for the bargaining unit of the employee. The collective bargaining service fee shall not exceed 85 percent of the amount payable as dues by members of the employee organization and shall be deducted in the same manner as dues are deducted from the salary or wages of members of the employee organization and shall be used to defray the costs of chargeable activities.

* * *

Sec. 11. 16 V.S.A. § 1982 is amended to read:

§ 1982. RIGHTS

(a) Teachers shall have the right to or not to join, assist, or participate in any teachers' organization of their choosing. However, ~~teachers may be required to pay an agency fee who choose not to join the teachers' organization, recognized as the exclusive representative pursuant to an agreement negotiated under section 1992 of this chapter, shall pay the agency fee in the same manner as teachers who choose to join the teachers' organization pay membership fees. The teachers' organization shall indemnify and hold the school board harmless from any and all claims stemming from the implementation or administration of the agency fee.~~

(b) Principals, assistant principals, and administrators other than superintendent and assistant superintendent shall have the right to or not to

join, assist, or participate in any administrators' organization or as a separate unit of any teachers' organization of their choosing. However, subject to the provisions of subsection (d) of this section, administrators other than the superintendent and assistant superintendent may be required to pay an agency fee who choose not to join the administrators' organization, recognized as the exclusive representative pursuant to an agreement negotiated under section 1992 of this chapter, shall pay the agency fee in the same manner as administrators who choose to join the administrators' organization pay membership fees. The administrators' organization agrees to indemnify and hold the school harmless from any and all claims stemming from the implementation or administration of the agency fee.

(c) ~~Neither the~~ The school board nor or any employee of the school board serving in any capacity, ~~nor~~ or any other person or organization shall not interfere with, restrain, coerce, or discriminate in any way against or for any teacher or administrator engaged in activities protected by this legislation.

(d) A teachers' or administrators' organization shall not charge the agency fee unless it has established and maintained a procedure to provide nonmembers with:

(1) an audited financial statement that identifies the major categories of expenses and divides them into chargeable and nonchargeable expenses;

(2) an opportunity to object to the amount of the agency fee sought, and to place in escrow any amount reasonably in dispute;

(3) prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the teachers' or administrators' organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the agency fee. The costs of arbitration shall be paid by the teachers' or administrators' organization.

(e) Nothing in this section shall require an employer to discharge an employee who does not pay the agency fee.

Sec. 12. 16 V.S.A. § 2004 is amended to read:

§ 2004. AGENDA

The school board, through its negotiations council, shall, upon request, negotiate with representatives of the teachers' or administrators' organization negotiations council on matters of salary, related economic conditions of employment, ~~an~~ the manner in which it will enforce an employee's obligation to pay the agency service fee, procedures for processing complaints and grievances relating to employment, and any mutually agreed upon matters not in conflict with the statutes and laws of the state State of Vermont.

* * * Certain Private Sector Employees * * *

Sec. 13. 21 V.S.A. § 1502 is amended to read:

§ 1502. DEFINITIONS

~~In~~ As used in this chapter the following words shall have the following meaning:

* * *

(14) “Agency fee” means a fee deducted by an employer from the salary or wages of an employee who is not a member of an employee organization, which is paid to the employee organization that is the exclusive bargaining agent for the bargaining unit of the employee. A collective bargaining service fee shall not exceed 85 percent of the amount payable as dues by members of the employee organization and shall be deducted in the same manner as dues are deducted from the salary or wages of members of the employee organization and shall be used to defray the costs of chargeable activities.

Sec. 13a. 16 V.S.A. § 2028 is added to read:

§ 2028. CONTRACT RATIFICATION; ANNUAL VOTE

Annually, the employees of the bargaining unit shall meet and discuss whether employees who have chosen not to join the employee organization shall be allowed to vote on the ratification of any collective bargaining agreement entered into pursuant to this chapter. After discussion, employees that are members of the employee organization shall vote on whether to allow employees who have chosen not to join the employee organization to vote on the ratification of any collective bargaining agreement.

Sec. 14. 21 V.S.A. § 1503 is amended to read:

§ 1503. RIGHTS OF EMPLOYEES; MUTUAL DUTY TO BARGAIN

(a) Employees shall have the right to self-organization; to form, join, or assist labor organizations; to bargain collectively through representatives of their own choice, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in ~~section~~ subsection 1621(a) of this title. An employee who exercises the right not to join the labor organization representing the employee’s certified unit pursuant to section 1581 of this title shall, subject to subsection (b) of this section, pay the agency fee to the representative of the bargaining unit in the same manner as employees who pay membership fees to the representative. The labor

organization agrees to indemnify and hold the employer harmless from any and all claims stemming from the implementation or administration of the agency fee.

(b) A labor organization shall not charge the agency fee unless it has established and maintained a procedure to provide nonmembers with:

(1) an audited financial statement that identifies the major categories of expenses and divides them into chargeable and nonchargeable expenses;

(2) an opportunity to object to the amount of the agency fee sought, and to place in escrow any amount reasonably in dispute;

(3) prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the teachers' or administrators' organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the agency fee. The costs of arbitration shall be paid by the labor organization.

Sec. 15. 21 V.S.A. § 1621 is amended to read:

§ 1621. UNFAIR LABOR PRACTICES

(a) It shall be an unfair labor practice for an employer:

* * *

(6) Nothing in this chapter or any other statute of this state shall preclude an employer from making an agreement with a labor organization (not established, maintained or assisted by any action defined in this subsection (a) as an unfair labor practice) to require as a condition of employment membership in such labor organization on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later, (i) if such labor organization is the representative of the employees as provided in section 1583 of this chapter, in the appropriate collective bargaining unit covered by such agreement when made; and (ii) unless following an election held as provided in section 1584 of this chapter within one year preceding the effective date of such agreement, the ~~board~~ Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to rescind the authority of such labor organization to make such an agreement. Nothing in this section shall require an employer to discharge an employee in the absence of such an agreement. ~~No~~ An employer shall not justify any discrimination against an employee for nonmembership in a labor organization:

(A) ~~If~~ if the employer has reasonable grounds for believing that membership was not available to the employee on the same terms and conditions generally applicable to other members; or

(B) ~~If~~ if the employer has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

* * *

(b) It shall be an unfair labor practice for a labor organization or its agents:

* * *

(5) To require employees covered by a the agency fee requirement or other union security agreement authorized under subsection (a) of this section to pay, as a condition precedent to becoming a member of such organization, a fee in an amount which the ~~board~~ Board finds excessive or discriminatory under all the circumstances. In making such a finding, the ~~board~~ Board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected.

* * *

Sec. 15a. 21 V.S.A. § 1624 is added to read:

§ 1624. CONTRACT RATIFICATION; ANNUAL VOTE

Annually, the employees of the bargaining unit shall meet and discuss whether employees who have chosen not to join the employee organization shall be allowed to vote on the ratification of any collective bargaining agreement entered into pursuant to this chapter. After discussion, employees that are members of the employee organization shall vote on whether to allow employees who have chosen not to join the employee organization to vote on the ratification of any collective bargaining agreement.

* * * Municipal Employees * * *

Sec. 16. 21 V.S.A. § 1722 is amended to read;

§ 1722. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

(1) “Agency service fee” means a fee ~~for representation in collective bargaining not exceeding employee organization dues, payable to an employee organization which is the exclusive bargaining agent for employees in a bargaining unit from individuals who are not members of the employee organization~~ a fee deducted by an employer from the salary or wages of an employee who is not a member of an employee organization, which is paid to the employee organization that is the exclusive bargaining agent for the

bargaining unit of the employee. A collective bargaining service fee shall not exceed 85 percent of the amount payable as dues by members of the employee organization and shall be deducted in the same manner as dues are deducted from the salary or wages of members of the employee organization and shall be used to defray the costs of chargeable activities.

* * *

Sec. 17. 21 V.S.A. § 1726 is amended to read:

§ 1726. UNFAIR LABOR PRACTICES

(a) It shall be an unfair labor practice for an employer:

* * *

~~(8) Nothing in this chapter or any other statute of this state shall preclude a municipal employer from making an agreement with the exclusive bargaining agent to require an agency service fee.~~ A municipal employer and the exclusive bargaining agent may agree to require the agency service fee to be paid as a condition of employment, or to require as a condition of employment membership in such employee organization on or after the 30th day following the beginning of such employment or the effective date of such agreement, whichever is the later. Nothing in this section shall require an employer to discharge an employee in the absence of such an agreement. No A municipal employer shall not discharge or discriminate against any employee for nonpayment of an the agency service fee or for nonmembership in an employee organization:

(A) ~~If~~ if the employer has reasonable grounds for believing that membership was not available to the employee on the same terms and conditions generally applicable to other members; or

(B) ~~If~~ if the employer has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership.

(b) It shall be an unfair labor practice for an employee organization or its agents:

* * *

~~To~~ to require employees covered by ~~an~~ the agency service fee ~~agreement~~ requirement or other union security agreement authorized under subsection (a) of this section to pay an initiation fee which the ~~board~~ Board finds excessive or discriminatory under all the circumstances, including the

practices and customs of employee organizations representing municipal employees; and the wages paid to the employees affected.

* * *

(12) to charge the agency service fee unless the employee organization has established and maintained a procedure to provide nonmembers with all the following:

(A) an audited financial statement that identifies the major categories of expenses and divides them into chargeable and nonchargeable expenses;

(B) an opportunity to object to the amount of the fee requested and to place in escrow any amount reasonably in dispute; and

(C) prompt arbitration by an arbitrator selected jointly by the objecting fee payer and the employee organization or pursuant to the rules of the American Arbitration Association to resolve any objection over the amount of the agency service fee. The costs of arbitration shall be paid by the employee organization.

Sec. 18. 21 V.S.A. § 1734 is amended to read:

§ 1734. MISCELLANEOUS

(a) Municipal employees and exclusive bargaining agents are authorized to negotiate provisions in a collective bargaining agreement calling for:

(1) ~~Payroll~~ payroll deduction of employee organization dues and initiation fees; ~~or an agency service fee;~~

(2) ~~Binding~~ binding arbitration of grievances involving the interpretation or application of a written collective bargaining agreement. The cost of arbitration shall be shared equally by the parties.

* * *

(d) In the absence of an agreement requiring an employee to be a member of the employee organization, an employee choosing not to be a member of the employee organization shall pay the agency service fee in the same manner as employees who choose to join the employee organization pay dues. The employee organization shall indemnify and hold the employer harmless from any and all claims stemming from the implementation or administration of the agency service fee.

Sec. 18a. 21 V.S.A. § 1736 is added to read:

§ 1736. CONTRACT RATIFICATION; ANNUAL VOTE

Annually, the employees of the bargaining unit shall meet and discuss whether employees who have chosen not to join the employee organization shall be allowed to vote on the ratification of any collective bargaining agreement entered into pursuant to this chapter. After discussion, employees that are members of the employee organization shall vote on whether to allow employees who have chosen not to join the employee organization to vote on the ratification of any collective bargaining agreement.

* * * Moderation of Union Dues * * *

Sec. 19. MODERATION OF UNION DUES

An employee organization shall use any increased revenue resulting from the implementation of this act solely for the purpose of moderating its existing membership dues.

Sec. 19a. SCHOOL EMPLOYEES; MERIT PAY; ANALYSIS

(a) The Secretary of Education shall analyze whether and in what ways public education in Vermont would benefit from including merit pay provisions in school employee contracts under 16 V.S.A. chapter 57 and 21 V.S.A. chapter 22. Among other considerations, the Secretary shall examine whether merit pay would improve the quality of education and increase opportunities available to Vermont students.

(b) The Secretary shall consult with members of the House Committee on General, Housing and Military Affairs, the Senate Committee on Economic Development, Housing and General Affairs, and the House and Senate Committees on Education, with stakeholders, and with other interested parties.

(c) On or before January 15, 2014, the Secretary shall submit a report to the committees identified in subsection (b) of this section regarding the analysis, including the factors considered, the results of the analysis, whether merit pay provisions would benefit Vermont students, and recommendations, if any.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

This act shall take effect on June 30, 2013 and apply to employees subject to 3 V.S.A. chapters 27 and 28, 16 V.S.A. chapter 57, and 21 V.S.A. chapters 19 and 22 on the date following the expiration date stated in the collective bargaining agreement, if any, then in effect, but in no event shall an employee be required to pay an agency fee under this act for any period prior to July 1, 2013 unless an existing collective bargaining agreement requires payment of the fee. In the event that no collective bargaining agreement is in effect on June 30, 2013, this act shall take effect on June 30, 2013 and apply to

employees subject to 3 V.S.A. chapters 27 and 28, 16 V.S.A. chapter 57, and 21 V.S.A. chapters 19 and 22 on July 1, 2013.

and that after passage the title of the bill be amended to read: “An act relating to payment of agency fees and collective bargaining service fees”

House Proposal of Amendment

S. 30.

An act relating to siting of electric generation plants.

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

Sec. 1. LEGISLATIVE REVIEW; SITING POLICY COMMISSION REPORT

During adjournment between the 2013 and 2014 sessions of the General Assembly:

(1) The House and Senate Committees on Natural Resources and Energy (the Committees) jointly shall review the report and recommendations of the Governor’s Energy Siting Policy Commission created by Executive Order No. 10-12 dated October 2, 2012; may consider any issue related to electric generation plants, including their development, siting, and operation; and may recommend legislation to the General Assembly concerning electric generation plants.

(2) The Committees shall meet jointly for the purposes of this section no more than six times at the call of the chairs. For attendance at these meetings, members of the Committees shall be entitled to compensation and reimbursement for expenses as provided in 2 V.S.A. § 406.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

ORDERED TO LIE

S. 55.

An act relating to increasing efficiency in state government finance and lending operations.

PENDING ACTION: Second reading of the bill.

S. 165.

An act relating to collective bargaining for deputy state’s attorneys.

PENDING ACTION: Third Reading of the bill.

CONCURRENT RESOLUTIONS FOR NOTICE

S.C.R. 24 (For text of Resolution, see Addendum to Senate Calendar for May 2, 2013)

H.C.R. 123-140 (For text of Resolutions, see Addendum to House Calendar for May 2, 2013)

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.

Patrick Berry of Middlebury – Commissioner, Fish and Wildlife – By Sen. Hartwell for the Committee on Natural Resources and Energy. (3/27/13)

Robert Ide of Peacham – Commissioner, Department of Motor Vehicles – By Sen. Kitchel for the Committee on Transportation. (4/18/13)

Brian Searles of Burlington – Secretary of Transportation – By Sen. Mazza for the Committee on Transportation. (4/19/13)

Keith Flynn of Troy – Commissioner of Public Safety – By Sen. Flory for the Committee on Transportation. (4/23/13)

Cory Richardson of East Montpelier – Member of the Vermont State Housing Authority – By Sen. Cummings for the Committee on Economic Development, Housing and General Affairs. (4/26/13)

Annie Noonan of Montpelier – Commissioner of Labor - By Sen. Doyle for the Committee on Economic Development, Housing and General Affairs. (5/2/13)