House Calendar

Wednesday, March 16, 2016

72nd DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 PM

TABLE OF CONTENTS

Favorable

NOTICE CALENDAR

Committee Bill for Second Reading

Favorable with Amendment

Favorable

ORDERS OF THE DAY

Action Postponed Until March 17, 2016

Committee Bill for Second Reading

H. 851

An act relating to the conduct of forestry operations.

(Rep. Hebert of Vernon will speak for the Committee on **Natural Resources & Energy.)**

ACTION CALENDAR

Third Reading

H. 171

An act relating to restrictions on the use of electronic cigarettes

Amendment to be offered by Rep. Till of Jericho to H. 171

First: By striking out Sec. 1, 7 V.S.A. § 1003(d), in its entirety and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES; TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~18~~ 19 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~18~~ 19 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d)(1) ~~No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel~~ Persons holding a

tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter or in any other area of the establishment that is inaccessible to the public; or

(B) in a locked container that is not located on a sales counter.

(2) This subsection shall not apply to the following:

~~(1)~~(A) ~~A~~ a display of tobacco products that is located in a commercial establishment in which by law no person younger than ~~18~~ 19 years of age is permitted to enter at any time~~.~~;

~~(2)~~(B) ~~Cigarettes~~ cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee~~.~~; or

~~(3)~~(C) ~~Cigars~~ cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

Second: By striking out Sec. 8, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 8. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~18~~ 19 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under ~~18~~ 19 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under ~~18~~ 19 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of $25.00. In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of

the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.

(b) A person under ~~18~~ 19 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than $50.00 or provide up to 10 hours of community service, or both.

Sec. 9. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~18~~ 19 YEARS OF AGE

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~18~~ 19 years of age shall be subject to a civil penalty of not more than $100.00 for the first offense and not more than $500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 10. 4 V.S.A. § 1102(b) is amended to read:

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

* * *

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person ~~less than 18~~ under 19 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~the age of 18~~ 19 years of age.

* * *

Sec. 11. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than ~~18~~ 19 years of age.

Sec. 12. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES; TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~19~~ 20 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~19~~ 20 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d)(1) Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter or in any other area of the establishment that is inaccessible to the public; or

(B) in a locked container that is not located on a sales counter.

(2) This subsection shall not apply to the following:

(A) a display of tobacco products that is located in a commercial establishment in which by law no person younger than ~~19~~ 20 years of age is permitted to enter at any time;

* * *

Sec. 13. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~19~~ 20 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under ~~19~~ 20 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under ~~19~~ 20 years of age shall not misrepresent his or her age to purchase or attempt to

purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of $25.00. In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.

(b) A person under ~~19~~ 20 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than $50.00 or provide up to 10 hours of community service, or both.

Sec. 14. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~19~~ 20 YEARS OF AGE

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~19~~ 20 years of age shall be subject to a civil penalty of not more than $100.00 for the first offense and not more than $500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 15. 4 V.S.A. § 1102(b) is amended to read:

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

* * *

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person under ~~19~~ 20 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~19~~ 20 years of age.

* * *

Sec. 16. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than ~~19~~ 20 years of age.

Sec. 17. 7 V.S.A. § 1003 is amended to read:

§ 1003. SALE OF TOBACCO PRODUCTS; TOBACCO SUBSTITUTES; TOBACCO PARAPHERNALIA; REQUIREMENTS; PROHIBITIONS

(a) A person shall not sell or provide tobacco products, tobacco substitutes, or tobacco paraphernalia to any person younger than ~~20~~ 21 years of age.

(b) Beginning August 28, 1997, vending machines selling tobacco products, tobacco substitutes, or tobacco paraphernalia are prohibited. This subsection shall not apply to a vending machine that is located in a commercial establishment in which by law no person younger than ~~20~~ 21 years of age is permitted to enter at any time. A single vending machine may not be used to sell other commodities in combination with tobacco products, tobacco substitutes, or tobacco paraphernalia. A violation of this subsection shall result in the seizure of the vending machine.

(c) Beginning January 1, 2001, and subject to receiving any necessary exemption from preemption from the U.S. Food and Drug Administration, all vending machines selling tobacco products are prohibited.

(d)(1) Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter or in any other area of the establishment that is inaccessible to the public; or

(B) in a locked container that is not located on a sales counter.

(2) This subsection shall not apply to the following:

(A) a display of tobacco products that is located in a commercial establishment in which by law no person younger than ~~20~~ 21 years of age is permitted to enter at any time;

* * *

Sec. 18. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER ~~20~~ 21 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under ~~20~~ 21 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under ~~20~~ 21 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of $25.00. In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.

(b) A person under ~~20~~ 21 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than $50.00 or provide up to 10 hours of community service, or both.

Sec. 19. 7 V.S.A. § 1007 is amended to read:

§ 1007. FURNISHING TOBACCO TO PERSONS UNDER ~~20~~ 21 YEARS OF AGE

An individual who sells or furnishes tobacco products, tobacco substitutes, or tobacco paraphernalia to a person under ~~19~~ 20 years of age shall be subject

to a civil penalty of not more than $100.00 for the first offense and not more than $500.00 for any subsequent offense. An action under this section shall be brought in the same manner as for a traffic violation pursuant to 23 V.S.A. chapter 24 and shall be brought within 24 hours of the occurrence of the alleged violation.

Sec. 20. 4 V.S.A. § 1102(b) is amended to read:

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

* * *

(4) Violations of 7 V.S.A. § 1005(a), relating to possession of tobacco products by a person under ~~20~~ 21 years of age.

(5) Violations of 7 V.S.A. § 1007, relating to furnishing tobacco products to a person under ~~20~~ 21 years of age.

* * *

Sec. 21. 7 V.S.A. § 667(c) is amended to read:

(c) The provisions of subsection (b) of this section shall not apply to a violation of subsection 1005(a) of this title, relating to purchase of tobacco products by a person less than ~~20~~ 21 years of age.

Sec. 22. EFFECTIVE DATES

(a) Secs. 2–7 (prohibiting use of tobacco substitutes in workplaces and public places) and this section shall take effect on July 1, 2016.

(b) Secs. 1 (7 V.S.A. § 1003) and 8–11 (increasing smoking age to 19) shall take effect on January 1, 2017.

(c) Secs. 12–16 (increasing smoking age to 20) shall take effect on January 1, 2018.

(d) Secs. 17–21 (increasing smoking age to 21) shall take effect on January 1, 2019.

H. 559

An act relating to an exemption from licensure for visiting team physicians

H. 571

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties

Amendment to be offered by Rep. Dame of Essex to H. 571

By adding a new section to be Sec. 19a to read:

Sec. 19a. 23 V.S.A. § 4(82) is amended to read:

(82) "Portable electronic device" means a portable electronic or computing device, including a cellular telephone, personal digital assistant (PDA), or laptop computer. "Portable electronic device" does not include a tobacco substitute as defined in 7 V.S.A. § 1001, a two-way or Citizens Band radio, or equipment used by a licensed Amateur Radio operator in accordance with 47 C.F.R. part 97.

H. 854

An act relating to timber trespass

Committee Bill for Second Reading

H. 860

An act relating to on-farm livestock slaughter.

(Rep. Smith of New Haven will speak for the Committee on **Agriculture & Forest Products.)**

H. 861

An act relating to regulation of treated article pesticides.

(Rep. Zagar of Barnard will speak for the Committee on **Agriculture & Forest Products.)**

H. 862

An act relating to insurance laws.

(Rep. Kitzmiller of Montpelier will speak for the Committee on **Commerce & Economic Development.)**

Favorable with Amendment

H. 74

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

Rep. McCoy of Poultney, for the Committee on **Human Services,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

CHAPTER 82. SAFETY PROVISIONS FOR WORKERS

§ 8201. SAFETY POLICIES FOR SOCIAL AND MENTAL HEALTH WORKERS

(a)(1) The Agency of Human Services and each department of the Agency shall establish and maintain a written workplace violence prevention and crisis

response policy that meets or exceeds the requirements of this chapter in place for the benefit of employees working directly with clients.

(2) The Agency shall ensure that its contracts with providers that directly serve clients and that are administered or designated by a department of the Agency require the providers to establish and maintain a written workplace violence prevention and crisis response policy that meets or exceeds the requirements of this chapter in place for the benefit of employees working directly with clients.

(b) A written workplace violence prevention and crisis response policy prepared with input from employees working directly with clients shall minimally include the following:

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

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

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

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

(c) In preparing the written violence prevention and crisis response policy required by this section, the Agency, each department of the Agency, and providers identified in subdivision (a)(2) of this section shall ensure the policy is consistent with the U.S. Occupational Safety and Health Administration's Guidelines for Preventing Workplace Violence for Healthcare and Social Service Workers or any subsequently adopted federal regulations or State rules governing workplace safety.

(d) A written workplace violence prevention and crisis response policy shall be evaluated annually and updated as necessary by the violence and prevention response committee and provided to employees who work directly with clients.

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

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

§ 7114. SAFETY POLICIES FOR SOCIAL AND MENTAL HEALTH WORKERS

(a) The Agency of Human Services and each department of the Agency shall establish and maintain a workplace violence prevention and crisis response policy for the benefit of employees working directly with clients pursuant to 33 V.S.A. § 8201.

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on January 1, 2017.

(Committee Vote: 9-0-2)

H. 111

An act relating to the removal of grievance decisions from the Vermont Labor Relations Board's website

Rep. Lucke of Hartford, for the Committee on **General, Housing & Military Affairs,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 3 V.S.A. § 928 is amended to read:

§ 928. RULES ~~AND REGULATIONS~~

* * *

(b) Notwithstanding the provisions of subsection (a) of this section, rules ~~and regulations~~ adopted by the Board as they relate to grievance appeals shall provide:

* * *

(7)(A)(i) That the name of any grievant whom the Board exonerates of misconduct for which he or she was disciplined shall be redacted from the version of the Board's decision that is posted on the Board's website.

(ii) Nothing in this subdivision (7)(A) shall be construed to require the Board to redact the name of the grievant from any other version of the Board's decision or from any other documents related to the grievance.

(B) Nothing in this subdivision (7) shall be construed to modify an individual's right to privacy pursuant to any law, rule, or policy.

Sec. 2. GRIEVANT PREVIOUSLY EXONERATED; REDACTION OF NAME FROM BOARD DECISION

(a) On or before January 1, 2017, the Vermont Labor Relations Board shall adopt rules necessary to permit a grievant whom, in a decision issued after December 31, 1994, the Board exonerated of misconduct for which he or she was disciplined to petition the Board to redact his or her name from the version of the Board's decision that is posted on the Board's website.

(b)(1) Nothing in this section shall be construed to require the Board to redact the name of the grievant from any other version of the Board's decision or from any other documents related to the grievance.

(2) Nothing in this section shall be construed to modify an individual's right to privacy pursuant to any law, rule, or policy.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee Vote: 7-0-1)

H. 261

An act relating to criminal record inquiries by an employer

Rep. Head of South Burlington, for the Committee on **General, Housing & Military Affairs,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 495j is added to read:

§ 495j. CRIMINAL HISTORY RECORDS; EMPLOYMENT APPLICATIONS

(a) Except as provided in subsection (b) of this section, an employer shall not request criminal history record information on its initial employee application form. An employer may inquire about a prospective employee's criminal history record during an interview or once the prospective employee has been deemed otherwise qualified for the position.

(b) An employer may inquire about criminal convictions on an initial employee application form if the following conditions are met:

(1)(A) the prospective employee is applying for a position for which any federal or State law or regulation creates a mandatory or presumptive

disqualification based on a conviction for one or more types of criminal offenses; or

(B) the employer or an affiliate of the employer is subject to an obligation imposed by any federal or State law or regulation not to employ individuals, in either one or more positions, who have been convicted of one or more types of criminal offenses; and

(2) the questions on the application form are limited to the types of criminal offenses creating the disqualification or obligation.

(c) If an employer inquires about a prospective employee's criminal history record information, the prospective employee, if still eligible for the position under applicable federal or State law, must be afforded an opportunity to explain the information and the circumstances regarding any convictions, including postconviction rehabilitation.

(d) An employer who violates the provisions of this section shall be assessed a civil penalty of up to $100.00 for each violation.

(e) As used in this section:

(1) "Criminal history record" has the same meaning as set forth in 20 V.S.A. § 2056a.

(2) "Employee" has the same meaning as set forth in section 495d of this chapter.

(3) "Employer" has the same meaning as set forth in section 495d of this chapter.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee Vote: 7-0-1)

H. 531

An act relating to aboveground storage tanks

Rep. Lefebvre of Newark, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1929a is amended to read:

§ 1929a. STANDARDS FOR ABOVEGROUND STORAGE TANKS

(a) ~~No later than~~ On or before December 31, 2011, the ~~secretary~~ Secretary shall adopt rules addressing the design and proper installation of aboveground storage tanks.

(b) After January 1, 2012, no person shall offer for sale, install, or substantially improve an aboveground storage tank that does not meet the standards adopted by the ~~secretary~~ Secretary under subsection (a) of this section.

(c) On or before July 1, 2017, the Secretary shall adopt rules for the inspection of aboveground storage tanks. The rules shall include, at a minimum, the following:

(1) when installation of secondary containment systems for types of aboveground storage tanks is required, the required specifications of the systems, and the process for installation of the systems;

(2) the protocol to be followed and the criteria to be reviewed in the performance of inspections required under this section, including:

(A) the appropriate methods to document the age of tanks installed on or after July 1, 2017;

(B) the frequency of required tank inspections;

(C) requirements for the tagging or marking of tanks and tank fill pipes when tanks are determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary under this section;

(3) an updated checklist to be used in the performance of inspections required under this section or the rules adopted by the Secretary under this section;

(4) training and certification requirements for tank inspectors; and

(5) the protocol to address tanks identified as noncompliant with the inspection criteria established by the rules adopted by the Secretary under this section.

(d) A fuel supplier shall inspect an aboveground storage tank in accordance with the requirements of this chapter and the rules adopted by the Secretary pursuant to subsection (c) of this section.

(e) The Secretary shall maintain a database of tanks that have been determined to be noncompliant with the requirements of this section or the rules adopted by the Secretary pursuant to subsection (c) of this section. The database shall be accessible to the public.

(f) No person shall deliver heating fuel to an aboveground storage tank which has been visibly designated as noncompliant with the requirements of this chapter.

(g) If the owner of an aboveground storage tank in a structure converts the type of fuel used for home heating purposes from fuel oil or kerosene to

natural gas or propane, the owner shall have the aboveground storage tank used to store fuel oil or kerosene and any fill pipes retired from use and removed from the structure at the same time as the conversion. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof.

Sec. 2. 10 V.S.A. § 1941(g) is amended to read:

(g) The owner of a farm or residential heating fuel storage tank used for on-premises heating or an underground or aboveground heating fuel storage tank used for on-premises heating by a mobile home park resident, as defined in section 6201 of this title, who desires assistance to close, replace, or upgrade the tank may apply to the Secretary for such assistance. The financial assistance may be in the form of grants of up to: $2,000.00 or the costs of closure, replacement, or upgrade, whichever is least for an aboveground storage tank located inside a structure; up to $3,000.00 or the costs of closure, replacement, or upgrade, whichever is least for an aboveground storage tank located outside a structure; and up to $4,000.00 or the costs of closure, replacement, or upgrade, whichever is least for an underground storage tank. As used in this subsection, "structure" means any assembly of materials that is intended for occupancy or use by a person and that has at least three walls and a roof. Grants shall be made only to the current property owners, except at mobile home parks where a grant may be awarded to a mobile home park resident. To be eligible to receive the grant, an environmental site assessment must be conducted by a qualified consultant during the tank closure, replacement, or upgrade if the tank is an underground heating fuel storage tank. In addition, if the closed tank is to be replaced with an underground heating fuel storage tank, the replacement tank and piping shall provide a level of environmental protection at least equivalent to that provided by a double wall tank and secondarily contained piping. Grants shall be awarded on a priority basis to projects that will avoid the greatest environmental or health risks. The Secretary shall also give priority to applicants who are replacing their underground heating fuel tanks with aboveground heating fuel storage tanks that will be installed in accordance with the Secretary's recommended standards. The Secretary shall also give priority to lower income applicants. To be eligible to receive the grant, the owner must provide the previous year's financial information, and, if the replacement tank is an aboveground tank, must assure that any work to replace or upgrade a tank shall be done in accordance with industry standards (National Fire Protection Association, or NFPA, Code 31), as it existed on July 1, 2004, until another date or edition is specified by rule of the Secretary. The Secretary shall authorize only up to $400,000.00 in assistance for underground and aboveground heating fuel tanks in any one fiscal year from the Heating Fuel Account for this purpose. The application must be accompanied by the following information:

(1) proof of ownership, including information disclosing all owners of record of the property, except in the case where the applicant is a mobile home park resident;

(2) for farm or residential aboveground heating fuel storage tank owners, a copy of the federal income tax return for the previous year;

(3) identification of the contractor performing any heating fuel storage tank closure, replacement, or upgrade;

(4) an estimated cost of tank closure, replacement, or upgrade;

(5) the amount and type of assistance requested;

(6) a schedule for the work;

(7) description of surrounding area, including location of water supply wells, surface waters, and other sensitive receptors; and

(8) such other information and assurances as the Secretary may require.

Sec. 3. 10 V.S.A. § 8003(a) is amended to read:

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(8) 10 V.S.A. chapter 59, relating to underground storage tanks and aboveground storage tanks;

* * *

Sec. 4. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that 10 V.S.A. § 1929a(d)–(g) (aboveground storage tank inspection, database, delivery, and removal requirements) shall take effect on July 1, 2017.

(Committee Vote: 9-0-0)

H. 560

An act relating to traffic safety

Rep. Jewett of Ripton, for the Committee on **Judiciary,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * DUI; Ignition Interlock Devices * * *

Sec. 1. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(9) "Ignition interlock restricted driver's license" or "ignition interlock RDL" or "RDL" means a restricted license or privilege to operate a motor vehicle issued by the Commissioner allowing a person whose license or privilege to operate has been suspended or revoked for operating under the influence of intoxicating liquor or in excess of legal limits of alcohol concentration, or for refusing an enforcement officer's reasonable request for an evidentiary test, to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, installed with an approved ignition interlock device.

* * *

Sec. 2. 23 V.S.A. § 1213 is amended to read:

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE; PENALTIES

(a) First offense without death or serious bodily injury. A person whose license or privilege to operate is suspended for a first offense under this subchapter that did not result in death or serious bodily injury to another person shall be permitted to operate a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued a valid ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL ~~to a person eligible under section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title upon~~ to a person suspended for a first offense upon receipt of a $125.00 application fee~~, and upon receipt~~ and of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated~~,~~ and of financial responsibility as provided in section 801 of this title~~, and enrollment in an Alcohol and Driving Education Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(1), 1205(a)(2), 1206(a), or 1216(a)(1) of this title~~. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be $125.00.

(b) ~~Second~~ First offense involving death or SBI; second offense. ~~A person~~ Except for an offense under section 1216 of this subchapter or an offense arising solely from being under the influence of a drug other than alcohol, a

person whose license or privilege to operate is suspended for a first offense involving death or serious bodily injury to another or a second offense under this subchapter shall be ~~permitted~~ required to operate ~~a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued~~ under a valid ignition interlock RDL~~. The Commissioner shall issue an ignition interlock RDL to a person eligible under section~~ for the relevant period prescribed in subsection 1205(m), 1206(b), or 1208(a)~~, or 1216(a)(2)~~ of this title prior to being eligible for reinstatement of his or her regular license, unless exempt under subdivision 1209a(a)(4) of this title. A person whose license is suspended under subdivision 1216(a)(2) of this title may elect to obtain an ignition interlock RDL. The Commissioner shall issue an ignition interlock RDL upon receipt of a $125.00 application fee~~,~~ and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated~~,~~ and of financial responsibility as provided in section 801 of this title~~, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(m), 1208(a), or 1216(a)(2) of this title~~. A new ignition interlock RDL shall expire at midnight on the eve of the second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be $125.00.

(c) Third or subsequent offense. ~~A person~~ Except for an offense under section 1216 of this subchapter or an offense arising solely from being under the influence of a drug other than alcohol, a person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter shall be ~~permitted~~ required to operate ~~a motor vehicle, other than a commercial motor vehicle as defined in section 4103 of this title, if issued~~ under a valid ignition interlock RDL for the relevant period prescribed in subsection 1209a(b) of this title prior to being eligible for reinstatement or issuance of a regular license, unless exempt under subdivision 1209a(a)(4) of this title. The Commissioner shall issue an ignition interlock RDL ~~to a person eligible under section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title~~ upon receipt of a $125.00 application fee~~,~~ and upon receipt of satisfactory proof of installation of an approved ignition interlock device in any motor vehicle to be operated~~,~~ and of financial responsibility as provided in section 801 of this title~~, and enrollment in an Alcohol and Driving Rehabilitation Program. The RDL shall be valid after expiration of the applicable shortened period specified in section 1205(a)(3), 1205(m), 1208(b), or 1216(a)(2) of this title~~. A new ignition interlock RDL shall expire at midnight on the eve of the

second birthday of the applicant following the date of issue, and may be renewed for one-year terms. The Commissioner shall send by first class mail an application for renewal of the RDL at least 30 days prior to the day renewal is required and shall impose the same conditions for renewal as are required for initial issuance of an ignition interlock RDL. The renewal fee shall be $125.00.

(d) If a fine is to be imposed for a conviction of a violation of section 1201 of this title, upon receipt of proof of installation of an approved ignition interlock device, the Court may order that the fine of an indigent person conditionally be reduced by one-half to defray the costs of the ignition interlock device, subject to the person's ongoing operation under, and compliance with the terms of, a valid ignition interlock RDL as set forth in this section. In considering whether a person's fine should be reduced under this subsection, the Court shall take into account any discount already provided by the device manufacturer or provider.

* * *

(f)(1) Prior to the issuance of an ignition interlock RDL under this section, the Commissioner shall notify the applicant ~~of the applicable period prior to eligibility for reinstatement under section 1209a or 1216 of this title, and~~ that the reinstatement period under section 1209a or 1216 of this title may be extended under this subsection (f) or subsections (g)–(h) of this section.

* * *

(i) Upon receipt of notice that the holder of an ignition interlock RDL has been ~~adjudicated~~ convicted of an offense under this title that would result in suspension, revocation, or recall of a license or privilege to operate, the Commissioner shall suspend, revoke, or recall the person's ignition interlock RDL for the same period that the license or privilege to operate would have been suspended, revoked, or recalled. The Commissioner may impose a reinstatement fee in accordance with section 675 of this title and require, prior to reinstatement, satisfactory proof of installation of an approved ignition interlock device~~,~~ and of financial responsibility as provided in section 801 of this title~~, and enrollment in or completion of an alcohol and driving education or rehabilitation program~~.

* * *

(l)(1) The Commissioner, in consultation with any individuals or entities the Commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section. The Commissioner shall not approve a manufacturer of ignition interlock devices as a provider in this State unless the manufacturer agrees to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who

furnish proof of receipt of Three Squares, Heating Assistance, or Reach Up benefits.

* * *

Sec. 3. 23 V.S.A. § 1209a is amended to read:

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

(a) Conditions of reinstatement. ~~No~~ A license or privilege to operate suspended or revoked under this subchapter, except a license suspended under section 1216 of this title, shall be reinstated ~~except~~ as follows:

(1) In the case of a first suspension, a license shall be reinstated only:

* * *

(C) ~~if the person elects to operate under an ignition interlock RDL, after:~~

~~(i) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of six months (~~

(i) after the end of the relevant suspension period specified in subsection 1205(a) or 1206(a) of this title or, if the person elects to operate under an ignition interlock RDL, after operating under the ignition interlock RDL for a period equivalent to the relevant suspension period specified in subsection 1205(a) or 1206(a) of this title plus any extension of this period arising from a violation of section 1213 of this title~~) in all other cases~~; or

(ii) in the case of a first suspension arising from an offense that resulted in serious bodily injury to or death of another person, after the person operates under an ignition interlock RDL for a period equivalent to the relevant suspension period specified in subsection 1206(b) of this title; and

(D) if the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(2) In the case of a second suspension, a license shall not be reinstated until:

* * *

(C) ~~if the person elects to operate~~ after the person operates under an ignition interlock RDL~~, after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (~~ for a period equivalent to the relevant suspension period specified in subsection 1205(m) or 1208(a) of this title, plus any extension of this period arising from a violation of section 1213 of this title~~) in all other cases~~, except that this requirement shall not apply if the underlying offense arose solely from being under the influence of a drug other than alcohol; and

(D) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(3) In the case of a third or subsequent suspension or a revocation, a license shall not be reinstated until:

(A) the person has successfully completed an alcohol and driving rehabilitation program;

(B) the person has completed or shown substantial progress in completing a therapy program at the person's own expense agreed to by the person and the Driver Rehabilitation Program Director;

(C) the person has satisfied the requirements of subsection (b) of this section; and

(D) ~~if the person elects to operate under an ignition interlock RDL, after:~~

~~(i) a period of four years (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of three years (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; and~~

~~(E)~~ the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter.

(4) The Commissioner shall waive a requirement to operate under an ignition interlock RDL prior to eligibility for reinstatement if the person furnishes sufficient proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for the term of the suspension or, in the case of suspensions or revocations for life, for a period of at least three years.

(b) Abstinence.

(1) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or drugs, or both. The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of $500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

(2) If the Commissioner, or a medical review board convened by the Commissioner, is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application and hearing, has successfully completed a therapy program as required under this section, has operated under a valid ignition interlock RDL for at least three years following the suspension or revocation or, in the case of a suspension or revocation involving a refusal, for at least four years following the suspension or revocation, and the person appreciates that he or she cannot drink any amount of alcohol and drive safely, the person's license shall be reinstated immediately, subject to the condition that the person's suspension or revocation will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose ~~and, if the person has not previously operated for three years under an ignition interlock RDL, subject to the additional condition that the person shall operate under an ignition interlock restricted driver's license for a period of at least one year following reinstatement under this subsection. However, the Commissioner may waive this one-year requirement to operate under an ignition interlock restricted driver's license if the person furnishes proof as prescribed by the Commissioner that he or she is incapable of using an ignition interlock device because of a medical condition that will persist permanently or at least for one year~~. The requirement to operate under an ignition interlock RDL shall not apply if the person is exempt under subdivision (a)(4) of this section or if all of the offenses that triggered the lifetime suspension or revocation arose solely from being under the influence of a drug other than alcohol.

(3) If after notice and hearing the Commissioner later finds that the person was violating the conditions of the person's reinstatement under this subsection, the person's operating license or privilege to operate shall be immediately suspended or revoked for ~~the period of the original suspension~~ life.

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

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

(6)(A) If an applicant for reinstatement under this subsection resides in a jurisdiction other than Vermont, the Commissioner may elect not to conduct an investigation. If the Commissioner elects not to conduct an investigation, he or she shall provide a letter to the applicant's jurisdiction of residence stating that Vermont does not object to the jurisdiction issuing the applicant a license if the applicant is ~~authorized~~ required to operate only vehicles equipped with an ignition interlock device for at least a three-year period and is required to complete any alcohol rehabilitation or treatment requirements of the licensing jurisdiction.

(B) If the applicant's jurisdiction of residence is prepared to issue or has issued a license in accordance with subdivision (A) of this subdivision (6) and the applicant satisfies the requirements of section 675 of this title, the Commissioner shall update relevant State and federal databases to reflect that the applicant's lifetime suspension or revocation in Vermont under chapter 13, subchapter 13 of this title has terminated.

* * *

Sec. 4. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

(a) Refusal; alcohol concentration above legal limits; suspension periods.

(1) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person refused to submit to a test, the Commissioner shall suspend the person's operating license~~,~~ or nonresident operating privilege~~,~~ or the privilege of an unlicensed operator to operate a vehicle for a period of ~~six~~ nine months and until the person complies with section 1209a of this title. However, ~~a~~ during this period, the person may operate under the

terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 30 days of this six-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~.

(2) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was above a limit specified in subsection 1201(a) of this title, at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license~~,~~ or nonresident operating privilege~~,~~ or the privilege of an unlicensed operator to operate a vehicle for a period of ~~90 days~~ six months and until the person complies with section 1209a of this title. However, ~~a~~ during this period, the person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 30 days of this 90-day period unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~.

(3) Upon affidavit of a law enforcement officer that the officer had reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of subdivision 1201(d)(2) of this title and that the person submitted to a test and the test results indicated that the person's alcohol concentration was 0.02 or more at the time of operating, attempting to operate, or being in actual physical control, the Commissioner shall suspend the person's operating license~~,~~ or nonresident operating privilege~~,~~ or the privilege of an unlicensed operator to operate a vehicle for life. However, during the suspension, a person may ~~operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of this lifetime suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~ operate a motor vehicle under the terms of an ignition interlock RDL issued under section 1213 of this title.

* * *

(m) Second and subsequent suspensions. For a second suspension under this subchapter, the period of suspension shall be 18 months and until the person complies with section 1209a of this title or, in the case of a suspension following refusal of an enforcement officer's reasonable request for an evidentiary test, the period of suspension shall be two years and until the person complies with section 1209a of this title. However, ~~a~~ the person may operate a motor vehicle during this period under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 90 days of this 18-month period unless the alleged offense involved a collision resulting in~~

~~serious bodily injury or death to another~~. For a third or subsequent suspension under this subchapter, the period of suspension shall be life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime suspension ~~unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~, the person may operate a motor vehicle under the terms of an ignition interlock RDL issued under section 1213 of this title.

* * *

Sec. 5. 23 V.S.A. § 1206 is amended to read:

§ 1206. SUSPENSION OF LICENSE FOR DRIVING WHILE UNDER INFLUENCE; FIRST CONVICTIONS

(a) First conviction–generally. Except as otherwise provided, upon conviction of a person for violating a provision of section 1201 of this title, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license~~,~~ or nonresident operating privilege~~,~~ or the privilege of an unlicensed operator to operate a vehicle for a period of ~~90 days~~ six months and until the defendant complies with section 1209a of this title or, in the case of a conviction following refusal of an enforcement officer's reasonable request for an evidentiary test, the period of suspension shall be nine months and until the person complies with section 1209a of this title. ~~However, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after 30 days of this 90-day period unless the offense involved a collision resulting in serious bodily injury or death to another.~~

(b) Extended suspension–fatality or serious bodily injury. In cases resulting in a fatality or a serious bodily injury to a person other than the defendant, the period of suspension shall be one year and until the defendant complies with section 1209a of this title.

(c) ~~Extended suspension–refusal; serious bodily injury. Upon conviction of a person for violating a provision of subsection 1201(c) of this title involving a collision in which serious bodily injury resulted, or upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for a period of six months, and until the defendant complies with section 1209a of this title.~~ During a suspension under this section, the defendant may operate a motor vehicle under the terms of an ignition interlock RDL issued under section 1213 of this title.

Sec. 6. 23 V.S.A. § 1202(d) is amended to read:

(d) At the time a test is requested, the person shall be informed of the following statutory information:

(1) Vermont law authorizes a law enforcement officer to request a test to determine whether the person is under the influence of alcohol or other drug.

(2) If the officer's request is reasonable and testing is refused, the person's license or privilege to operate will be suspended for at least ~~six~~ nine months.

(3) If a test is taken and the results indicate that the person is under the influence of alcohol or other drug, the person will be subject to criminal charges and the person's license or privilege to operate will be suspended for at least ~~90 days~~ six months.

* * *

Sec. 7. 23 V.S.A. § 1208 is amended to read:

§ 1208. SUSPENSIONS FOR SUBSEQUENT CONVICTIONS

(a) Second conviction. Upon a second conviction of a person violating a provision of section 1201 of this title and upon final determination of an appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately suspend the person's operating license~~,~~ or nonresident operating privilege or the privilege of an unlicensed operator to operate a vehicle for 18 months and until the defendant complies with section 1209a of this title or, in the case of a conviction following refusal of an enforcement officer's reasonable request for an evidentiary test, for a period of two years and until the person complies with section 1209a of this title. However, ~~a~~ during the suspension period, the person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 90 days of this 18-month period unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~.

(b) Third conviction. Upon a third or subsequent conviction of a person violating a provision of section 1201 of this title and upon final determination of any appeal, the Court shall forward the conviction report forthwith to the Commissioner of Motor Vehicles. The Commissioner shall immediately revoke the person's operating license~~,~~ or nonresident operating privilege or the privilege of an unlicensed operator to operate a motor vehicle for life. However, ~~a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title after one year of~~ during this lifetime ~~suspension unless the alleged offense involved a collision resulting in serious bodily injury or death to another~~ revocation, the person may operate a

motor vehicle under the terms of an ignition interlock RDL issued under section 1213 of this title.

Sec. 8. 23 V.S.A. § 1216 is amended to read:

§ 1216. PERSONS UNDER 21; ALCOHOL CONCENTRATION OF 0.02 OR MORE

(a) A person under the age of 21 who operates, attempts to operate, or is in actual physical control of a vehicle on a highway when the person's alcohol concentration is 0.02 or more, commits a civil traffic violation subject to the jurisdiction of the Judicial Bureau and subject to the following sanctions:

(1) For a first violation, the person's license or privilege to operate shall be suspended for six months and until the person complies with subdivision 1209a(a)(1) of this title or, in the case of a refusal of an enforcement officer's reasonable request for an evidentiary test, for a period of nine months and until the person complies with section 1209a of this title. However, during this period, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 30 days of this six-month period unless the offense involved a collision resulting in serious bodily injury or death to another~~.

(2)(A) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person complies with subdivision 1209a(a)(2) of this title and for the longer of the following periods:

(i) until the person reaches ~~the age of~~ 21 years of age; or ~~for~~

(ii) one year~~, whichever is longer, and complies with subdivision 1209a(a)(2) of this title~~ or, in the case of a refusal of an enforcement officer's reasonable request for an evidentiary test, for 15 months.

(B) However, during the suspension period, a person may operate under the terms of an ignition interlock RDL issued pursuant to section 1213 of this title ~~after 90 days of the applicable suspension period unless the offense involved a collision resulting in serious bodily injury or death to another~~.

(b) A person's license or privilege to operate that has been suspended under this section shall not be reinstated until:

(1) the Commissioner has received satisfactory evidence that the person has complied with ~~section 1209a of this title and~~ an Alcohol and Driving Education Program approved by the Commissioner of Health and a therapy program if required, and that the provider of ~~the~~ a required therapy program has been paid in full;

(2) the person has no pending criminal charges, civil citations, or unpaid fines or penalties for a violation under this chapter; and

(3)~~(A) for a first offense, after:~~

~~(i) a period of one year (plus any extension of this period arising from a violation of section 1213 of this title) if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of nine months (plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; or~~

~~(B) for persons operating under an ignition interlock RDL for a second or subsequent offense, after:~~

~~(i) a period of two years (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, if the person's license or privilege to operate is suspended after a refusal to consent to a law enforcement officer's reasonable request for an evidentiary test; or~~

~~(ii) a period of 18 months (plus any extension of this period arising from a violation of section 1213 of this title) or until the person is 21, whichever is longer, in all other cases~~ after the end of the relevant suspension period specified in subsection (a) of this section or, if the person elects to operate under an ignition interlock RDL, after operating under the ignition interlock RDL for a period equivalent to the relevant suspension period specified in subsection (a) of this section plus any extension of this period arising from a violation of section 1213 of this title.

* * *

* * * DUI; Civil Suspensions * * *

Sec. 9. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(f) Review by Superior Court. Within seven days following receipt of a notice of intention to suspend and of suspension, a ~~person~~ defendant may ~~make a~~ request ~~for~~ a hearing before the Superior Court by mailing or delivering the form provided with the notice. The request shall be mailed or delivered to the Commissioner of Motor Vehicles, who shall then notify the Criminal Division of the Superior Court that a hearing has been requested and provide the State's Attorney with a copy of the notice.

(g) Preliminary hearing. The preliminary hearing shall be held within 21 days of the alleged offense. Unless impracticable or continued for good cause shown, the date of the preliminary hearing shall be the same as the date of the first appearance in any criminal case resulting from the same incident for

which the person received a citation to appear in court. The preliminary hearing shall be held in accordance with procedures prescribed by the Supreme Court. At or before the preliminary hearing, the judicial officer shall determine whether the affidavit or affidavits filed by the State provide a sufficient factual basis under subsection (a) of this section for the civil suspension matter to proceed. At the preliminary hearing, if the defendant requests a hearing on the merits, the court shall set the date of the final hearing in accordance with subsection (h) of this section.

(h) Final hearing.

(1) If the defendant requests a hearing on the merits, the ~~Court shall schedule a final hearing on the merits to~~ hearing shall be held ~~within~~ no later than 21 days ~~of~~ following the date of the preliminary hearing~~. In no event may a final hearing occur more than 42 days after the date of the alleged offense without the consent of the defendant or for good cause shown. The final hearing may only be continued by~~ except if this period is extended with the consent of the defendant or for good cause shown. The issues at the final hearing shall be limited to the following specifically enumerated issues:

(A) Whether the law enforcement officer had reasonable grounds to believe the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(B) Whether at the time of the request for the evidentiary test the officer informed the person of the person's rights and the consequences of taking and refusing the test substantially as set out in subsection 1202(d) of this title.

(C) Whether the person refused to permit the test.

(D) Whether the test was taken and the test results indicated that the person's alcohol concentration was above a legal limit specified in subsection 1201(a) or (d) of this title, at the time of operating, attempting to operate, or being in actual physical control of a vehicle in violation of section 1201 of this title, whether the testing methods used were valid and reliable, and whether the test results were accurate and accurately evaluated. Evidence that the test was taken and evaluated in compliance with rules adopted by the Department of Public Safety shall be prima facie evidence that the testing methods used were valid and reliable and that the test results are accurate and were accurately evaluated.

(E) Whether the requirements of section 1202 of this title were complied with.

(2) No less than seven days before the final hearing, and subject to the requirements of Vermont Rule of Civil Procedure 11, the defendant shall

provide to the State and file with the Court ~~a list of the issues (limited to the issues set forth in this subsection) that the defendant intends to raise~~ an answer to the notice of intent to suspend setting forth the issues raised by the defendant, limited to the issues set forth in this subsection, and a brief statement of the facts and law upon which the defendant intends to rely at the final hearing. Only evidence that is relevant to an issue listed by the defendant may be raised by the defendant at the final hearing. The defendant shall not be permitted to raise any other evidence at the final hearing, and all other evidence shall be inadmissible.

* * *

(n) Presumption. In a proceeding under this section~~,~~:

(1) if at any time within two hours of operating, attempting to operate, or being in actual physical control of a vehicle a person had an alcohol concentration ~~of~~ at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control;

(2) if a person operates, attempts to operate, or is in actual physical control of a vehicle in the presence of a law enforcement officer and is taken into custody in connection with such operation, attempted operation, or actual physical control, and while in the continuous custody of the officer at any time had an alcohol concentration at or above a legal limit specified in subsection 1201(a) or (d) of this title, it shall be a rebuttable presumption that the person's alcohol concentration was above the applicable limit at the time of operating, attempting to operate, or being in actual physical control.

* * *

(u) In any proceeding under this section~~,~~:

(1) for cause shown, a party's chemist may be allowed to testify by telephone in lieu of a personal appearance;

(2) a party's chemist shall be allowed to testify by videoconference in lieu of a personal appearance, provided that videoconferencing shall be at the party's own expense and by the party's own arrangement.

Sec. 10. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating, attempting to operate or in actual physical control of a vehicle on a highway, the person's alcohol concentration shall give rise to the following permissive inferences:

* * *

(3) If the person's alcohol concentration at any time within two hours of the alleged offense was ~~0.10 or more,~~ at or above the applicable legal limit specified in subsection 1201(a) or (d) of this title, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(b) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor, nor shall they be construed as requiring that evidence of the amount of alcohol in the person's blood, breath, urine, or saliva must be presented.

* * * DUI Penalties * * *

Sec. 11. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

* * *

(b) First offense. A person who violates section 1201 of this title may be fined not more than ~~$750.00,~~ $1,000.00 or imprisoned for not more than two years, or both.

(c) Second offense. A person convicted of violating section 1201 of this title who has been convicted of another violation of that section shall be fined not more than ~~$1,500.00~~ $2,000.00 or imprisoned not more than two years, or both. At least 200 hours of community service shall be performed, or 60 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.

(d) Third offense. A person convicted of violating section 1201 of this title who has previously been convicted two times of a violation of that section shall be fined not more than ~~$2,500.00~~ $3,000.00 or imprisoned not more than five years, or both. At least 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The Court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the Court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three ~~or more~~ times of a violation of that section shall be fined not more than ~~$5,000.00~~ $4,000.00 for a fourth offense or imprisoned not more than 10 years, or both. A person convicted of violating section 1201 of this title who has previously been convicted four or more times of a violation of that section shall be fined not more than the sum of $5,000.00 plus an additional $1,000.00 for each prior conviction that exceeds four priors or imprisoned not more than 10 years, or both. At least 192 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility pursuant to sentence if the program is successfully completed. The Court shall not impose a sentence that does not include a term of imprisonment unless the Court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

* * *

* * * Alcohol Screening Devices * * *

Sec. 12. 7 V.S.A. § 501 is amended to read:

§ 501. UNLAWFUL SALE OF INTOXICATING LIQUORS; CIVIL ACTION FOR DAMAGES

* * *

(e) Evidence. In an action brought under this section, evidence of responsible actions taken or not taken is admissible, if otherwise relevant. Responsible actions may include, but are not limited to, instruction of servers as to laws governing the sale of alcoholic beverages, training of servers regarding intervention techniques, admonishment to patrons or guests concerning laws regarding the consumption of intoxicating liquor, making available an alcohol screening device, and inquiry under the methods provided by law as to the age or degree of intoxication of the persons involved.

* * *

* * * Alcohol Screening Devices; Study * * *

Sec. 13. ALCOHOL SCREENING DEVICES; STUDY

The Commissioner of Liquor Control or designee, in consultation with the Commissioner of Health or designee, shall study whether and how the State should promote the availability and use of alcohol screening devices in the State, and whether making such devices available on the premises of liquor licensees and to individuals will promote public safety. On or before

January 15, 2017, the Commissioner shall submit a written report of his or her findings and any proposed recommendations for legislation to the House and Senate Committees on Judiciary, the House Committee on General, Housing and Military Affairs, and the Senate Committee on Economic Development, Housing and General Affairs.

* * * Serious Bodily Injury; Definition * * *

Sec. 14. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(84) "Serious bodily injury" has the meaning set forth in 13 V.S.A. § 1021.

* * * Negligent Operation of a Motor Vehicle; Penalties * * *

Sec. 15. 23 V.S.A. § 1091 is amended to read:

§ 1091. NEGLIGENT OPERATION; GROSSLY NEGLIGENT OPERATION

(a) Negligent operation.

(1) A person who operates a motor vehicle on a public highway in a negligent manner shall be guilty of negligent operation.

(2) The standard for a conviction for negligent operation in violation of this subsection shall be ordinary negligence, examining whether the person breached a duty to exercise ordinary care.

(3) A person who violates this subsection shall be imprisoned not more than one year or fined not more than $1,000.00, or both. If the person has been previously convicted of a violation of this subsection, the person shall be imprisoned not more than two years or fined not more than $3,000.00, or both. If serious bodily injury to or death of any person other than the operator results, the operator shall be subject to imprisonment for not more than two years or to a fine of not more than $3,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

(b) Grossly negligent operation.

(1) A person who operates a motor vehicle on a public highway in a grossly negligent manner shall be guilty of grossly negligent operation.

(2) The standard for a conviction for grossly negligent operation in violation of this subsection shall be gross negligence, examining whether the person engaged in conduct which involved a gross deviation from the care that a reasonable person would have exercised in that situation.

(3) A person who violates this subsection shall be imprisoned not more than two years or fined not more than $5,000.00, or both. If the person has previously been convicted of a violation of this section, the person shall be imprisoned not more than four years or fined not more than $10,000.00, or both. If serious bodily injury ~~as defined in 13 V.S.A. § 1021~~ to or death of any person other than the operator results, the ~~person~~ operator shall be imprisoned for not more than 15 years or fined not more than $15,000.00, or both. If serious bodily injury or death results to more than one person other than the operator, the operator may be convicted of a separate violation of this subdivision for each decedent or person injured.

(c) The provisions of this section do not limit or restrict the prosecution for manslaughter.

* * *

* * * Passing Vulnerable Users; Violations * * *

Sec. 16. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

* * *

(c) If serious bodily injury to or death of any person other than the operator results from the operator's violation of subsection (b) of this section, the operator shall be subject to imprisonment for not more than two years or a fine of not more than $3,000.00, or both. The provisions of this section do not limit prosecution under section 1091 of this chapter or for any other crime.

* * * Effective Date; Transition Provision * * *

Sec. 17. EFFECTIVE DATE AND APPLICABILITY TO PENDING DUI MATTERS

(a) This act shall take effect on July 1, 2016.

(b) The requirement to operate under an ignition interlock RDL as a condition for eligibility for reinstatement for first DUI offenses involving death or serious bodily and for second or subsequent DUI offenses, created under Secs. 2 and 3, amending 23 V.S.A. §§ 1213(b), 1213(c), and 1209a, shall apply only in connection with a first DUI offense involving death or serious bodily

injury or a second or subsequent DUI offense that occurs on or after the effective date of this act.

(Committee Vote: 10-0-1)

H. 595

An act relating to potable water supplies from surface waters

Rep. Krebs of South Hero, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1978(a) is amended to read:

(a) The Secretary shall adopt rules, in accordance with 3 V.S.A. chapter 25, necessary for the administration of this chapter. These rules shall include the following:

* * *

(15) Provisions authorizing the use by a residential dwelling of surface water as a source of a potable water supply permitted under this chapter.

Sec. 2. 10 V.S.A. § 1981 is added to read:

§ 1981. SURFACE WATER SOURCE; POTABLE WATER SUPPLY

The Secretary shall approve the use of a surface water as the source of a potable water supply under this chapter if the following conditions are satisfied:

(1) the building or structure using the surface water as a source is a single-family residence occupied by the owner of record;

(2) only one single-family residence shall be served by a potable water supply using a surface water as a source;

(3) a single-family residence with a potable water supply using a surface water as a source shall not be used as the site of a home occupation that employs persons other than family members and is visited by the public in a manner or duration that would presume the need for use of a potable water supply;

(4) a professional engineer shall design the potable water supply using a surface water as a source, including a treatment system for the surface water;

(5) only surface waters that meet criteria adopted by the Secretary by rule are eligible as the source of a potable water supply permitted under this chapter; and

(6) the applicant or permit holder complies with the other relevant rules adopted under section 1978 of this chapter.

Sec. 3. SURFACE WATER SOURCE; RULEMAKING

The Secretary shall adopt rules to implement 10 V.S.A. § 1981 on or before July 1, 2017.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-1-0)

H. 623

An act relating to compassionate release and parole eligibility

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

Sec. 1. 28 V.S.A. § 501 is amended to read:

§ 501. ELIGIBILITY FOR PAROLE CONSIDERATION

(a) An inmate who is serving a sentence of imprisonment shall be eligible for parole ~~consideration~~ as follows:

(1) If the inmate's sentence has no minimum term or a zero minimum term, the inmate shall be eligible for parole consideration within 12 months after commitment to a correctional facility.

(2) If the inmate's sentence has a minimum term, the inmate shall be eligible for parole consideration after the inmate has served the minimum term of the sentence.

(3) Notwithstanding subsection 502a(a) of this title, if the inmate is 55 years of age or older but under 65 years of age, and has served ten years but not served the minimum of the sentence, the inmate shall be eligible for parole consideration, unless the inmate has programming requirements that have not been fulfilled.

(4) Notwithstanding subsection 502a(a) of this title, if the inmate is 65 years of age or older, and has served five years but not served the minimum of the sentence, the inmate shall be eligible for parole consideration, unless the inmate has programming requirements that have not been fulfilled.

Sec. 2. 28 V.S.A. § 502a is amended to read:

§ 502a. RELEASE ON PAROLE

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

(b) An inmate shall be released on parole by the written order of the Parole Board if the Board determines:

(1) the inmate is eligible for parole;

(2) there is a reasonable probability that the inmate can be released without detriment to the community or to the inmate; and

(3) the inmate is willing and capable of fulfilling the obligations of a law-abiding citizen.

(c) A parole shall be ordered only for the best interest of the community and of the inmate, and shall not be regarded as an award of clemency, a reduction of sentence, or a conditional pardon.

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

and that after passage the title of the bill be amended to read: "An act relating to parole eligibility"

(Committee Vote: 11-0-0)

H. 690

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

Rep. Bancroft of Westford, for the Committee on **Health Care,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 26 V.S.A. § 3402 is amended to read:

§ 3402. PROHIBITIONS; OFFENSES; EXEMPTIONS

(a) Except as provided in section 3412 of this title, ~~no~~ a person shall not practice acupuncture unless he or she is licensed in accordance with the provisions of this chapter.

(b)(1) ~~No~~ A person shall not use in connection with the person's name any letters, words, or insignia indicating or implying that the person is an acupuncturist unless the person is licensed in accordance with this chapter.

(2) The only title a licensed acupuncturist may use in reference to that license is "licensed acupuncturist" or its abbreviation, as "Lic. Ac."

(c) A person who violates any of the provisions of subsection (a) or (b) of this section shall be subject to the penalties provided in 3 V.S.A. § 127~~(c)~~.

(d) Nothing in subsection (a) of this section shall prevent a student from performing acupuncture under the supervision of a competent licensed acupuncturist instructor:

(1) within a school or a college or an acupuncture department of a college or university that is licensed by the Vermont Agency of Education or certified by the Accreditation Commission for Acupuncture and Oriental Medicine; ~~or~~

(2) as a student in a Director-approved apprenticeship; or

(3) as an intern in any hospital.

(e) Nothing in subsection (a) of this section shall prevent a person who is licensed or certified as an acupuncturist in another state or Canadian province from practicing acupuncture for no more than five days in a calendar year as part of a health care professional educational seminar or program in Vermont, if the educational seminar or program is directly supervised by a Vermont-licensed health care professional whose scope of practice includes acupuncture.

(f) The provisions of this chapter shall not apply to the following persons acting within the scope of his or her professional practice:

(1) a person licensed to practice medicine under chapter 23 of this title;

(2) a person licensed to practice osteopathic medicine under chapter 33 of this title; or

(3) a person licensed as a physician assistant under chapter 31 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants"

(Committee Vote: 10-0-1)

H. 743

An act relating to fair and impartial policing

Rep. Burditt of West Rutland, for the Committee on **Judiciary,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(e)(1) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy, adopted pursuant to subdivision 2366(a) of this title.

(2) On or before December 31, 2018, law enforcement officers shall receive a minimum of four hours of training as required by this subsection and shall receive a refresher course every two years in a program approved by the Vermont Criminal Justice Training Council in order to remain certified.

(3) A list of officers who have completed the fair and impartial policing training and the dates of the completion shall be public and posted on the Vermont Criminal Justice Training Council's website.

Sec. 2. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION

(a)~~(1) Except as provided in subdivision (2) of this subsection, on or before September 1, 2014, every State, local, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy. The policy shall contain substantially the same elements of either the current Vermont State Police fair and impartial policing policy or the most current model policy issued by the Office of the Attorney General.~~

~~(2)~~ On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall ~~adopt~~ create a model fair and impartial policing policy. On or before July 1, 2016, every State, ~~local,~~ county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy that includes, at a minimum, the elements of the Criminal Justice Training Council model policy.

(b) If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before ~~September 1, 2014~~ July 1, 2016, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the ~~Office of the Attorney General~~ Criminal Justice Training Council.

(c) On or before September 15, 2014, and annually thereafter as part of their annual training report to the Council, every State, ~~local,~~ county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall report to the Council whether the agency or officer has adopted a fair and impartial policing policy in accordance with subsections (a) and (b) of this section ~~and which policy has been adopted~~. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, if current officers have received training on fair and impartial policing as required by 20 V.S.A. § 2358(e).

(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary which departments and officers have adopted a fair and impartial policing policy, ~~which policy has been adopted,~~ and whether officers have received training on fair and impartial policing.

(e)(1) On or before September 1, 2014, every State, ~~local,~~ county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

(A) the age, gender, and race of the driver;

(B) the reason for the stop;

(C) the type of search conducted, if any;

(D) the evidence located, if any; and

(E) the outcome of the stop, including whether:

(i) a written warning was issued;

(ii) a citation for a civil violation was issued;

(iii) a citation or arrest for a misdemeanor or a felony occurred; or

(iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Criminal Justice Training Council and the Crime Research Group of Vermont with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to the Crime Research Group of Vermont or, in the event the Crime Research Group of Vermont is unable to continue receiving data under this section, to the Criminal Justice Training Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving agency,

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency's website.

(5) On or before April 1, 2017, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary on the departments and officers that have and have not provided the data required by subdivision (3) of this subsection. The list of officers, agencies, or departments that have and have not provided the data in accordance with subdivision (3) of this subsection shall be public.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-1)

H. 769

An act relating to strategies to reduce the incarcerated population

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

Sec. 1. 28 V.S.A. § 105 is amended to read:

§ 105. CASELOAD CAPACITY

(a) Corrections officers designated to work exclusively with offenders in the community who are 21 years of age ~~and~~ or younger shall have caseloads of no more than 25 youths.

(b) The department shall review the severity of offenses and assess the risk to reoffend of all offenders older than 21 years of age under its jurisdiction in the community and assign one of the following levels of supervision to each offender:

(1) Risk management supervision, which shall mean supervision at a level of intensity that includes case planning and measures to reduce risk of reoffense.

(2) Response supervision, which shall mean monitoring of the offender's compliance with conditions of probation or parole, including staff responding to violation behavior, and, as appropriate, use of the automated monitoring system.

~~(3) Administrative supervision, which shall mean monitoring of the offender's address and compliance with the law.~~

* * *

(d) The ~~department~~ Department shall establish the following caseload ranges for offender profiles:

(1) All ~~listed~~ offenders ~~requiring~~ serving a sentence for a listed crime as defined in 13 V.S.A. § 5301 who require risk management shall be supervised at no more than 45 offenders per corrections officer.

(2) All nonlisted offenders requiring risk management shall be supervised at no more than 60 offenders per corrections officer.

(3) All offenders requiring response supervision ~~shall~~ may be supervised ~~at no more than 150 offenders per corrections officer.~~

~~(4) All offenders requiring administrative supervision may be supervised~~ on caseloads consistent with the capacity of automated ~~status reporting~~ monitoring systems as established by the ~~department~~ Department.

~~(5)~~(4) When there is a mixed profile caseload in which a single corrections officer supervises offenders with different supervision levels and at least one-third of the offenders require a more intensive supervision demand than the other offenders, the caseload shall be supervised at the lowest level of offender-to-staff ratio.

Sec. 2. 28 V.S.A. § 205 is amended to read:

§ 205. PROBATION

(a)(1) After passing sentence, a court may suspend all or part of the sentence and place the person so sentenced in the care and custody of the Commissioner upon such conditions and for such time as it may prescribe in accordance with law or until further order of court.

(2) The term of probation for misdemeanors shall be for a specific term not to exceed two years unless the Court, in its sole discretion, specifically finds that the interests of justice require a longer or an indefinite period of probation.

(3)(A) The term of probation for nonviolent felonies shall not exceed four years or the statutory maximum term of imprisonment for the offense, whichever is less, unless the Court, in its sole discretion, specifically finds that the interests of justice require a longer or an indefinite period of probation.

(B) As used in this subdivision, "nonviolent felonies" means an offense which is not:

(i) a listed crime as defined in 13 V.S.A. § 5301(7); or

(ii) an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(4) Nothing in this subsection shall prevent the Court from terminating the period of probation and discharging a person pursuant to section 251 of this title.

(5) The probation officer of a person on probation for a specific term shall review the person's case file during probation and, not less than 45 days prior to the expiration of the probation term, may file a petition with the Court requesting the Court to extend the period of probation for a specific term not to exceed one year in order to provide the person the opportunity to complete programming consistent with special conditions of probation. A hearing on the petition for an extension of probation under this subsection shall comply with the procedures set forth in Rule 32.1 of the Vermont Rules of Criminal Procedure.

(b) The victim of a listed crime as defined in 13 V.S.A. § 5301(7) for which the offender has been placed on probation shall have the right to request, and receive from the Department ~~of Corrections~~ information regarding the offender's general compliance with the specific conditions of probation. Nothing in this section shall require the Department ~~of Corrections~~ to disclose any confidential information revealed by the offender in connection with participation in a treatment program.

(c)(1) Unless the Court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the Court orders a specific term of probation for a qualifying offense, the offender shall

be placed on administrative probation~~, which means that the only conditions of~~ . After sentencing, the Department may supervise a nonviolent misdemeanor offender on administrative probation, provided that the offender poses a low risk of reoffense and such placement would not compromise victim or public safety. The only conditions of administrative probation shall be that the probationer:

(A) register with the Department of Corrections' probation and parole office in his or her district;

(B) notify the probation officer of his or her current address each month;

(C) within 72 hours, notify the Department of Corrections if probable cause is found for a criminal offense during the term of probation; and

(D) not be convicted of a criminal offense during the term of probation.

(2) As used in this subsection, ~~"qualifying offense"~~ "nonviolent misdemeanor" means~~:~~

~~(A) Unlawful mischief under 13 V.S.A. § 3701.~~

~~(B) Retail theft under 13 V.S.A. §§ 2575 and 2577.~~

~~(C) Operating after suspension or revocation of license under 23 V.S.A. § 674(a).~~

~~(D) Bad checks under 13 V.S.A. § 2022.~~

~~(E) Theft of services under 13 V.S.A. § 2582.~~

~~(F) Disorderly conduct under 13 V.S.A. § 1026, unless the original charge was a listed offense as defined in 13 V.S.A. § 5301(7).~~

~~(G) Theft of rented property under 13 V.S.A. § 2591.~~

~~(H) Operation without consent of owner under 23 V.S.A. § 1094(a).~~

~~(I) Petit larceny under 13 V.S.A. § 2502.~~

~~(J) Negligent operation of a motor vehicle under 23 V.S.A. § 1091(a).~~

~~(K) False reports to law enforcement under 13 V.S.A. § 1754.~~

~~(L) Setting fires under 13 V.S.A. § 508.~~

~~(M) A first offense of a minor's misrepresenting age, procuring, possessing, or consuming liquors under 7 V.S.A. § 657.~~

~~(N) Simple assault by mutual consent under 13 V.S.A. § 1023(b) unless the original charge was a listed offense as defined in 13 V.S.A. § 5301(7).~~

~~(O) Unlawful trespass under 13 V.S.A. § 3705(a).~~

~~(P) A first offense of possession under 18 V.S.A. § 4230(a)(1).~~

a misdemeanor offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64 or 13 V.S.A. § 1030.

(3) Nothing in this subsection shall prohibit a court from requiring participation in the restorative justice program established in chapter 12 of this title.

Sec. 3. 28 V.S.A. § 808 is amended to read:

§ 808. FURLOUGHS GRANTED TO OFFENDERS

(a) The Department may extend the limits of the place of confinement of an offender at any correctional facility if the offender agrees to comply with such conditions of supervision the Department, in its sole discretion, deems appropriate for that offender's furlough. The Department may authorize furlough for any of the following reasons:

(1) To visit a critically ill relative.

(2) To attend the funeral of a relative.

(3) To obtain medical services.

(4) To contact prospective employers.

(5) To secure a suitable residence for use upon discharge.

(6) To continue the process of reintegration initiated in a correctional facility. The offender may be placed in a program of conditional reentry status by the Department upon the offender's completion of the minimum term of sentence. While on conditional reentry status, the offender shall be required to participate in programs and activities that hold the offender accountable to victims and the community pursuant to section 2a of this title.

(b) An offender granted a furlough pursuant to this section may be accompanied by an employee of the Department, in the discretion of the Commissioner, during the period of the offender's furlough. The Department may use electronic monitoring equipment such as global position monitoring, automated voice recognition telephone equipment, and transdermal alcohol monitoring equipment to enable more effective or efficient supervision of individuals placed on furlough.

(c) The extension of the limits of the place of confinement authorized by this section shall in no way be interpreted as a probation or parole of the offender, but shall constitute solely a permitted extension of the limits of the place of confinement for offenders committed to the custody of the Commissioner.

(d) When any enforcement officer, as defined in 23 V.S.A. § 4, employee of the Department, or correctional officer responsible for supervising an offender believes the offender is in violation of any verbal or written condition of the furlough, the officer or employee may immediately lodge the offender at a correctional facility or orally or in writing deputize any law enforcement officer or agency to arrest and lodge the offender at such a facility. The officer or employee shall subsequently document the reason for taking such action.

(e) The Commissioner may place on medical furlough any offender who is serving a sentence, including an offender who has not yet served the minimum term of the sentence, who is diagnosed with a terminal or debilitating condition so as to render the offender unlikely to be physically capable of presenting a danger to society. The Commissioner shall develop a policy regarding the application for, standards for eligibility of, and supervision of persons on medical furlough. The offender may be released to a hospital, hospice, other licensed inpatient facility, or other housing accommodation deemed suitable by the Commissioner.

(f) While appropriate community housing is an important consideration in release of offenders, the Department shall not use lack of housing as the sole factor in denying furlough to offenders who have served at least their minimum sentence for a nonviolent misdemeanor or nonviolent felony provided that public safety and the best interests of the offender will be served by reentering the community on furlough. The Department shall adopt rules to implement this subsection.

(g) Subsections (b)–(f) of this section shall also apply to sections 808a ~~and~~, 808b, 808c, and 808e of this title.

Sec. 4. 28 V.S.A. § 808a is amended to read;

§ 808a. TREATMENT FURLOUGH

(a) ~~An offender may be sentenced to serve a term of imprisonment, but placed by a court on treatment furlough to participate in such programs administered by the Department in the community that reduce the offender's risk to reoffend or that provide reparation to the community in the form of supervised work activities.~~

~~(b)~~ Provided the approval of the sentencing judge is first obtained, the Department may place on treatment furlough an offender who has not yet

served the minimum term of the sentence, who, in the Department's determination, needs residential treatment services not available in a correctional facility. The services may include treatment for substance abuse or personal violence or any other condition that the Department has determined should be addressed in order to reduce the offender's risk to reoffend or cause harm to himself or herself or to others in the facility. The offender shall be released only to a hospital or residential treatment facility that provides services to the general population. The State's share of the cost of placement in such a facility, net of any private or federal participation, shall be paid pursuant to memoranda of agreement between and within State agencies reflective of their shared responsibilities to maximize the efficient and effective use of State resources. In the event that a memorandum of agreement cannot be reached, the Secretary of Administration shall make a final determination as to the manner in which costs will be allocated.

~~(c)~~(b)(1) Except as provided in subdivision (2) of this subsection, the Department, in its own discretion, may place on treatment furlough an offender who has not yet served the minimum term of his or her sentence for an eligible misdemeanor as defined in section 808d of this title if the Department has made a determination based upon a risk assessment that the offender poses a low risk to public safety or victim safety and that employing an alternative to incarceration to hold the offender accountable is likely to reduce the risk of recidivism.

(2) Driving under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. §§ 1201 and 1210(c) and boating under the influence of alcohol or drugs, second offense, as defined in 23 V.S.A. § 3323 shall be considered eligible misdemeanors for the sole purpose of subdivision (1) of this subsection.

Sec. 5. 28 V.S.A. § 808e is added to read:

§ 808e. PREAPPROVED FURLOUGH

(a) When recommended by the Department, the court may sentence an offender to serve a term of imprisonment, but place the offender on preapproved furlough to participate in programs in the community administered by the Department that reduce the offender's risk to reoffend.

(b) An offender who meets program requirements may be sentenced to preapproved furlough to participate in a program that provides reparation to the community in the form of supervised work activity.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee Vote: 11-0-0)

H. 805

An act relating to employment rights for members of the National Guard and Reserve Components of the U.S. Armed Forces

Rep. Tate of Mendon, for the Committee on **General, Housing & Military Affairs,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 491 is amended to read:

§ 491. ABSENCE ON MILITARY SERVICE AND TRAINING;

EMPLOYMENT AND REEMPLOYMENT RIGHTS

(a) Any duly qualified member of the ~~"reserve components of the armed forces,"~~ Reserve Components of the U.S. Armed Forces, of the ~~ready reserve~~ Ready Reserve, or an organized unit of the ~~national guard~~ Vermont National Guard or the National Guard of another state shall upon request be entitled to leaves of absence for a total of 15 days in any calendar year for the purpose of engaging in military drill, training, or other temporary duty under military authority. A leave of absence shall be with or without pay as determined by the employer. Upon completion of the military drill, training, or other temporary duty under military authority, a permanent employee shall be reinstated in that position with the same status, pay, and seniority, including seniority that accrued during the period of absence.

* * *

(c) An employer shall not discriminate in employment against any person because a person has taken any of the following actions:

(1) ~~Enforcement~~ enforcement of a provision of this ~~subsection~~ subchapter or federal law~~.~~;

(2) ~~Testified~~ testified or made a statement in connection with any proceeding under this ~~subsection~~ subchapter or under federal law~~.~~;

(3) ~~Assisted~~ assisted or participated in any investigation under this ~~subsection~~ subchapter or federal law~~.~~; or

(4) ~~Exercised~~ exercised any right provided by this ~~subsection~~ subchapter or under federal law.

Sec. 2. 21 V.S.A. § 492 is amended to read:

§ 492. RIGHTS AND BENEFITS

* * *

(c)(1) If any member of the Vermont National Guard with civilian employer-sponsored insurance coverage is ordered to State active duty by the Governor for up to 30 days, or if any member of the National Guard of another state who is a Vermont employee with civilian employer-sponsored insurance is ordered to state active duty by the governor of that state for up to 30 days, the service member may, at the member's option, continue his or her civilian health insurance under the same terms and conditions as were in effect for the month preceding the member's call to State active duty, including a continuation of the same levels of employer and employee contributions toward premiums and cost-sharing.

(2) If a member of the Vermont National Guard is called to State active duty for more than 30 days, or if a member of the National Guard of another state who is a Vermont employee is called to state active duty for more than 30 days, the member may continue his or her civilian health insurance. For a member whose employer chooses not to continue regular contributions toward premiums and cost-sharing during the period of the member's State active duty in excess of 30 days, the State of Vermont shall be responsible for paying the employer's share of the premium and cost-sharing.

* * *

Sec. 3. 21 V.S.A. § 493 is amended to read:

§ 493. ENFORCEMENT

(a) If any employer fails to comply with any of the provisions of this subchapter, the employee may bring an action ~~at law for damages for noncompliance, or apply to the superior court for equitable relief as may be just and proper under the circumstances~~ in the Civil Division of the Superior Court seeking compensatory and punitive damages or equitable relief, including restraint of prohibited acts, restitution of wages or other benefits, reinstatement, costs, reasonable attorney's fees, and other appropriate relief.

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee Vote: 7-0-1)

H. 812

An act relating to consumer protections for accountable care organizations

Rep. Donahue of Northfield, for the Committee on **Health Care,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. ALL-PAYER MODEL; MEDICARE AGREEMENT

The Green Mountain Care Board and the Agency of Administration shall only enter into an agreement with the Centers for Medicare and Medicaid Services to waive provisions under Title XVIII (Medicare) of the Social Security Act if the agreement:

(1) is consistent with the principles of health care reform expressed in 18 V.S.A. § 9371, to the extent permitted under Section 1115A of the Social Security Act and approved by the federal government;

(2) preserves the consumer protections set forth in Title XVIII of the Social Security Act, including not reducing Medicare covered services, not increasing Medicare patient cost sharing, and not altering Medicare appeals processes;

(3) allows providers to choose whether to participate in accountable care organizations, to the extent permitted under federal law;

(4) allows Medicare patients to choose their providers;

(5) includes outcome measures for population health; and

(6) continues to provide payments from Medicare directly to health care providers or accountable care organizations without conversion, appropriation, or aggregation by the State of Vermont.

Sec. 2. 18 V.S.A. chapter 227 is added to read:

CHAPTER 227. ALL-PAYER MODEL

§ 9551. ALL-PAYER MODEL

In order to implement a value-based payment model allowing participating health care providers to be paid by Medicaid, Medicare, and commercial insurance using a common methodology that may include population-based payments, the Green Mountain Care Board and Agency of Administration shall ensure that the model:

(1) maintains consistency with the principles established in section 9371 of this title;

(2) continues to provide payments from Medicare directly to health care providers or accountable care organizations without conversion, appropriation, or aggregation by the State of Vermont;

(3) maximizes alignment between Medicare, Medicaid, and commercial payers to the extent permitted under federal law and waivers from federal law, including:

(A) what is included in the calculation of the total cost of care;

(B) attribution and payment mechanisms;

(C) patient protections;

(D) care management mechanisms; and

(E) provider reimbursement processes;

(4) strengthens and invests in primary care;

(5) incorporates social determinants of health;

(6) adheres to federal and State laws on parity of mental health and substance abuse treatment, integrates mental health and substance abuse treatment systems into the overall health care system, and does not manage mental health or substance abuse care separately from other health care;

(7) includes a process for integration of community-based providers, including home health agencies, mental health agencies, development disability service providers, emergency medical service providers, and area agencies on aging, and their funding streams, into a transformed, fully integrated health care system;

(8) continues to prioritize the use, where appropriate, of existing local and regional collaboratives of community health providers that develop integrated health care initiatives to address regional needs and evaluate best practices for replication and return on investment;

(9) pursues an integrated approach to data collection, analysis, exchange, and reporting to simplify communication across providers and drive quality improvement and access to care;

(10) allows providers to choose whether to participate in accountable care organizations, to the extent permitted under federal law;

(11) evaluates access to care, quality of care, patient outcomes, and social determinants of health;

(12) requires processes and protocols for shared decision making between the patient and his or her health care providers that take into account a patient's unique needs, preferences, values, and priorities, including use of

decision support tools and shared decision-making methods with which the patient may assess the merits of various treatment options in the context of his or her values and convictions, and by providing patients access to their medical records and to clinical knowledge so that they may make informed choices about their care;

(13) supports coordination of patients' care and care transitions through the use of technology, with patient consent, such as sharing electronic summary records across providers and using telemedicine, home telemonitoring, and other enabling technologies; and

(14) ensures, in consultation with the Office of the Health Care Advocate, that robust patient grievance and appeal protections are available.

* * * Oversight of Accountable Care Organizations * * *

Sec. 3. 18 V.S.A. § 9373 is amended to read:

§ 9373. DEFINITIONS

As used in this chapter:

* * *

(16) "Accountable care organization" and "ACO" means an organization of health care providers that has a formal legal structure, is identified by a federal Taxpayer Identification Number, and agrees to be accountable for the quality, cost, and overall care of the patients assigned to it.

Sec. 4. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(13) Adopt by rule pursuant to 3 V.S.A. chapter 25 standards for accountable care organizations, including reporting requirements, patient protections, solvency and ability to assume financial risk, and other matters the Board deems necessary and appropriate to the operation and evaluation of accountable care organizations pursuant to this chapter.

Sec. 5. 18 V.S.A. § 9382 is added to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization with 10,000 or more attributed lives in Vermont shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying

accountable care organizations, which may include consideration of acceptance of accreditation by the National Committee for Quality Assurance or another national accreditation organization for any of the criteria set forth in this section. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

(1) the ACO's governance, leadership, and management structure is transparent, reasonably and equitably represents the ACO's participating providers and its patients, and includes a consumer advisory board and other processes for inviting and considering consumer input;

(2) the ACO has established appropriate mechanisms to provide, manage, and coordinate high-quality health care services for its patients, including incorporating the Blueprint for Health, coordinating services for complex high-need patients, and providing access to health care providers who are not participants in the ACO;

(3) the ACO has established appropriate mechanisms to receive and distribute payments to its participating health care providers;

(4) the ACO has established appropriate mechanisms and criteria for accepting health care providers to participate in the ACO that prevent unreasonable discrimination and are related to the needs of the ACO and the patient population served;

(5) the ACO has established mechanisms to promote evidence-based health care, patient engagement, coordination of care, use of electronic health records, and other enabling technologies to promote integrated, efficient, and effective health care services;

(6) the ACO has the capacity for meaningful participation in health information exchanges;

(7) the ACO has performance standards and measures to evaluate the quality and utilization of care delivered by its participating health care providers;

(8) the ACO does not place any restrictions on the information its participating health care providers may provide to patients about their health or decisions regarding their health;

(9) the ACO's participating health care providers engage their patients in shared decision making to ensure their awareness and understanding of their treatment options and the related risks and benefits of each;

(10) the ACO has an accessible mechanism for explaining how ACOs work; provides contact information for the Office of the Health Care Advocate; maintains a consumer telephone line for complaints and grievances from attributed patients; responds and makes best efforts to resolve complaints and

grievance from attributed patients, including providing assistance in identifying appropriate rights under a patient's health plan; and share deidentified complaint and grievance information with the Office of the Health Care Advocate at least twice annually;

(11) the ACO collaborates with providers not included in its financial model, including home- and community-based providers and dental health providers;

(12) the ACO does not interfere with patients' choice of their own health care providers under their health plan, regardless of whether a provider is participating in the ACO; does not reduce covered services; and does not increase patient cost sharing;

(13) meetings of the ACO's governing body include a public session which all business that is not confidential or proprietary is conducted and members of the public are provided an opportunity to comment; and

(14) the impact of the ACO's establishment and operation does not diminish access to any health care service for the population and area it serves.

(b)(1) The Green Mountain Care Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for reviewing, modifying, and approving ACO budgets. In its review, the Board shall review and consider:

(A) information regarding utilization of the health care services delivered by health care providers participating in with the ACO;

(B) the goals and recommendations of the health resource allocation plan created in chapter 221 of this title;

(C) the expenditure analysis for the previous year and the proposed expenditure analysis for the year under review;

(D) the character, competence, fiscal responsibility, and soundness of the ACO and its principals;

(E) any reports from professional review organizations;

(F) the ACO's efforts to prevent duplication of high-quality services being provided efficiently and effectively by existing community-based providers in the same geographic area;

(G) the extent to which the ACO provides incentives for systemic health care investments to strengthen primary care, including strategies for recruiting additional primary care providers, providing resources to expand capacity in existing primary care practices, and reducing the administrative burden of reporting requirements for providers while balancing the need to

have sufficient measures to evaluate adequately the quality of and access to care;

(H) the extent to which the ACO provides incentives for systemic health care investments in social determinants of health, such as developing support capacities that prevent hospital admissions and readmissions, reduce length of hospital stays, improve population health outcomes, and improve the solvency of and address the financial risk to community-based providers that are participating providers of an accountable care organization;

(I) public comment on all aspects of the ACO's costs and use and on the ACO's proposed budget;

(J) information gathered from meetings with the ACO to review and discuss its proposed budget for the forthcoming fiscal year;

(K) information on the ACO's administrative costs, as defined by the Board; and

(L) the effect, if any, of Medicaid reimbursement rates on the rates for other payers.

(2) The Office of the Health Care Advocate shall have the right to intervene in any ACO budget review under this subsection. As an intervenor, the Office of the Health Care Advocate shall receive copies of all materials in the record and may:

(A) ask questions of any participant in the Board's ACO budget review;

(B) submit written comments for the Board's consideration; and

(C) provide testimony in any hearing held in connection with the Board's ACO budget review.

(c) The Board's rules shall include requirements for submission of information and data by ACOs and their participating providers as needed to evaluate an ACO's success. They may also establish standards as appropriate to promote an ACO's ability to participate in applicable federal programs for ACOs.

(d) All information required to be filed by an ACO pursuant to this section or to rules adopted pursuant to this section shall be made available to the public upon request, provided that individual patients or health care providers shall not be directly or indirectly identifiable.

(e) To the extent required to avoid federal antitrust violations, the Board shall supervise the participation of health care professionals, health care facilities, and other persons operating or participating in an accountable care organization. The Board shall ensure that its certification and oversight

processes constitute sufficient State supervision over these entities to comply with federal antitrust provisions and shall refer to the Attorney General for appropriate action the activities of any individual or entity that the Board determines, after notice and an opportunity to be heard, may be in violation of State or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods.

* * * Rulemaking * * *

Sec. 6. GREEN MOUNTAIN CARE BOARD; RULEMAKING

On or before January 1, 2018, the Green Mountain Care Board shall adopt rules governing the oversight of accountable care organizations pursuant to 18 V.S.A. § 9382. On or before January 15, 2017, the Board shall provide an update on its rulemaking process and its vision for implementing the rules to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 7. DENIAL OF SERVICE; RULEMAKING

The Department of Financial Regulation and the Department of Vermont Health Access shall ensure that their rules protect against wrongful denial of services under an insured's or Medicaid beneficiary's health benefit plan for an insured or Medicaid beneficiary attributed to an accountable care organization. The Departments may amend their rules as necessary to ensure that the grievance and appeals processes in Medicaid and commercial health benefit plans are appropriate to an accountable care organization structure.

* * * Implementation Provisions * * *

Sec. 8. TRANSITION; IMPLEMENTATION

(a) Prior to January 1, 2018, if the Green Mountain Care Board and the Agency of Administration pursue development and implementation of an all-payer model, they shall develop and implement the model in a manner that works toward meeting the criteria established in 18 V.S.A. § 9551. Through its authority over payment reform pilot projects under 18 V.S.A. § 9377, the Board shall also oversee the development and operation of accountable care organizations in order to encourage them to achieve compliance with the criteria established in 18 V.S.A. § 9382(a) and to establish budgets that reflect the criteria set forth in 18 V.S.A. § 9382(b).

(b) On or before January 1, 2018, the Board shall begin certifying accountable care organizations that meet the criteria established in 18 V.S.A. § 9382(a) and shall only approve accountable care organization budgets after review and consideration of the criteria set forth in 18 V.S.A. § 9382(b). If the Green Mountain Care Board and the Agency of Administration pursue

development and implementation of an all-payer model, then on and after January 1, 2018 they shall implement the all-payer model in accordance with 18 V.S.A. § 9551.

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATES

(a) Secs. 1 (Medicare waiver), 6–7 (rulemaking), and 8 (transition; implementation) and this section shall take effect on passage.

(b) Secs. 2 (all-payer model) and 3–5 (ACOs) shall take effect on January 1, 2018.

and that after passage the title of the bill be amended to read: "An act relating to implementing an all-payer model and oversight of accountable care organizations"

(Committee Vote: 11-0-0)

H. 818

An act relating to stalking

Rep. Grad of Moretown, for the Committee on **Judiciary,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds the following:

(1) Stalking is a serious problem in Vermont and nationwide.

(2) Stalking involves severe intrusions on the victim's personal privacy and autonomy.

(3) Stalking causes a long-lasting impact on the victim's quality of life and creates risks to the security and safety of the victim and others even in the absence of express threats of physical harm.

(4) Stalking conduct often becomes increasingly violent over time.

(5) There is a strong connection between stalking and domestic violence and sexual assault.

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

§ 5131. DEFINITIONS

As used in this chapter:

(1)(A) "Course of conduct" means ~~a pattern of conduct composed of two or more acts over a period of time, however short, evidencing a continuity~~

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

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

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

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

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

(4) "Reasonable person" means a reasonable person in the victim's circumstances.

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

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

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

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

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

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

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

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

(7) "Stay away" means to refrain from knowingly:

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

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

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

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

Sec. 2. 12 V.S.A. § 5133 is amended to read:

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

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

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

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

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

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

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

(d)~~(1)~~ If the court finds by a preponderance of evidence that the defendant has stalked or sexually assaulted the plaintiff, or has been convicted of stalking or sexually assaulting the plaintiff, the court shall order the defendant to stay away from the plaintiff or the plaintiff's children, or both, and may make any other ~~such~~ order it deems necessary to protect the plaintiff or the plaintiff's children, or both.

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

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

* * *

Sec. 3. 13 V.S.A. § 1021 is amended to read:

§ 1021. DEFINITIONS

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

* * *

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

Sec. 4. 13 V.S.A. chapter 19, subchapter 7 is amended to read:

Subchapter 7. Stalking

§ 1061. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

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

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

(3) "Reasonable person" means a reasonable person in the victim's circumstances.

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

§ 1062. STALKING

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

§ 1063. AGGRAVATED STALKING

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

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

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

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

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

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

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

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

§ 1064. DEFENSES

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

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

(Committee Vote: 10-0-1)

H. 853

An act relating to setting the nonresidential property tax rate, the property dollar equivalent yield, and the income dollar equivalent yield for fiscal year 2017, and other education changes.

(Rep. Greshin of Warren will speak for the Committee on **Ways & Means.)**

Rep. Sharpe of Bristol, for the Committee on **Education,** recommends the bill be amended as follows::

First: In Sec. 4, in the second sentence before the words "direct cost" by striking out the word "associated" and inserting in lieu thereof the word "related"

Second: In Sec. 5, in subsection (e), in the first sentence before the words "direct cost" by striking out the word "associated" and inserting in lieu thereof the word "related"

Third: In Sec. 6, in subsection (d), in the first sentence before the words "direct cost" by striking out the word "associated" and inserting in lieu thereof the word "related"

Fourth: By inserting a Sec. 6a to read as follows:

Sec. 6a. 32 V.S.A. § 5402b is amended to read:

§ 5402b. STATEWIDE EDUCATION TAX YIELDS;
RECOMMENDATION OF THE COMMISSIONER

(a) Annually, no later than December 1, the Commissioner of Taxes, after consultation with the Secretary of Education, the Secretary of Administration, and the Joint Fiscal Office, shall calculate and recommend a property dollar equivalent yield, an income dollar equivalent yield, and a nonresidential property tax rate for the following fiscal year. In making these calculations, the Commissioner shall reference the Education Fund Outlook, described in subsection (c) of this section, and shall assume:

(1) the homestead base tax rate in subdivision 5402(a)(2) of this title is $1.00 per $100.00 of equalized education property value;

(2) the applicable percentage in subdivision 6066(a)(2) of this title is 2.0;

(3) the statutory reserves under 16 V.S.A. § 4026 and this section were maintained at five percent; and

(4) the percentage change in the median education tax bill applied to nonresidential property, the percentage change in the median education tax bill of homestead property, and the percentage change in the median education tax bill for taxpayers who claim an adjustment under subsection 6066(a) of this title are equal.

(b) For each fiscal year, the General Assembly shall set a property dollar equivalent yield and an income dollar equivalent yield, consistent with the definitions in this chapter.

(c) Annually, on or before December 1, the Joint Fiscal Office shall prepare and publish an official, annotated copy of the Education Fund Outlook. The Emergency Board shall review the Outlook at its meetings. As used in this section, "Education Fund Outlook" means the projected revenues and expenses associated with the Education Fund for the following fiscal year, including projections of the unfunded education mandate amount, both as estimated in section 305b of this title, and as appropriated under section 4025 of this title.

Fifth: By striking out Sec. 7 in its entirety and inserting in lieu thereof the following:

Sec. 7. TRANSFER OF DEBT OF MERGED DISTRICTS

(a) Notwithstanding any other provision of law, in the process of forming a union school district under 16 V.S.A. chapter 11, a study committee report under 16 V.S.A. § 706b may provide terms for transferring, either in whole or part, the liability for any indebtedness held by a merging district, from the merging district to the town or towns within the merging district.

(b) As used in this section, a union school district established under 16 V.S.A. chapter 11 includes a school district voluntarily created pursuant to 2015 Acts and Revolves No. 46, Sec. 6 or 7, or a regional education district, or any other district eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, as amended by 2012 Acts and Resolves No. 156 and 2013 Acts and Resolves No. 56.

Sixth: By adding a Sec. 9a to read as follows:

Sec. 9a. REPORT ON THE IMPACT OF H.846 OF 2016

(a) On or before November 15, 2016, the Joint Fiscal Office, with the assistance of the Office of Legislative Council and the Department of Taxes, shall issue a report analyzing the impact of H.846 of 2016, an act related to making changes to the calculation of the statewide education property tax. The analysis shall be based on the statutory language presented to the House Committee on Education on March 11, 2016. The report shall be delivered to the Senate Committees on Finance and on Education and the House Committees on Ways and Means and on Education.

(b) The report shall address:

(1) the impact of the proposed changes on education spending growth, both at the district level and the State level;

(2) the impact of the proposed changes on school districts by spending levels, size, location, and operating structure;

(3) the impact on homestead tax rates, income sensitivity percentages, and nonresidential tax rates across the State;

(4) the impact of the proposed changes on the Education Fund balance;

(5) the funding stability of the proposed changes based on variable economic conditions;

(6) any transition issues created by the proposed changes; and

(7) any related issues identified by the Joint Fiscal Office.

Seventh: By adding a Sec. 9b to read as follows:

Sec. 9b. REPORT ON THE IMPACT OF H.656 OF 2016

(a) On or before November 15, 2016, the Joint Fiscal Office, with the assistance of the Office of Legislative Council and the Department of Taxes, shall issue a report analyzing the impact of H.656 of 2016, an act relating to creating an education tax that is adjusted by income for all taxpayers. The report shall be delivered to the Senate Committees on Finance and on Education and the House Committees on Ways and Means and on Education.

(b) The report shall address:

(1) the impact of the proposed changes on current groups of taxpayers, including taxpayers who pay an education property tax based on property value, those who pay based on income, and renters;

(2) the impact of imposing a cap, of various amounts, on the total amount of taxes paid by a taxpayer under the proposal, but at least including an analysis of a cap of $25,000.00;

(3) the impact of the proposed changes on towns and the State, including administrative issues resulting from the proposed changes;

(4) how the proposed changes to current definition of housesite impact taxpayers at different levels of income and different levels of property values and how the changes would affect property owners with different configurations of property ownership;

(5) any transition issues created by the proposed changes;

(6) the impact of the proposed changes on taxpayer confidentiality; and

(7) any related issues identified by the Joint Fiscal Office.

Eighth: By striking out Sec. 10 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 10. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except for:

(1) Sec. 3 (excess spending) which shall take effect on July 1, 2019 and apply to excess spending calculations for fiscal year 2020 and after; and

(2) Sec. 8 (data collection) which shall take effect on July 1, 2019.

(**Committee Vote 10-0-1)**

Favorable

H. 580

An act relating to conservation easements

Rep. Sullivan of Burlington, for the Committee on **Natural Resources & Energy,** recommends the bill ought to pass.

(Committee Vote: 10-0-1)

H. 640

An act relating to expenses for the repair of town cemeteries

Rep. Gonzalez of Winooski, for the Committee on **General, Housing & Military Affairs,** recommends the bill ought to pass.

(Committee Vote: 7-0-1)

H. 824

An act relating to the adoption of occupational safety and health rules and standards

Rep. Walz of Barre City, for the Committee on **General, Housing & Military Affairs,** recommends the bill ought to pass.

(Committee Vote: 7-0-1)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 863

An act relating to making miscellaneous amendments to Vermont's retirement laws.

(Rep. Devereux of Mount Holly will speak for the Committee on **Government Operations.)**

H. 866

An act relating to prescription drug manufacturer cost transparency.

(Rep. Pearson of Burlington will speak for the Committee on **Health Care.)**

H. 867

An act relating to classification of employees and independent contractors.

(Rep. Botzow of Pownal will speak for the Committee on **Commerce & Economic Development.)**

H. 869

An act relating to judicial organization and operations.

(Rep. Strong of Albany will speak for the Committee on **Judiciary.)**

Favorable with Amendment

H. 183

An act relating to security in the Capitol Complex

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

Sec. 1. 2 V.S.A. chapter 30 is added to read:

CHAPTER 30. CAPITOL COMPLEX SECURITY ADVISORY COMMITTEE

§ 991. CAPITOL COMPLEX SECURITY ADVISORY COMMITTEE

(a) Creation. There is created an advisory committee for the purpose of:

(1) reviewing and coordinating security in the Capitol Complex; and

(2) enhancing communication, operability, and efficiency on security issues in the Capitol Complex among the Executive, Legislative, and Judicial branches.

(b) Membership.

(1) The Committee shall be composed of the following members:

(A) the Commissioner of Buildings and General Services or designee;

(B) the Commissioner of Public Safety or designee;

(C) the Commissioner of Motor Vehicles or designee;

(D) the Chief of the Capitol Police or designee;

(E) the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions;

(F) the Sergeant at Arms;

(G) the Court Administrator or designee; and

(H) the Chief of the Montpelier Police Department or designee.

(2) The Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions shall co-chair the Committee.

(3) The Committee shall have the assistance of the staff of the Office of Legislative Council and the Joint Fiscal Office.

(c) Powers and duties. The Committee shall:

(1) review proposed security enhancements and security plans for the Capitol Complex, and make recommendations to the House Committee on Corrections and Institutions and the Senate Committee on Institutions;

(2) review the coordination of security plans and law enforcement services in the Capitol Complex among the Commissioner of Buildings and General Services, the Court Administrator, and the Sergeant at Arms; and

(3) annually review the memorandum of understanding coordinating the provision of security plans and law enforcement activities in the Capitol Complex, as required by 29 V.S.A. § 171(f).

(d) Meetings. The Committee may meet at any time at the call of the Co-Chairs, but no less than one time per year.

(e) Reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(f) Definition. As used in this section, "Capitol Complex" shall have the same meaning as in 29 V.S.A. § 182.

Sec. 2. 2 V.S.A. § 70(c) is amended to read:

(c) Coordination of Capitol Complex security. The Capitol Police Department shall ~~coordinate~~ provide security within the State House and assist the Commissioner of Buildings and General Services in providing security and law enforcement services within the Capitol Complex, ~~as delineated in a memorandum of understanding signed by the Commissioner and the Sergeant at Arms no later than June 30, 2000, and as subsequently amended. In all other areas of the Capitol Complex, except the space occupied by the Supreme Court, the security, control of traffic, and coordination of law enforcement activity shall be under the direction of the Commissioner of Buildings and General Services, with which the Capitol Police Department may assist~~ pursuant to the memorandum of understanding required by 29 V.S.A. § 171(f).

Sec. 3. 29 V.S.A. § 171 is amended to read:

§ 171. RESPONSIBILITY FOR SECURITY

(a) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall be responsible for ensuring the security of all ~~state~~ State facilities, regardless of funding source for construction or renovation, the lands upon which those facilities are located, and the occupants of those facilities and places, except that:

(1) in those ~~state-owned~~ State-owned or ~~state-leased~~ State-leased buildings which house a court plus one or more other functions, security for

the space occupied by the court shall be under the jurisdiction of the ~~supreme court~~ Supreme Court and security elsewhere shall be under the jurisdiction of the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services;

(2) in those buildings which function exclusively as courthouses, security shall be under the jurisdiction of the ~~supreme court~~ Supreme Court;

(3) the space occupied by the ~~supreme court~~ Supreme Court shall be under the jurisdiction of the ~~supreme court~~ Supreme Court; and

(4) in the ~~state house~~ State House, security shall be under the jurisdiction of the ~~sergeant at arms~~ Sergeant at Arms.

(b) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall develop a security plan for each facility, except for those under the jurisdiction of the ~~supreme court~~ Supreme Court and of the ~~sergeant at arms~~ Sergeant at Arms, and shall regularly update these plans as necessary and be responsible for coordinating responses to all security needs. The ~~supreme court and the sergeant at arms shall, in cooperation with the commissioner of buildings and general services,~~ Supreme Court and the Sergeant at Arms shall, in cooperation with the Commissioner of Buildings and General Services, prepare and update such plans for the facilities under their respective jurisdictions.

* * *

(f) The Commissioner of Buildings and General Services, the Sergeant at Arms, and the Court Administrator shall execute a memorandum of understanding to coordinate the provision of security plans and law enforcement services within the Capitol Complex. The memorandum of understanding shall incorporate any existing agreements related to the provision of law enforcement services or security in the Capitol Complex. As used in this section, "Capitol Complex" shall have the same meaning as used in section 182 of this title.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Rep. Hooper of Montpelier, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Corrections & Institutions** and when further amended as follows:

First: In Sec. 1, in subsection (d), by striking out ", but no less than one time per year" and by inserting in lieu thereof ", but no more than two times when the General Assembly is not in session"

Second: By inserting a Sec. 3a, Repeal, to read as follows:

Sec. 3a. REPEAL

2 V.S.A. chapter 30 (Capitol Complex Security Advisory Committee) is repealed on June 30, 2019.

(Committee Vote: 11-0-0)

H. 518

An act relating to the membership of the Clean Water Fund Board

Rep. Sheldon of Middlebury, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

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

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

(1) ~~the~~ The Secretary of Administration or designee~~;~~.

(2) ~~the~~ The Secretary of Natural Resources or designee~~;~~.

(3) ~~the~~ The Secretary of Agriculture, Food and Markets or designee~~;~~.

(4) ~~the~~ The Secretary of Commerce and Community Development or designee~~; and~~.

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

(6) Three members of the public or the House of Representatives appointed by the Speaker of the House, each of whom shall be from a separate major watershed of the State. At least one of the members appointed under this subdivision shall be a municipal official.

(7) Three members of the public or the Senate appointed by the Committee on Committees, each of whom shall be from a separate major watershed of the State. At least one of the members appointed under this subdivision shall be a municipal official.

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

(d) Officers; committees; rules; reimbursement.

(1) The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

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

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-0-0)

Rep. Toll of Danville, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources.**

(Committee Vote: 11-0-0)

H. 610

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

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

Sec. 1. 10 V.S.A. chapter 55 is redesignated to read:

CHAPTER 55. AID TO MUNICIPALITIES FOR WATER SUPPLY~~,~~ AND WATER POLLUTION ABATEMENT AND ~~SEWER SEPARATION~~ CONTROL

Sec. 2. 10 V.S.A. § 1251 is amended to read:

§ 1251. DEFINITIONS

Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

* * *

(18) "Pollution abatement facilities" means municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State.

Sec. 3. 10 V.S.A. § 1259(j) is amended to read:

(j) No person shall discharge waste from hydraulic fracturing, as that term is defined in 29 V.S.A. § 503, into or from a pollution abatement facility, as that term is defined in section ~~1571~~ 1251 of this title.

Sec. 4. 10 V.S.A. § 1278 is amended to read:

§ 1278. OPERATION, MANAGEMENT, AND EMERGENCY RESPONSE PLANS FOR POLLUTION ABATEMENT FACILITIES

(a) Findings. The ~~general assembly~~ General Assembly finds that the ~~state~~ State shall protect Vermont's lakes, rivers, and streams from pollution by implementing programs to prevent sewage spills to Vermont waters and by requiring emergency planning to limit the damage from spills which do occur. In addition, the ~~general assembly~~ General Assembly finds it to be cost-effective and generally beneficial to the environment to continue ~~state~~ State efforts to ensure energy efficiency in the operation of treatment facilities.

(b) Planning requirement. Effective July 1, 2007, the ~~secretary of natural resources~~ Secretary of Natural Resources shall as part of a permit issued under section 1263 of this title, require a pollution abatement facility, as that term is defined in section ~~1571~~ 1251 of this title, to prepare and implement an operation, management, and emergency response plan for those portions of each pollution abatement facility that include the treatment facility, the sewage pumping stations, and the sewer line stream crossing.

(c) Collection system planning. As of July 1, 2010, the ~~secretary of natural resources~~ Secretary of Natural Resources, as part of a permit issued under section 1263 of this title, shall require a pollution abatement facility, as that term is defined in section ~~1571~~ 1251 of this title, to prepare and implement an operation, management, and emergency response plan for that portion of each pollution abatement facility that includes the sewage collection systems. The requirement to develop a plan under this subsection shall be included in a permit issued under section 1263 of this title, and a plan developed under this subsection shall be subject to public review and inspection.

* * *

Sec. 5. 10 V.S.A. § 1571 is amended to read:

§ 1571. DEFINITIONS

As used in this chapter:

(1) "Agency" means Agency of Natural Resources.

(2) "Board" means the Natural Resources Board.

(3) ~~"Combined sewer separation facilities" means sewers, pipe lines, pumps, structures and attendant facilities necessary to convey liquid wastes in such a manner that industrial wastes, domestic sewage, or both, are conveyed separately from storm water, and may include storm water treatment facilities.~~ [Repealed.]

(4) "Department" means the Department of Environmental Conservation.

(5) "Municipality" means a municipality as defined in 1 V.S.A. § 126.

(6) "~~Pollution~~ Water pollution abatement and control facilities" means ~~municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State~~ such equipment, conveyances, and structural or nonstructural facilities owned or operated by a municipality that are needed for and appurtenant to the prevention, management, treatment, storage, or disposal of stormwater, sewage, or waste, including a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.

(7) ~~"Potable water supply facilities" means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps and attendant facilities necessary to develop a source of water, and to treat and convey it in proper quantity and quality for public use within a municipality.~~ [Repealed.]

* * *

(9) ~~"Disadvantaged municipality" means a municipality or the served area of a municipality which:~~

~~(A) Has a median household income below the State average median household income as determined by the Secretary, and which after construction of the proposed water supply improvements will have an annual household user cost greater than one percent of the median household income as determined by the Secretary; or~~

~~(B) Has a median household income equal to or greater than the State average median household income as determined by the Secretary, and which after construction of the proposed water supply improvements will have an annual household user cost greater than 2.5 percent of the median household income as determined by the Secretary.~~ [Repealed.]

* * *

(11) "Sewage" shall have the same meaning as used in 24 V.S.A. § 3501.

(12) "Stormwater" shall have the same meaning as stormwater runoff in section 1264 of this title.

(13) "Waste" shall have the same meaning as used in section 1251 of this title.

Sec. 6. 10 V.S.A. § 1572 is amended to read:

§ 1572. ~~COORDINATED PLAN REVIEW~~

~~The department is designated the principal agency of the state to review and approve potable water supply projects funded under this chapter. The department of health and any other state agency with a statutory responsibility to review such projects shall within 30 days of receipt of documents for review, advise the department of their comments, which the department shall resolve into a single state position to be transmitted to the applicant. Reviews of projects pursuant to chapter 151 of this title shall be exempt from the coordinated plan of review required by this section.~~ [Repealed.]

Sec. 7. 10 V.S.A. § 1591 is amended to read:

§ 1591. ~~PLANNING~~

~~(a) Planning advance. A municipality or a combination of two or more municipalities desiring an advance of funds for the development of engineering plans for potable water supply facilities or improvements, or for water pollution abatement facilities or improvements, or for combined sewer separation facilities, as the case may be, may apply to the department for an advance under this chapter. Engineering plans may include source exploration, surveys, reports, designs, plans, specifications or other engineering services necessary in preparation for construction of the types of facilities referred to in this section.~~

~~(b) The department, with the approval of the secretary, may use up to ten percent of the funds provided under this chapter to undertake regional engineering planning and process research. Funds approved for regional engineering planning may be awarded directly to a lead municipality and administered in accordance with this chapter.~~ [Repealed.]

Sec. 8. 10 V.S.A. § 1592 is amended to read:

§ 1592. ~~APPLICATION~~

~~The application shall be supported by data covering:~~

~~(1) A description of the project;~~

~~(2) A description of the engineering service to be performed;~~

~~(3) An explanation of the need for the project;~~

~~(4) An estimate of the cost of the project;~~

~~(5) The amount of advance requested;~~

~~(6) A schedule for project implementation;~~

~~(7) Such other information and assurances as the department may require.~~ [Repealed.]

Sec. 9. 10 V.S.A. § 1593 is amended to read:

§ 1593. ~~AWARD OF ADVANCE~~

~~(a) The department may award an advance in an amount determined by the department to be suitable for the engineering planning under standards established by the department:~~

~~(1) For planning of potable water supply facilities, when it finds the same to be necessary in order to preserve or enhance the quality of water provided to the inhabitants of the municipality, or to alleviate an adverse public health condition, or to allow for orderly development and growth of the municipality, except that no funds may be awarded until the department determines that the applicant has complied with the provisions of section 1676a of this title, unless such funds are solely for the purpose of determining the effect of the proposed project on agriculture;~~

~~(2) For planning of pollution abatement facilities, in order to enable a municipality to comply with water quality standards established under chapter 47 of this title;~~

~~(3) For the planning of combined sewer separation facilities, when it finds the same to be necessary to allow improvement of the quality of the receiving water in order that increased legitimate water uses and recreational potential in the best interest of the public can be realized.~~

~~(b) The department shall award an advance for planning under this section only when it finds:~~

~~(1) That the cost of the project is reasonable for its intended purpose; and~~

~~(2) That local funds are not readily available for the planning, and funds are not readily available through other established planning and design programs.~~ [Repealed.]

Sec. 10. 10 V.S.A. § 1594 is amended to read:

§ 1594. ~~PAYMENT OF AWARDS~~

~~On receipt of the engineering planning documents and their approval by the department, the department shall certify the award to the commissioner of finance and management who shall issue his or her warrant for payment thereof from the construction grant funds available to the department. The department may direct the commissioner of finance and management to issue his or her warrant for partial payments of the award upon receipt and approval of portions of the total engineering work to be performed under the advance, together with recipient's certification that costs for which reimbursement has been requested have been incurred and paid by the recipient municipality. The recipient shall provide supporting evidence of payment upon the request of the department. Partial payments shall be made not more frequently than monthly. Interest costs incurred in local short-term borrowing of the planning advance shall be reimbursed as part of the planning advance.~~ [Repealed.]

Sec. 11. 10 V.S.A. § 1595 is amended to read:

§ 1595. ~~REPAYMENT OF ADVANCES~~

~~Advances under this subchapter shall be repaid when construction of the facilities or any portion thereof is undertaken. Where a construction grant is made by the department for the project, the amount of the outstanding advances shall be retained from the first payment of the grant funds. In other instances, if repayment is not made within 60 days upon demand by the department, the sum shall bear interest at the rate of 12 percent per annum from the date payment is demanded by the department to the date of payment by the municipality. The department may approve proportional repayment when construction is initiated on a small portion of the planned project.~~ [Repealed.]

Sec. 12. 10 V.S.A. chapter 55, subchapter 3 is redesignated to read:

Subchapter 3. Construction Grants ~~in Aid~~

Sec. 13. 10 V.S.A. § 1621 is amended to read:

§ 1621. FINANCIAL ASSISTANCE

A municipality ~~which~~ that desires ~~state~~ State financial assistance for construction, improvement, or expansion of ~~potable water supply facilities,~~ water pollution abatement and control facilities~~, or combined sewer separation~~

~~facilities,~~ may make application to the ~~department~~ Department in accordance with this subchapter.

Sec. 14. 10 V.S.A. § 1622 is amended to read:

§ 1622. ELIGIBLE PROJECTS

~~For purposes of~~ As used in this subchapter, eligible project costs for water pollution abatement and control facilities projects shall include~~:~~

~~(1) In the case of potable water supply projects receiving grants under subsection 1624(a) of this title, the costs of development of water sources, treatment facilities, pumping and storage facilities, the main transmission system to the center of the population area, and attendant facilities determined necessary by the department, an approved grant allowance to defray all or a portion of the engineering costs, and up to a $3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto. For a potable water supply project receiving a loan under subsection 1624(b) of this title, the total project cost as determined by the secretary consistent with federal law~~ equipment, conveyances, and structural or nonstructural facilities needed for and appurtenant to the prevention, management, treatment, storage, or disposal of sewage, waste, or stormwater, and the associated costs necessary to construct the improvements, including costs to acquire land for the project.

~~(2)(A) In the case of water pollution abatement projects, the cost of sewage treatment plants, outfall sewers, interceptor sewers, pumping or lift stations, overflow control structures and attendant facilities determined necessary by the department and such other sewers necessary for federal aid requirements, an approved grant allowance to defray all or a portion of the engineering costs, and up to a $3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto which are not eligible for federal assistance~~

~~(B) In the case of water pollution abatement projects utilizing innovative or alternative processes or techniques and determined eligible for federal grants under section 201(g)(5) of P.L. 92-500, and its subsequent amendment, the cost of building, acquisition, alteration, remodeling, improvement or extension of treatment works, an approved grant allowance to defray all or a portion of the engineering costs, and up to a $3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto which are not eligible for federal assistance.~~

~~(C) In the case of water pollution abatement projects utilizing privately owned treatment works serving one or more residences or small commercial establishments, and determined eligible for federal grant assistance under section 201(h) of P.L. 92-500, and its subsequent amendment, the cost of building, acquisition, and alteration of facilities, an approved grant allowance to defray all or a portion of the engineering costs, and up to a $3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto which are not eligible for federal assistance.~~

~~(3) In the case of combined sewer separation projects, the cost of combined sewer separation facilities, storm water treatment facilities, and attendant facilities determined necessary by the department, an approved grant allowance to defray all or a portion of the engineering costs, and up to a $3,000.00 grant allowance for administrative and legal costs relating to the project, but shall exclude all costs of land and easements required for the project and legal and administrative costs incident thereto.~~

~~(4) All water pollution abatement projects shall be in conformance with the provisions of chapter 151 of this title.~~

Sec. 15. 10 V.S.A. § 1623 is amended to read:

§ 1623. APPLICATION

A municipality ~~which~~ that has voted funds in a specific amount to construct a water pollution abatement and control facility as described in section 1622 of this title, at a meeting duly warned for that purpose, which desires to avail itself of ~~state~~ State aid funds under this subchapter, shall apply for such funds in writing to the ~~department~~ Department in a manner prescribed by the ~~department~~ Department. ~~Municipalities whose water pollution abatement facilities have been previously constructed and which meet the permit requirements established under chapter 47 of this title may make application for state aid funds without further vote of the municipality:~~

~~(1) if the local share of the project costs are formally authorized by the municipal officials from funds available to them, or~~

~~(2) if the project is to construct facilities to remove phosphorus to a level of 1 milligram per liter,~~

~~(3) and provided the project meets all other requirements of the department.~~

Sec. 16. 10 V.S.A. § 1624 is amended to read:

§ 1624. ~~FINANCIAL ASSISTANCE WITH WATER SUPPLY PROJECTS~~

~~(a) Grants. The secretary may award a municipality a state grant for a potable water supply facility of up to 35 percent of its total eligible project cost, when the municipality contributes at least ten percent of the total eligible costs, for which purpose the municipality may use federal funds obtained from other programs, and when the secretary finds that:~~

~~(1) the project is necessary, and the proposed type, size and estimated cost of the project are suitable for its intended purpose;~~

~~(2) at least one-half of the property owners of the new area of the municipality to be served by the project have contracted to connect to the water system and pay for service at rates which the legislative body of the municipality determines to be adequate to cover the anticipated operating and maintenance costs including debt services;~~

~~(3) the proposed rate and fee schedule provide for reasonable contributions by all persons in the municipality benefited by the project; and~~

~~(4) the municipality has voted bonds for the project prior to April 5, 1997 in anticipation of the receipt of a construction grant authorized under this subsection.~~

~~(b) Loans.~~

~~(1) The secretary may certify to the Vermont municipal bond bank established by 24 V.S.A. § 4571 the award of a loan to a municipality to assist with a potable water supply facility project, when the secretary finds that:~~

~~(A) the project is necessary;~~

~~(B) the proposed type, size, and estimated cost of the project are suitable for its intended purpose; and~~

~~(C) the municipality will have the technical, financial, and managerial ability to operate the facility in compliance with federal and state law.~~

~~(2) The certification by the secretary shall specify the interest rate, and indicate which of the following loan conditions concerning construction loans apply:~~

~~(A) The term shall not exceed 20 years, and the annual interest rate, plus administrative fee, shall be no more than three percent or less than zero percent, except that when the applicant municipality is disadvantaged as defined by subdivision 1571(9) of this title, the term shall not exceed 30 years. When the applicant municipality is disadvantaged as defined in subdivision~~

~~1571(9)(A) of this title, the annual interest rate, plus administrative fee, shall be no less than minus three percent.~~

~~(B) In no instance shall the annual interest rate, plus administrative fee, be less than necessary to achieve an annual household user cost equal to one percent of the median household income of the applicant municipality or served area, taking into account:~~

~~(i) debt retirement of the project, including any monies a municipality may borrow to match federal funds available to the drinking water state revolving fund pursuant to subsection (d) of this section;~~

~~(ii) prior drinking water projects; and~~

~~(iii) estimated annual operation and maintenance costs as determined by the secretary.~~

~~(3) A municipal legislative body may execute a loan agreement under this subsection, provided the loan is authorized by municipal voters and secured by the full faith and credit of the municipality.~~

~~(4) A loan shall be issued and administered pursuant to chapter 120 of Title 24.~~

~~(5) Loans shall be available to the extent funds are available and according to priorities established by the secretary.~~

~~(6) For purposes of this subsection, the secretary shall determine the median household income of a municipality from the most recent federal census data available when the priority list used for funding the project was approved, or at the option of an applicant municipality, based on the recommendation of an independent contractor hired by the municipality and approved by the secretary. The determination of the secretary shall be final. The cost of an independent contractor may be included in the total cost of a project. When using federal census data to determine the median household income of a municipality, the census data shall be adjusted for inflation beginning in the second year of availability by increasing it four percent per year.~~

~~(7) Loans awarded for the purpose of refinancing old debt shall be for a term of no more than 20 years and at an interest rate set by the state treasurer at no less than zero percent and no more than 80 percent of the average rate on marketable obligations of the state, except that municipalities or private water system owners which qualify for loan awards under 24 V.S.A. § 4770 and which incurred debt and initiated construction after April 5, 1997 may receive loans at interest rates and terms pursuant to subdivision (b)(2)(A) of this section.~~

(8) Loans awarded for the purpose of conducting feasibility studies and preparation of engineering plans and designs shall be for a term of no more than five years at an interest rate of zero percent.

(9) Loans awarded for the purpose of purchasing land or conservation easements to protect public water sources shall be for a term of no more than 20 years at an annual interest rate of three percent.

(10) The secretary may forgive up to $25,000.00 of a loan from the Vermont environmental protection agency (EPA) drinking water state revolving fund to municipalities for improvements to public school water systems following substantial completion of the project. The secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual state intended use plan (IUP) with public review and comment prior to finalization and submission to the EPA.

(11) Subject to the interest rate and administrative fee limitations of subdivision (b)(2) of this section, the secretary may designate projects as United States Department of Agriculture Rural Development-Vermont EPA drinking water state revolving fund jointly-funded projects, and reduce the Vermont EPA revolving fund interest rate, plus administrative fee, in order to make the total loan cost of the joint loan to the municipality equivalent to the total loan cost of a separately-funded Vermont EPA revolving loan for the same project.

(c)(1) Zebra mussel control. The department may award supplemental financial aid for the construction of zebra mussel control measures, upon finding that the proposed project is necessary. The supplemental aid shall be awarded in such a manner that the total financial burden of a water system, including zebra mussel controls, shall not exceed, in the first year after receiving the supplemental aid, an annual cost to a typical household of 1.5 percent of median household income for the project area as determined by the department. The estimate of such cost shall include all awards of aid under subsections (a) and (b) of this section, all other aid available to the applicant, and the estimated new and existing capital debt retirement and annual operating costs of the system. Awards of supplemental aid may, in accordance with the eligibility limitations of subdivision 1622(1) of this title, consist of:

(A) a loan under chapter 120 of Title 24 with an interest rate sufficient to assure that annual user costs do not exceed 1.5 percent of the median household income; or

(B) a grant for up to, but not exceeding, the total capital cost of the proposed project, in order to assure as closely as possible that annual household user costs do not exceed 1.5 percent of the median household income for the project area.

~~(2) In awarding financial assistance under this section, the department shall determine the existing and proposed annual user cost in accordance with procedures or rules adopted under chapter 25 of Title 3.~~

~~(d) Municipal match of federal revolving funds.~~

~~(1) A municipality may choose to provide the state money necessary to match federal monies available to the drinking water state revolving fund established by 24 V.S.A. § 4753(a)(3), and thereby become eligible to receive a loan from the revolving fund in the amount of the total cost of a water facility project approved under this section. Such a loan from the revolving fund, for up to the total project cost, shall be approved by municipal voters and secured by the full faith and credit of the municipality or anticipated revenues from municipal water charges.~~

~~(2) The amount of such a municipal match of federal funds shall be equal to one-sixth of the total project cost, which shall constitute a sum in addition to the amount of a loan for the total project cost to be received by the municipality from the revolving fund. A municipality is authorized to borrow monies needed for the match amount, from sources other than the revolving fund, which shall be approved by municipal voters and secured by the full faith and credit of the municipality or anticipated revenues from municipal water charges, or a municipality may use other funds or tax revenues available to it for this purpose.~~

~~(e) Upon request of the owner of a privately owned public water system, a municipality shall apply for and support an application for a community development block grant to receive use of state~~ State and federal funds~~, provided:~~

~~(1) the private water system owner agrees to pay all administrative and legal costs incurred by the municipality in pursuit of the grant;~~

~~(2) the municipality finds that the project to be supported by the grant is consistent with applicable local and regional plans, and local ordinances or other local enactments;~~

~~(3) the private water system owner, to the extent practicable, undertakes the administration of logistical and legal work necessary to prepare the application materials; and~~

~~(4) the private water system owner agrees to hold the municipality harmless from any claims of liability arising from the grant application or project.~~

~~(f) The secretary may use federal funds to award grants to municipalities to complete studies, or for start-up costs associated with the physical and operational consolidation of public water systems or the interconnection of~~

~~public water systems. The secretary shall establish amounts, eligibility, priorities, policies, and procedures in the annual state intended use plan (IUP).~~ [Repealed.]

Sec. 17. 10 V.S.A. § 1624a is amended to read:

§ 1624a. ~~AWARDS FOR POLLUTION ABATEMENT PROJECTS FOR COMBINED SEWER OVERFLOWS~~

~~(a) When the Department finds that a proposed water pollution abatement project not covered under section 1625 of this title is necessary, that the proposed type, kind, quality, size, and estimated cost of the project, including operation cost and sewage disposal charges, are suitable for abatement of pollution, and that the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the Secretary or by statute under chapter 47 of this title, the Department may award State financial assistance to the project. These projects may include ancillary work determined by the Secretary to be necessary to attain the water quality goals.~~

~~(b) The assistance shall consist of:~~

~~(1) A grant of 25 percent of the eligible project cost.~~

~~(2) A loan from the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund or the Vermont Pollution Control Revolving Fund of 50 percent of the eligible project cost. No interest shall be charged. In a certificate to the Vermont Municipal Bond Bank, the Secretary shall recommend the term, repayment schedule, and other terms and conditions of the loan.~~

~~(c) Notwithstanding the percentages of assistance provided for in subsection (b) of this section, when a municipality is certified by the Secretary of Commerce and Community Development to be within a designated job development zone, the grant to the municipality shall be 50 percent of eligible project costs and the loan shall be 25 percent of eligible project costs.~~

~~(d) Grants and loans under this section may be made from State and federal sources, as determined by the Secretary.~~

~~(e) A loan agreement may be entered into by action of the legislative body of the municipality, using procedures specified by applicable general or special enabling authority, following:~~

~~(1) authorization by the electorate of issuance of bonds in the amount of 25 percent of project costs, unless the municipality has determined to use some other method of financing its share of project cost; and~~

~~(2) authorization by the electorate of indebtedness in the amount of the loan under this section.~~

(f) A loan agreement may include provisions for deferred repayment if the electorate has authorized the future issuance of bonds to make a final repayment of the loan, and the authorization specifies whether the bond agreements will pledge the full faith and credit of the municipality or sufficient revenues from municipal sewage disposal charges.

(1) Except as provided in subdivision (2) of this subsection, loan repayments shall be according to the following schedule:

(A) 0.50 percent in the first year and increasing thereafter at 0.50 percent per year through the ninth year; and

(B) 5.0 percent in the 10th year through the 19th year; and

(C) the remainder in the 20th year.

(2) Notwithstanding subdivision (1) of this subsection, a municipality shall be entitled to loan repayment under this subdivision if repayment would produce municipal sewer rates in the municipality which exceed 150 percent of the current State average rate for a family of four. For purposes of this calculation, the municipality's sewer rates shall be deemed to include operating costs, payments on the municipality's water pollution control debt, and repayment of five percent of the principal of the loan under this section. The following shall be minimum repayments under this subdivision:

(A) 0.25 percent per year in the first through the tenth year, dating from the issuance of the certification of completion of the project;

(B) 0.50 percent in the 11th year and increasing thereafter at 0.50 percent per year through the 19th year; and

(C) the remainder in the 20th year.

(3) When a loan is issued with deferred repayment provisions pursuant to authorization of the electorate under this section for the future issuance of bonds, upon maturity of the loan, if other sources of revenue are available, the legislative body of the municipality may elect not to issue bonds to make the final payment on the loan. The term of these bonds, if issued, shall not exceed 20 years. As authorized in the initial vote, these bonds may be secured by a pledge of the full faith and credit of the municipality or by sufficient revenues from municipal sewage disposal charges.

(g) State financial assistance under this section shall be made to the extent that funds are available and according to a system of priorities established by the Secretary. In establishing this system, priority shall be given to pollution abatement and not to the support of demand growth, and to projects discharging into or near lakes on January 1, 1988.

~~(h) Notwithstanding subsection (b) of this section, a loan awarded from the Vermont Environmental Protection Agency Pollution Control Revolving Loan Fund for a combined sewer overflow abatement project may be for up to 100 percent of the eligible project cost if:~~

~~(1) the project is included on a priority list; and~~

~~(2) the project is capitalized, at least in part, with a Federal Clean Water State Revolving Fund grant that includes loan forgiveness provisions.~~ [Repealed.]

Sec. 18. 10 V.S.A. § 1625 is amended to read:

§ 1625. ~~AWARDS FOR POLLUTION ABATEMENT PROJECTS TO ABATE DRY WEATHER SEWAGE FLOWS~~

~~(a) When the Department finds that a proposed water pollution abatement project is necessary to maintain water quality standards during dry weather sewage flows, and that the proposed type, kind, quality, size, and estimated cost, including operation cost and sewage disposal charges, of the project are suitable for abatement of pollution, and the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the Secretary or by statute under chapter 47 of this title, the Department may award to municipalities a State assistance grant of up to 25 percent of the eligible project cost, provided that in no case shall the total of the State and federal grants exceed 90 percent of the eligible project costs:~~

~~(1) except that the 90 percent limitation shall not apply when the municipality provides, as their local share, federal funds allocated to them for the purpose of matching other federal grant programs having a matching requirement; and~~

~~(2) except that the total of State and federal grants issued under P.L. 92-500 section 202(a)(2) may equal up to 95 percent of the eligible costs for innovative or alternative wastewater treatment processes and techniques.~~

~~(b) In carrying out the purposes of this subchapter, the Department shall define the purpose and scope of an eligible project, including a determination of the area to be served, type of treatment, effluent limitations, eligible construction costs, cost accounting procedures and methods and other such project construction, operation and fiscal elements necessary to meet federal aid requirements. The Department shall, as a part of the administration of this grant program, encourage municipalities to undertake capital development planning and to establish water and sewer charges along public utility concepts.~~

~~(c) Any municipality having proceeded with construction of facilities with a State grant of 25 percent since July 1, 1984 shall be eligible for an increase in the State grant to a total of 35 percent of the eligible project costs.~~

~~(d) The Department may award a State assistance grant of up to 50 percent of the eligible costs of an approved pollution abatement project or a portion thereof not eligible for federal financial assistance in a municipality that is certified by the Secretary of Commerce and Community Development to be within the designated job development zone. To achieve the objectives of chapter 29, subchapter 2 of this title, the eligibility and priority provisions of this chapter do not apply to municipalities within a designated job development zone.~~

~~(e) [Repealed.]~~ [Repealed.]

Sec. 19. 10 V.S.A. § 1626a is amended to read:

§ 1626a. ~~AWARDS FOR WASTEWATER TREATMENT PLANTS WITH A CAPACITY OF 250,000 GALLONS OR MORE PER DAY~~

~~(a) Definitions. For the purpose of this section:~~

~~(1) "Septage" means the product of an individual or a group septic tank, which is removed from the tank for further processing and disposal.~~

~~(2) "Sludge" means the intermediate product of a municipal wastewater treatment plant which receives further processing by the same plant in a manner similar to the processing of septage by the plant.~~

~~(3) The project or plant "cost" means the cost of the enlargement or new construction of a wastewater treatment plant which the commissioner of environmental conservation finds is eligible for financial assistance under this section.~~

~~(b) Loan eligibility. The proposed enlargement or new construction of a wastewater treatment plant with a total design hydraulic capacity of 250,000 or more gallons per day shall be eligible for a loan for 100 percent of the total project cost, as provided by chapter 120 of Title 24, if the commissioner of environmental conservation finds that:~~

~~(1) the proposed plant capacity is necessary to accommodate anticipated municipal growth; and that~~

~~(2) the proposed plant capacity will be sufficient to receive, treat and dispose of septage in a quantity equivalent to the ratio of 2,000 gallons or more of such septage per day for each 1,000,000 gallons per day of plant design hydraulic capacity. However, this condition shall not be required if the commissioner finds that such septage treatment capacity by the plant is not needed within the region of the state in which the plant is or will be located.~~

~~(c) Additional state assistance eligibility.~~

~~(1) Grants. A proposed wastewater treatment plant which is eligible for a loan under subsection (b) of this section, and a wastewater treatment plant with a design hydraulic capacity of 250,000 or more gallons per day which is being refurbished, shall in addition be eligible for a grant of up to 50 percent of the cost of that portion of the plant to be used to treat septage, or septage and sludge in combination, if the commissioner of environmental conservation finds that the proposed plant capacity will be sufficient to receive, treat and dispose of septage alone in a quantity equivalent to the ratio of 4,000 gallons or more of such septage per day for each 1,000,000 gallons per day of plant design hydraulic capacity. The portion of the plant used for processing septage, or septage and sludge in combination, shall include facilities for receiving septage and for the storage, treatment, transfer, and disposal of both septage and sludge.~~

~~(2) Loans. A proposed wastewater treatment plant which is eligible for a grant under this subsection may receive an interest free loan for the remaining amount of the total project cost, from revolving funds established by chapter 120 of Title 24.~~

~~(d) Conditions of additional state assistance. The additional state assistance provided by subsection (c) of this section shall be awarded under the following conditions:~~

~~(1) To be eligible for additional assistance, a proposed plant shall be consistent with any solid waste implementation plan adopted pursuant to 24 V.S.A. § 2202a, or chapter 117 of Title 24, which is approved by the secretary of natural resources and which addresses septage and sludge management. However, the commissioner of environmental conservation shall not withhold additional assistance because of an absence of an adopted or approved solid waste implementation plan.~~

~~(2) Plants eligible for additional assistance shall receive increased funding priority in accordance with rules adopted by the secretary.~~

~~(3) A plant receiving additional assistance shall, for the useful life of the facility, maintain its additional processing capacity for use only in receiving and processing septage. Such septage shall be accepted from any Vermont municipality, and shall not be restricted to specific municipalities. The rate or rates charged for acceptance by the plant of septage from sources other than the users for whom the plant is designed primarily to serve, shall be equal to the rate or rates charged the primary users, and shall not subsidize the primary users. The agency shall include these requirements in any permit issued for the construction and operation of the plant, and the requirements shall be enforceable in the manner prescribed for that permit.~~

~~(4) Project costs eligible for additional assistance shall include the cost of: land used for the direct disposal of septage and sludge; facilities to receive, store, treat, transfer and dispose of septage and sludge; and facilities to compost or pelletize or otherwise process septage and sludge.~~

~~(5) When other state or federal assistance is awarded to a plant eligible for additional assistance under this section, such other assistance shall reduce, first, the loan amount awarded under this section, and secondly, the grant amount awarded under this section.~~ [Repealed.]

Sec. 20. 10 V.S.A. § 1626b is added to read:

§ 1626b. MUNICIPAL WATER POLLUTION CONTROL GRANTS

(a) Projects. The Secretary may award State assistance grants to municipalities for water pollution abatement and control facilities.

(b) Application. The Secretary shall prescribe the form of application to apply for a grant under this section. The application shall include:

(1) a description of the project;

(2) a schedule for project implementation;

(3) an estimate of the project cost;

(4) the information necessary for the Secretary to determine the grant amount using the criteria described in section 1628 of this title;

(5) whether the project requires a permit under chapter 151 of this title; and

(6) any other information that the Secretary deems necessary to implement this section.

(c) Grant award. The Secretary shall make grant awards pursuant to the project priority system adopted under section 1628 of this title in an amount not to exceed 35 percent of eligible project costs. The Secretary shall not award a grant under this section until the applicant provides a permit or jurisdictional opinion that a permit is not required, issued pursuant to chapter 151 of this title.

(d) Payment of awards. Payment of awards shall be made pursuant to section 1627 of this title.

Sec. 21. 10 V.S.A. § 1628 is amended to read:

§ 1628. PRIORITIES

The Department shall make grant awards under this chapter to eligible municipal water pollution abatement and control projects on the basis of ~~urgency of~~ need as determined according to a system of priorities adopted by

rule by the Department and to the extent appropriate funds are available. The system of priorities shall ~~include increased priority to eligible municipal projects in designated centers. The Department shall assure that projects sponsored by a town school district, or incorporated school district shall be given increased priority for purposes of the receipt of engineering planning advances awarded under section 1593 of this chapter. The total amount of the engineering planning advances made and still outstanding during a period for this purpose shall not exceed 30 percent of the bond issue or appropriation voted for construction grant funds by the General Assembly for the period in which the award is made~~ require consideration of criteria, including:

(1) whether a project is grant or loan eligible;

(2) the condition of the waters affected by the project and whether the waters are:

(A) not in compliance with the Vermont Water Quality Standards; or

(B) have a total maximum daily load (TMDL);

(3) whether the project will address water quality issues identified in a basin plan;

(4) whether the project will abate or control pollution that is causing or may cause a threat to public health;

(5) whether the project will address an emergency situation affecting or constituting a threat to the environment or the public health, safety, or welfare;

(6) if the project repairs or replaces existing infrastructure, the condition and integrity of such infrastructure;

(7) whether the project incorporates principles of environmental resiliency or sustainability, including energy efficiency, which reduce the environmental impacts of the project or a water pollution abatement and control facility;

(8) the fiscal integrity and sustainability of the project, including whether the project is a cost-effective alternative, when compared to other alternatives;

(9) whether the project serves a designated center;

(10) affordability factors for the municipality or municipalities in which the project is located, including:

(A) median household income;

(B) unemployment rate; and

(C) population trends; and

(11) if the project removes a pollutant for which the water or waters affected by the project are impaired, the cost-effectiveness of the project at removing that pollutant.

Sec. 22. 10 V.S.A. § 1630 is amended to read:

§ 1630. ~~REGULATIONS~~ RULES

The ~~department~~ Department with the approval of the ~~secretary~~ Secretary shall adopt ~~regulations~~ rules consistent with this subchapter as it finds necessary for proper administration of the subchapter.

Sec. 23. 10 V.S.A. § 1632 is amended to read:

§ 1632. STATE ADMINISTRATIVE DEPARTMENTS

For the purpose of constructing or substantially improving a water pollution abatement and control facility ~~or potable water supply facility~~ any ~~state~~ State administrative department as authorized in Title 3 shall be deemed a municipality under section 1623 of this title~~,~~ and subject to the terms and conditions applicable to municipalities; provided, however, that a State administrative department deemed a municipality shall only receive State assistance under this chapter if the Department has a surplus of funds at the end of each fiscal year after all municipal grant applicants have received committed funds.

Sec. 24. 24 V.S.A. § 4751 is amended to read:

§ 4751. DECLARATION OF POLICY

It is hereby declared to be in the public interest to foster and promote timely expenditures by municipalities for water ~~supply~~ systems, water pollution abatement and control facilities, and solid waste management, each of which is declared to be an essential governmental function when undertaken and implemented by a municipality. It is also declared to be in the public interest to promote expenditures for certain existing privately owned public water systems and certain privately owned wastewater and public and potable water supply systems to bring those systems into compliance with federal and ~~state~~ State standards and to protect public health and the environment.

Sec. 25. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

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

* * *

(3) "Municipality" means any city, town, village, town school district, incorporated school district, union school district, or other school district, fire district, consolidated sewer district, consolidated water district, solid waste district, or statewide or regional water quality utility, or mechanism organized under laws of the State.

* * *

(6) "Noncommunity water system" ~~means a noncommunity water system as that term is defined~~ shall have the same meaning as in 10 V.S.A. § 1671.

(7) "Privately owned water system" means any water system ~~which~~ that is not owned or operated by a municipality.

(8) "Community water system" ~~means a public community water system as that term is defined~~ shall have the same meaning as in 10 V.S.A. § 1671.

(9) "Public water ~~system~~ supply systems" means a public water system as that term is defined in 10 V.S.A. § 1671, except for bottled water facilities and for-profit noncommunity systems, which includes water systems, water treatment plants, structures, pipe lines, storage facilities, pumps, and attendant facilities necessary to develop a source of water, and to treat and convey it in proper quantity and quality.

(10) "Privately owned wastewater system" means a privately owned wastewater ~~conveyance, treatment, and disposal system or elements thereof which is privately owned and~~ system, which ~~handles~~ receives primarily domestic type wastes.

(11) "Water pollution abatement and control facilities" means such equipment, conveyances, and structural or nonstructural facilities owned or operated by a municipality that are needed for and appurtenant to the prevention, management, treatment, storage, or disposal of stormwater, sewage, or waste, including a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.

(12) "Disadvantaged municipality" means a municipality or the served area of a municipality which:

(A) has a median household income below the State average median household income as determined by the Secretary and which, after construction of the proposed water supply improvements, will have an annual household user cost greater than one percent of the median household income as determined by the Secretary; or

(B) has a median household income equal to or greater than the State average median household income as determined by the Secretary and which, after construction of the proposed water supply improvements, will have an annual household user cost greater than 2.5 percent of the median household income as determined by the Secretary.

(13) "Potable water supply facilities" means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps and attendant facilities necessary to develop a source of water and to treat and convey it in proper quantity and quality for public use within a municipality.

(14) "Sewage" shall have the same meaning as used in section 3501 of this chapter.

(15) "Stormwater" shall have the same meaning as stormwater runoff in section 1264 of this title.

(16) "Waste" shall have the same meaning as used in 10 V.S.A. § 1251.

Sec. 26. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans to municipalities~~,~~ and State agencies~~, and the Vermont Housing Finance Agency for planning sewage systems and sewage treatment or disposal plants as defined in subdivisions 3501(6) and 3601(3) of this title, for constructing publicly owned sewage systems and sewage treatment or disposal plants as defined in subdivisions 3501(6) and 3601(3) of this title,~~ for planning ~~or construction of certain privately owned wastewater systems,~~ and construction of water pollution abatement and control facilities, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

(2) The Vermont Pollution Control Revolving Fund, which shall be used to provide loans to municipalities~~,~~ and State agencies~~, and the Vermont Housing Finance Agency~~ for planning and construction of water pollution abatement and control facilities, ~~for constructing publicly owned pollution control facilities, and for constructing certain privately owned wastewater systems and potable water supply systems~~ including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way.

(3) The Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, which shall be used to provide loans to municipalities and certain privately owned water systems for:

(A) planning, designing, constructing, repairing, or improving ~~a~~ public water ~~system~~ supply systems, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, in order to comply with State and federal standards and protect public health and the environment; and

(B) implementing related management programs.

(4) The Vermont Solid Waste Revolving Fund, which shall be used to provide loans to municipalities (including union municipal districts formed under ~~subchapter 3 of~~ chapter 121, subchapter 3 of this title) for planning solid waste handling and disposal facilities as enumerated in section 2203a of this title, and for constructing publicly owned solid waste handling and disposal facilities as enumerated in section 2203a of this title.

(5) The Vermont Drinking Water Planning Loan Fund, which shall be used to provide loans to municipalities and privately owned, nonprofit community water systems, with populations of less than 10,000, for conducting feasibility studies and for the preparation of preliminary engineering planning studies and final engineering plans and specifications for improvements to public water supply systems in order to comply with State and federal standards and to protect public health. The Secretary may forgive up to $50,000.00 of the unpaid balance of a loan made from the Vermont Drinking Water Planning Loan Fund to municipalities after project construction is substantially completed or upon approval of a plan. The Secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual State ~~Intended Use Plan~~ intended use plan (IUP), as required by the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., with public review and comment prior to finalization and submission to the U.S. Environmental Protection Agency.

(6) The Vermont Drinking Water Source Protection Fund, which shall be used to provide loans to municipalities for purchasing land or conservation easements in order to protect public water sources and ensure compliance with State and federal drinking water regulations.

(7) The Vermont Drinking Water Emergency Use Fund, which shall be within the control of the Secretary. Disbursements from the Fund may be made by the Secretary for costs required to undertake the following emergency actions that the Secretary considers necessary to protect public health:

(A) collecting and analyzing samples of drinking water;

(B) hiring contractors to perform or cause to be performed infrastructure repairs of ~~a~~ public water ~~system~~ supply systems;

(C) hiring certified operators to perform operational activities at ~~a~~ public water ~~system~~ supply systems; and

(D) providing or causing to be provided bottled or bulk water for ~~a~~ public water ~~system~~ supply systems due to problems with quality or quantity, or both.

(8) [Repealed.]

(9) The Vermont Drinking Water Revolving Loan Fund, which shall be used to provide loans to a municipality for the design, land acquisition, if necessary, and construction of a potable water supply when a household in the municipality has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees.

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972. The amount of $275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited on an annual basis into this Fund.

(b) Each of such funds shall be established and held separate and apart from any other funds or monies of the State and shall be used and administered exclusively for the purpose of this chapter with the exception of transferring funds from the Vermont Drinking Water Planning Loan Fund and the Vermont Drinking Water Source Protection Fund to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund, and from the Vermont Pollution Control Revolving Fund to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, when authorized by the Secretary. These funds shall be administered by the Bond Bank on behalf of the State, except that: the Vermont EPA Drinking Water State Revolving Fund shall be administered by VEDA concerning loans to privately owned water systems under ~~subdivision~~ subdivisions (a)(3) and (5) of this section; and the Vermont Wastewater and Potable Water Revolving Loan Fund may be administered by a community development financial institution, as that term is defined in 12 U.S.C. § 4702, that is contracted with by the State for the purpose of providing loans to individuals for failed wastewater systems and potable water supplies under subdivision (a)(10) of this section. The funds shall be invested in the same manner as permitted for investment of funds

belonging to the State or held in the Treasury. The funds shall consist of the following:

(1) such sums as may be appropriated or transferred thereto from time to time by the General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times as the General Assembly is not in session;

(2) principal and interest received from the repayment of loans made from each of such funds;

(3) capitalization grants and awards made to the State by the United States of America for any of the purposes for which such funds have been established;

(4) interest earned from the investment of fund balances;

(5) private gifts, bequests, and donations made to the State for any of the purposes for which such funds have been established; and

(6) other funds from any public or private source intended for use for any of the purposes for which such funds have been established.

(c) In addition to the purposes established in subsection (a) of this section, the various loan funds created herein may be used for one or more of the purposes established in section 4757 of this title.

(d) ~~Funds from the Vermont Environmental Protection Agency Pollution Control Fund and the Vermont Pollution Control Revolving Fund, established by subdivisions (a)(1) and (2) of this section, may be awarded for:~~

~~(1) the refurbishment or construction of a new or an enlarged wastewater treatment plant with a resulting total capacity of 250,000 gallons or more per day in accordance with the provisions of this chapter and 10 V.S.A. § 1626a; or~~

~~(2) the construction of stormwater management facilities as specifically or generally described in Vermont's Nonpoint Source Management Plan, and which are necessary to remedy or prevent pollution of waters of the State, provided, in any year in which the federal grant for the Fund established in subdivision (a)(1) of this section does not exceed the amount available to the State in the 2002 federal appropriation, no more than 30 percent of that year's federal and State appropriations to that Fund shall be used for the purpose outlined in this subdivision.~~ [Repealed.]

(e) The Secretary may bring an action under this subsection or other available State and federal laws against the owner or permittee of the public water ~~system~~ supply systems to seek reimbursement to the Vermont Drinking Water Emergency Use Fund for all disbursements from the Fund made pursuant to subdivision (a)(7) of this section. To the extent compatible with

the urgency of the situation, the Secretary shall provide an opportunity for the responsible water system owner or permittee to undertake the necessary actions under the direction of the Secretary prior to making disbursements.

Sec. 27. 24 V.S.A. § 4753a is amended to read:

§ 4753a. AWARDS FROM REVOLVING LOAN FUNDS

(a) Pollution control. The General Assembly shall approve all categories of awards made from the special funds established by section 4753 of this title for water pollution abatement and facility construction, in order to assure that such awards conform with State policy on water quality and pollution abatement, and with the State policy that municipal entities shall receive first priority in the award of public monies for such construction, including monies returned to the revolving funds from previous awards. To facilitate this legislative oversight, the Secretary of Natural Resources shall annually ~~no later than~~ on or before January 15 report to the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the House and Senate Committees on Natural Resources and Energy on all awards made from the relevant special funds during the prior and current fiscal years, and shall report on and seek legislative approval of all the types of projects for which awards are proposed to be made from the relevant special funds during the current or any subsequent fiscal year. Where feasible, the specific projects shall be listed. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(b) ~~Water supply. The Secretary of Natural Resources shall no later than January 15, 2000 recommend to the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the House and Senate Committees on Natural Resources and Energy a procedure for reporting to and seeking the concurrence of the Legislature with regard to the special funds established by section 4753 of this title for water supply facility construction.~~ [Repealed.]

(c) [Repealed.]

(d) Loan forgiveness; pollution control. Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Environmental Protection Agency Pollution Control Revolving Fund (CWSRF), the Secretary of Natural Resources, in a manner that is consistent with federal grant provisions, may ~~forgive up to 50 percent of a loan if the award is made for a project on a priority list and the project is capitalized, at least in part, from funds derived from a federal CWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of~~

~~federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match~~ provide loan forgiveness.

(e) Loan forgiveness; drinking water.

(1) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Environmental Protection Agency Drinking Water State Revolving Fund (DWSRF), the Secretary of Natural Resources, in a manner that is consistent with federal grant provisions, may ~~forgive up to 100 percent of a loan if the award is made for a project on the priority list and the project is capitalized, at least in part, from funds derived from a federal DWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match~~ provide loan forgiveness.

(2) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Drinking Water State Revolving Loan Fund, the Secretary of Natural Resources may provide loan forgiveness for preliminary engineering and final design costs when a municipality undertakes such engineering on behalf of a household that has been disconnected involuntarily from a public water supply system for reasons other than nonpayment of fees, provided it is not the same municipality that is disconnecting the household.

(f) Loan forgiveness standard. The Secretary shall establish standards, policies, and procedures as necessary for implementing subsections (d) and (e) of this section for allocating the funds among projects and for revising standard priority lists in order to comply with requirements associated with federal capitalization grant agreements.

Sec. 28. 24 V.S.A. § 4754 is amended to read:

§ 4754. LOAN APPLICATION

A municipality may apply for a loan, the proceeds of which shall be used to acquire, design, plan, construct, enlarge, repair or improve a ~~publicly-owned sewage system, sewage treatment or disposal plant,~~ publicly owned water pollution abatement and pollution control facility, ~~water supply, water system,~~ public water supply systems as defined in section 4752(9) of this title, or a solid waste handling and disposal facility, or certain ~~privately-owned~~ privately owned wastewater systems as described in section 4763 of this title, or to implement a related management program. In addition, the loan proceeds shall be used to pay the outstanding balance of any engineering planning advances made to the municipal applicant under this chapter ~~55 of Title 10~~ and determined by the ~~secretary of the agency of natural resources~~ Secretary to be

due and payable following construction of the improvements to be financed by the proceeds of the loan. The ~~bond bank~~ Bond Bank may prescribe any form of application or procedure required of a municipality for a loan hereunder. Such application shall include such information as the ~~bond bank~~ Bond Bank shall deem necessary for the purpose of implementing this chapter.

Sec. 29. 24 V.S.A. § 4755 is amended to read:

§ 4755. LOAN; LOAN AGREEMENTS; GENERAL PROVISIONS

(a) Except as provided by subsection (c) of this section, the Bond Bank may make loans to a municipality on behalf of the State for one or more of the purposes set forth in section 4754 of this chapter. Each of such loans shall be made subject to the following conditions and limitations:

(1) ~~no~~ No loan shall be made for any purpose permitted under this chapter other than from the revolving fund in which the same purpose is included~~;~~.

(2) ~~the~~ The total amount of loan out of a particular revolving fund shall not exceed the balance of that fund~~;~~.

(3) ~~the~~ The loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed 30 years or the projected useful life of the project, ~~which ever~~ whichever is less, except:

(A) there shall be no deferral of payment~~, unless authorized by 10 V.S.A. § 1624a~~;

(B) the term of the loan shall not exceed 20 years when required by ~~10 V.S.A. § 1624(b)~~ section 4763c of this title; and

(C) the loan may be evidenced by any other permitted debt instrument payable as permitted by chapter 53 of this title~~;~~.

(4) ~~notwithstanding~~ Notwithstanding any other provisions of law, municipal legislative bodies may execute notes and incur debt on behalf of municipalities~~,~~:

(A) with voter approval at a duly warned meeting, for amounts less than $75,000.00~~,~~; or

(B) ~~increase~~ by increasing previously approved bond authorizations by up to $75,000.00 to cover unanticipated project costs~~; and~~.

(5) ~~the~~ The rate of interest charged for the loans made to municipalities under this chapter, or the manner of determining the same, shall be established from time to time by the State Treasurer after consultation with the Secretary ~~of the Agency~~ taking into consideration the current average rate on outstanding marketable obligations of the State as of the last day of the preceding month.

The rate of interest shall be no less than zero percent ~~nor more than 80 percent of the average rate on marketable obligations of the State~~ and no more than the market interest rate, as determined by the Bond Bank, except as provided in section 4763c of this title. ~~Effective July 1, 1999, an~~ An administrative fee of no more than two percent shall be charged for the loans made to municipalities under this chapter from the Clean Water State Revolving Fund~~. Effective July 1, 2001, an administrative fee of no more than two percent may be charged for loans made to municipalities under this chapter from~~ and the Vermont Environmental Protection Agency Drinking Water State Revolving Fund. The Secretary shall establish the method used to determine such administrative fee. Fee proceeds shall be deposited into a nonlapsing account and be held separately from the funds established pursuant to section 4753 of this title. ~~Moneys~~ Monies from such account shall be used to pay the costs of administering each of the funds established by subsection 4753(a) of this title, and any excess shall be transferred to the appropriate account established by subsection 4753(a) of this title. ~~Notwithstanding all other requirements of this subdivision, the interest rate charged for municipal water supply projects shall be established by the Secretary pursuant to 10 V.S.A. § 1624~~.

(b) Loans made to a municipality by the Bond Bank on behalf of the State under this chapter shall be evidenced by and made in accordance with the terms and conditions specified in a loan agreement to be executed by the Bond Bank on behalf of the State and the municipality. The loan agreement shall specify the terms and conditions of loan repayment by the municipality, as well as the terms, conditions, and estimated schedule of disbursement of loan proceeds. Disbursement of loan proceeds shall be based upon certification of the loan recipient showing that costs for which reimbursement is requested have been incurred and paid by the recipient. The recipient shall provide supporting evidence of payment upon the request of the ~~department~~ Department. Partial payments of loan proceeds shall be made not more frequently than monthly. Interest costs incurred in local short-term borrowing of the loan amount shall be reimbursed as part of the loan. The loan agreement shall state the term and interest rate of the loan, the scheduling of loan repayments, and such other terms and conditions as shall be deemed necessary by the Bond Bank.

(c) The Vermont Economic Development Authority shall make loans on behalf of the ~~state~~ State when the loan recipient is a privately owned public water system. Such loans shall be issued and administered pursuant to subchapter 3 of this chapter.

(d) ~~The Secretary of Natural Resources shall by January 15, 2003 submit a comprehensive report to the House Committees on Corrections and Institutions and on Natural Resources and Senate Committees on Institutions and on Natural Resources and Energy on the use by the state and by municipalities of~~

~~the two percent administrative fee authorized by subdivision (a)(4) of this section.~~ [Repealed.]

(e) For the purposes of this chapter, a State administrative department as authorized in Title 3 shall be deemed a municipality and subject to the terms and conditions applicable to municipalities; provided, however, that a State administrative department deemed a municipality shall only receive State assistance under this chapter if the Department has a surplus of funds at the end of each fiscal year after all municipal loan applicants have received committed funds.

Sec. 30. 24 V.S.A. § 4758 is amended to read:

§ 4758. LOAN PRIORITIES

(a) Periodically, and at least annually, the ~~secretary~~ Secretary shall prepare and certify to the ~~bond bank~~ Bond Bank a project priority list of those municipalities whose publicly owned projects, or privately owned wastewater systems, are eligible for financing or assistance under this chapter. In determining financing availability for ~~wastewater projects~~ water pollution abatement and control facilities under this chapter, the ~~secretary of the agency having jurisdiction~~ Secretary shall apply the ~~following~~ criteria~~:~~

~~(1) the probable public benefit to be gained or preserved by the project to be financed;~~

~~(2) the long-term costs and the resulting benefits to be derived from the project. In determining benefits, induced growth from a project that is not consistent with a town, city, or village plan, duly adopted under chapter 117 of this title, will not be considered;~~

~~(3) the cost of comparable credit or financing alternatives available to the municipality;~~

~~(4) the existence of immediate public health, safety and welfare factors, and compliance therewith;~~

~~(5) the existence of an emergency constituting a threat to public health, safety and welfare; and~~

~~(6) the current area and population to be served by the proposed project~~ adopted pursuant to 10 V.S.A. § 1628.

(b) ~~In determining financing availability for stormwater projects under this chapter, the secretary of the agency having jurisdiction shall apply the following criteria:~~

~~(1) that the project is specifically or generally described in Vermont's nonpoint source management plan;~~

~~(2) that the project will remedy or prevent the impairment of waters, and the severity of that existing or prevented impairment; and~~

~~(3) that the project is consistent with the applicable basin plan for the waters affected by the project.~~ [Repealed.]

Sec. 31. 24 V.S.A. § 4763c is added to read:

§ 4763c. LOANS FOR PUBLIC WATER SUPPLY SYSTEMS

(a) The Secretary may certify to the Vermont Municipal Bond Bank established by section 4571 of this title the award of a loan to a municipality to assist with a public water supply system project, when the Secretary finds that:

(1) the project is necessary;

(2) the proposed type, size, and estimated cost of the project are suitable for its intended purpose; and

(3) the municipality will have the technical, financial, and managerial ability to operate the facility in compliance with federal and State law.

(b) The certification by the Secretary shall specify the interest rate, and indicate which of the following loan conditions concerning construction loans apply:

(1) The term shall not exceed 20 years, and the annual interest rate, plus the administrative fee, shall be no more than three percent or less than zero percent, except that when the applicant municipality is disadvantaged as defined by subdivision 4752(12) of this title, the term shall not exceed 30 years. When the applicant municipality is disadvantaged as defined in subdivision 4752(12), the annual interest rate, plus the administrative fee, shall be no less than minus three percent.

(2) In no instance shall the annual interest rate, plus the administrative fee, be less than necessary to achieve an annual household user cost equal to one percent of the median household income of the applicant municipality or served area, taking into account:

(A) debt retirement of the project, including any monies a municipality may borrow to match federal funds available to the Vermont EPA Drinking Water State Revolving Fund pursuant to section 4763d of this title;

(B) prior drinking water projects; and

(C) estimated annual operation and maintenance costs as determined by the Secretary.

(c) A municipal legislative body may execute a loan agreement under this subsection provided the loan is authorized by municipal voters and secured by the full faith and credit of the municipality.

(d) A loan shall be issued and administered pursuant to this chapter.

(e) Loans shall be available to the extent funds are available and according to priorities established by the Secretary.

(f) For purposes of this section, the Secretary shall determine the median household income of a municipality from the most recent federal census data available when the priority list used for funding the project was approved, or at the option of an applicant municipality, based on the recommendation of an independent contractor hired by the municipality and approved by the Secretary. The determination of the Secretary shall be final. The cost of an independent contractor may be included in the total cost of a project.

(g) Loans awarded for the purpose of refinancing old debt shall be for a term of no more than 20 years and at an interest rate set by the State Treasurer at no less than zero percent and no more than the market interest rate, as determined by the Bond Bank, except that municipalities or private water system owners that qualify for loan awards under section 4770 of this title and that incurred debt and initiated construction after April 5, 1997 may receive loans at interest rates and terms pursuant to subdivision (b)(2)(A) of this section.

(h) Loans awarded for the purpose of conducting feasibility studies and preparation of engineering plans and designs shall be for a term of no more than five years at an interest rate of zero percent.

(i) Loans awarded for the purpose of purchasing land or conservation easements to protect public water sources shall be for a term of no more than 20 years at an annual interest rate of three percent.

(j) The Secretary may forgive up to $25,000.00 of a loan from the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund to municipalities for improvements to public school water systems following substantial completion of the project. The Secretary shall establish amounts, eligibility, policies, and procedures for loan forgiveness in the annual State intended use plan (IUP), as required by the Safe Drinking Water Act, 42 U.S.C. § 300f et seq., with public review and comment prior to finalization and submission to the EPA.

(k) Subject to the interest rate and administrative fee limitations of subsection (b) of this section, the Secretary may designate projects as U.S. Department of Agriculture Rural Development-Vermont EPA Drinking Water State Revolving Fund jointly funded projects, and reduce the Vermont EPA revolving fund interest rate, plus administrative fee, in order to make the total loan cost of the joint loan to the municipality equivalent to the total loan cost of a separately funded Vermont EPA revolving loan for the same project.

Sec. 32. 24 V.S.A. § 4763d is added to read:

§ 4763d. MUNICIPAL MATCH OF FEDERAL REVOLVING FUNDS

(a) A municipality may choose to provide the State money necessary to match federal monies available to the Vermont EPA Drinking Water State Revolving Fund established by subdivision 4753(a)(3) of this title, and thereby become eligible to receive a loan from the Revolving Fund in the amount of the total cost of a water facility project approved under this section. Such a loan from the Revolving Fund, for up to the total project cost, shall be approved by municipal voters and secured by the full faith and credit of the municipality or anticipated revenues from municipal water charges.

(b) The amount of such a municipal match of federal funds shall be equal to one-sixth of the total project cost, which shall constitute a sum in addition to the amount of a loan for the total project cost to be received by the municipality from the Revolving Fund. A municipality is authorized to borrow monies needed for the match amount, from sources other than the Revolving Fund, which shall be approved by municipal voters and secured by the full faith and credit of the municipality or anticipated revenues from municipal water charges, or a municipality may use other funds or tax revenues available to it for this purpose.

(c) Upon request of the owner of a privately owned public water system, a municipality may apply for and support an application for a community development block grant to receive use of State and federal funds, provided:

(1) the private water system owner agrees to pay all administrative and legal costs incurred by the municipality in pursuit of the grant;

(2) the municipality finds that the project to be supported by the grant is consistent with applicable local and regional plans, and local ordinances or other local enactments;

(3) the private water system owner, to the extent practicable, undertakes the administration of logistical and legal work necessary to prepare the application materials; and

(4) the private water system owner agrees to hold the municipality harmless from any claims of liability arising from the grant application or project.

(d) The Secretary may use federal funds to award grants to municipalities to complete studies, or for start-up costs associated with the physical and operational consolidation of public water systems or the interconnection of public water systems. The Secretary shall establish amounts, eligibility, priorities, policies, and procedures in the annual State intended use plan (IUP), as required by the Safe Drinking Water Act, 42 U.S.C. § 300f et seq.

Sec. 33. 24 V.S.A. § 4764 is added to read:

§ 4764. PLANNING

(a) Engineering planning advance. A municipality or a combination of two or more municipalities desiring an advance of funds for engineering planning for public water supply systems, as defined in subdivision 4752(9) of this title, or improvements, or for water pollution abatement and control facilities or improvements, may apply to the Department for an advance under this chapter. As used in this subsection, "engineering planning" may include source exploration, surveys, reports, designs, plans, specifications, or other engineering services necessary in preparation for construction of the types of systems or facilities referred to in this section.

(b) Regional engineering planning. The Department, with the approval of the Secretary, may use up to ten percent of the total capital appropriation for construction grants to undertake regional engineering planning and process research. Funds approved for regional engineering planning may be awarded directly to a lead municipality and administered in accordance with this chapter.

(c) Funding. In each fiscal year, the Department may use up to 30 percent of the total capital appropriation for construction grants provided under 10 V.S.A. chapter 55 to award engineering planning advances.

Sec. 34. 24 V.S.A. § 4765 is added to read:

§ 4765. APPLICATION

The application shall be supported by data covering:

(1) a description of the project;

(2) a description of the engineering service to be performed;

(3) an explanation of the need for the project;

(4) an estimate of the cost of the project;

(5) the amount of advance requested;

(6) a schedule for project implementation;

(7) such other information and assurances as the Department may require.

Sec. 35. 24 V.S.A. § 4766 is added to read:

§ 4766. AWARD OF ADVANCE

(a) The Department may award an engineering planning advance, as defined in section 4764 of this title, in an amount determined by standards established by the Department, and pursuant to the following:

(1) for public water supply systems, as defined in subdivision 4752(9) of this title, when it finds the same to be necessary in order to preserve or enhance the quality of water provided to the inhabitants of the municipality, or to alleviate an adverse public health condition, or to allow for orderly development and growth of the municipality, except that no funds may be awarded until the Department determines that the applicant has complied with the provisions of 10 V.S.A. § 1676a, unless such funds are solely for the purpose of determining the effect of the proposed project on agriculture; or

(2) for planning of water pollution abatement and control facilities, in order to enable a municipality to comply with water quality standards established under 10 V.S.A. chapter 47.

(b) The Department shall award an advance for engineering planning under this section only when it finds:

(1) that the cost of the project is reasonable for its intended purpose; and

(2) that local funds are not readily available.

Sec. 36. 24 V.S.A. § 4767 is added to read:

§ 4767. PAYMENT OF AWARDS

On receipt of the engineering planning documents and their approval by the Department, the Department shall certify the award to the Commissioner of Finance and Management who shall issue his or her warrant for payment of the award from the construction grant funds available to the Department. The Department may direct the Commissioner of Finance and Management to issue his or her warrant for partial payments of the award upon receipt and approval of portions of the total engineering work to be performed under the advance, together with the recipient's certification that costs for which reimbursement has been requested have been incurred and paid by the recipient municipality. The recipient shall provide supporting evidence of payment upon the request of the Department. Partial payments shall be made not more frequently than monthly. Interest costs incurred in local short-term borrowing of the engineering planning advance shall be reimbursed as part of the advance.

Sec. 37. 24 V.S.A. § 4768 is added to read:

§ 4768. REPAYMENT OF ADVANCES

Advances under this subchapter shall be repaid when construction of the facilities or any portion thereof is undertaken. Where a construction grant or loan is authorized by the Department for the project, the amount of the outstanding advances shall be retained from the initial payments of the grant or loan funds. In other instances, if repayment is not made within 60 days upon demand by the Department, the sum shall bear interest at the rate of 12 percent per annum from the date payment is demanded by the Department to the date of payment by the municipality. The Department may approve proportional repayment when construction is initiated on a small portion of the planned project.

Sec. 38. REPORT ON LOANS TO PRIVATE ENTITIES FOR WATER POLLUTION ABATEMENT AND CONTROL FACILITIES AND PUBLIC WATER SUPPLY SYSTEMS

(a) On or before December 15, 2016, the Secretary of Natural Resources shall submit to the House Committees on Corrections and Institutions, on Fish, Wildlife and Water Resources, and on Commerce and Economic Development and the Senate Committee on Institutions a report regarding whether and how to provide loans under 24 V.S.A. chapter 120 to private entities for water pollution abatement and control facilities, and public water supply systems.

(b) The report shall include:

(1) an assessment of the total funds available from the State for grants and loans to municipalities and the total funds available from the State for loans to private entities to improve water quality;

(2) an estimate of the costs to municipalities over the next 10 years of complying with State and federal water quality and water supply requirements, including any necessary improvements to water pollution abatement and control facilities or public water supply systems;

(3) an estimate of the likely demand by municipalities in the next 10 years for grants and loans for municipal compliance with State and federal water quality and water supply requirements;

(4) a recommendation of whether to authorize loans under 24 V.S.A. chapter 120 to private entities for water pollution abatement and control facilities or public water supply systems;

(A) if the Secretary recommends that private entities should not receive loans under 24 V.S.A. chapter 120 for water pollution abatement and control facilities or public water supply systems, the basis for the recommendation;

(B) if the Secretary recommends that private entities should be authorized to receive loans under 24 V.S.A. chapter 120 for water pollution abatement and control facilities or public water supply systems:

(i) the basis for the recommendation;

(ii) how loans to municipal projects would retain priority over private entities in eligibility;

(iii) whether loans to private entities should be limited to certain types of water pollution abatement and control facilities or public water supply systems projects, including whether:

(I) loans for correcting sewage problems should only be authorized to private residences or development with failed systems, as that term is defined in 10 V.S.A. § 1972; and

(II) loans to private entities for stormwater management should be limited to situations when stormwater runoff contributes to combined sewer overflow issues in a municipality and the State or the municipality lacks regulatory authority to require the private entity to implement stormwater controls;

(iv) which financial institution or institutions should administer the loans; and

(v) recommendations on loan eligibility requirements, conditions of loan agreements, and other provisions necessary to administer loans to private entities.

Sec. 39. TRANSITION; WATER POLLUTION ABATEMENT CONTROL FACILITIES

(a) Notwithstanding any conflict with this act, the Department is authorized to continue to award assistance under the Municipal Pollution Control Priority System Rule, adopted August 1, 2014, until new rules are adopted to implement this act pursuant to 10 V.S.A. § 1628. Until such new rules are adopted, the Department shall award grants pursuant to subsection (b) of this section.

(b) When the Department finds that a proposed water pollution abatement and control facility is necessary to maintain or achieve compliance with the Vermont Water Quality Standards; that the proposed type, kind, quality, size, and estimated cost of the project, including operation cost and sewage disposal charges, are suitable for abatement of pollution; and that the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the Secretary or by statute under 10 V.S.A. chapter 47, the Department may award State financial assistance to the project as follows:

(1) Combined sewer separation facilities and combined sewer overflow abatement projects shall be eligible for a grant of 25 percent of the eligible project costs.

(2) Projects to abate dry weather sewage flows shall be eligible for a grant of up to 25 percent of the eligible project costs, except that any municipality having proceeded with construction of facilities with a State grant of 25 percent since July 1, 1984 shall be eligible for an increase in the State grant to a total of 35 percent of the eligible project costs.

(3) A project to construct, enlarge, or refurbish a wastewater treatment plant with a design hydraulic capacity of 250,000 or more gallons per day shall be eligible for a grant of up to 50 percent of the cost of that portion of the plant used to treat septage, or septage and sludge in combination, if the Commissioner of Environmental Conservation finds that the proposed plant capacity will be sufficient to receive, treat, and dispose of septage alone in a quantity equivalent to the ratio of 4,000 gallons or more of such septage per day for each 1,000,000 gallons per day of plant design hydraulic capacity. The portion of the plant used for processing septage, or septage and sludge in combination, shall include facilities for receiving septage and for the storage, treatment, transfer, and disposal of both septage and sludge.

Sec. 40. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 10-0-1)

H. 610

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

Reported without recommendation by **Rep. Johnson of South Hero** for the Committee on **Appropriations.**

(Committee Vote: 11-0-0)

H. 629

An act relating to the administration and issuance of vital records

Rep. Devereux of Mount Holly, for the Committee on **Government Operations,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. VITAL RECORDS STUDY COMMITTEE; REPORT

(a) Creation and membership. There is created a Vital Records Study Committee composed of the following members:

(1) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(2) one current member of the Senate, who shall be appointed by the Committee on Committees;

(3) the State Archivist or designee;

(4) the Commissioner of Health or designee;

(5) a town clerk appointed by the Vermont Municipal Clerks' and Treasurers' Association.

(b) Powers and duties. The Committee shall study Vermont's laws governing the administration and issuance of vital records and best practices in other jurisdictions with regard to the administration and issuance of vital records, and recommend proposed legislation to reform Vermont's vital records laws. At a minimum, the Committee's recommendations shall address the following issues:

(1) the persons who should be entitled to receive certified copies of birth and death certificates and the process and evidence used to verify the identity of such persons;

(2) the collection and maintenance of information about persons who request certified copies of vital records;

(3) the persons who should have authority to issue certified copies of vital records and the process and standards under which such persons should be granted such authority and audited for compliance;

(4) physical requirements and security standards for storage of vital record certificates and related supplies;

(5) whether the existing process for filing and registering birth certificates should be streamlined;

(6) the penalties that should be associated with fraudulent activities related to vital records;

(7) which vital records or specific information contained in vital records should be designated confidential and any exceptions to confidentiality that should be created;

(8) rulemaking that the Department of Health should be required to carry out related to the administration and issuance of vital records;

(9) appropriate fees for certified and informational copies of vital records; and

(10) effective dates and any transition provisions needed to implement the Committee's recommendations.

(c) Assistance. The Committee shall receive technical assistance from the Office of the Secretary of State and from the Department of Health. For purposes of scheduling meetings and preparing recommended legislation, the Committee shall have the assistance of the Office of Legislative Council.

(d) Report. On or before November 15, 2016, the Committee shall submit a written report to the House and Senate Committees on Government Operations with its findings and recommendations for proposed legislation.

(e) Meetings.

(1) The legislative members shall co-chair the Committee.

(2) The co-chairs shall call the first meeting of the Committee to occur on or before June 15, 2016.

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

(f) Termination. The Committee shall cease to exist on January 15, 2017.

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

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to a study committee to examine laws related to the administration and issuance of vital records"

(Committee Vote: 9-0-2)

Rep. Keenan of St. Albans City, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations.**

(Committee Vote: 11-0-0)

H. 789

An act relating to forest integrity and municipal and regional planning

Rep. Sheldon of Middlebury, for the Committee on **Fish, Wildlife & Water Resources,** recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

* * *

(c) In addition, this chapter shall be used to further the following specific goals:

(1) To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

(A) Intensive residential development should be encouraged primarily in areas related to community centers, and strip development along highways should be discouraged.

(B) Economic growth should be encouraged in locally designated growth areas, employed to revitalize existing village and urban centers, or both, and should be encouraged in growth centers designated under chapter 76A of this title.

(C) Public investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.

(D) Development should be undertaken in accordance with smart growth principles as defined in subdivision 2791(13) of this title.

(2) To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.

(3) To broaden access to educational and vocational training opportunities sufficient to ensure the full realization of the abilities of all Vermonters.

(4) To provide for safe, convenient, economic, and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.

~~(A)~~ Highways, air, rail, and other means of transportation should be mutually supportive, balanced, and integrated.

(5) To identify, protect, and preserve important natural and historic features of the Vermont landscape, including:

(A) significant natural and fragile areas;

(B) outstanding water resources, including lakes, rivers, aquifers, shorelands, and wetlands;

(C) significant scenic roads, waterways, and views;

(D) important historic structures, sites, or districts, archaeological sites, and archaeologically sensitive areas.

(6) To maintain and improve the quality of air, water, wildlife, forests, and other land resources.

(A) Vermont's air, water, wildlife, mineral, and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).

(B) Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

(C) Vermont's forestlands should be managed so as to maintain and improve forest blocks and habitat connectors.

* * *

(9) To encourage and strengthen agricultural and forest industries.

(A) Strategies to protect long-term viability of agricultural and ~~forest lands~~ forestlands should be encouraged and should include maintaining low overall density.

(B) The manufacture and marketing of value-added agricultural and forest products should be encouraged.

(C) The use of locally-grown food and forest products should be encouraged.

(D) Sound forest and agricultural management practices should be encouraged.

(E) Public investment should be planned so as to minimize development pressure on agricultural and forest land.

* * *

Sec. 2. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

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

* * *

(10) "Land development" means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure, or of any mining,

excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

* * *

(34) "Forest block" means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands or other natural features that do not themselves possess tree cover, and uses exempt from regulation under subsection 4413(d) of this title.

(35) "Forest fragmentation" means the division or conversion of a forest block by land development other than by a recreational trail or a use exempt from regulation under subsection 4413(d) of this title.

(36) "Habitat connector" means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails.

(37) "Recreational trail" means a corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

Sec. 3. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

(1) A statement of basic policies of the region to guide the future growth and development of land and of public services and facilities, and to protect the environment.

(2) A land use element, which shall consist of a map and statement of present and prospective land uses, that:

(A) ~~indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, areas reserved for flood plain, and areas identified by the State, regional planning commissions, or municipalities~~, which~~ that require special consideration for aquifer protection~~,~~; for wetland protection~~,~~; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes~~;~~.

(B) ~~indicating~~ Indicates those areas within the region that are likely candidates for designation under sections 2793 (downtown development

districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title~~;~~.

(C) ~~indicating~~ Indicates locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions~~;~~.

(D) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services~~;~~.

(E) ~~indicating~~ Indicates those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs.

(F) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the regional planning commission.

* * *

(b) The various elements and statements shall be correlated with the land use element and with each other. The maps called for by this section may be incorporated on one or more maps, and may be referred to in each separate statement called for by this section.

Sec. 4. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality may be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

(1) A statement of objectives, policies, and programs of the municipality to guide the future growth and development of land, public services, and facilities, and to protect the environment.

(2) A land use plan~~:~~.

~~(A) consisting of~~, which shall consist of a map and statement of present and prospective land uses, that:

(A) ~~indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, and open spaces, areas reserved for flood plain, and areas identified by the State, the regional planning commission or the municipality that require special consideration for aquifer protection; for wetland protection~~,~~; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes~~;~~.

(B) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service~~;~~.

(C) ~~identifying~~ Identifies those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.

(D) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the municipality.

* * *

Sec. 5. STUDY AND REPORT; LAND USE REGULATION; FOREST INTEGRITY

(a) Creation. There is created a Study Committee on Land Use Regulation and Forest Integrity to study potential revisions to 10 V.S.A. chapter 151 (Act 250) and to 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands.

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

(1) a current member of the House of Representatives appointed by the Speaker of the House;

(2) a current member of the Senate appointed by the Committee on Committees;

(3) a current officer of a municipality, appointed by the Vermont League of Cities and Town;

(4) a representative of the Vermont Association of Planning and Development Agencies, appointed by the Association;

(5) the Commissioner of Housing and Community Development or designee;

(6) the Chair of the Natural Resources Board or designee;

(7) the Commissioner of Forests, Parks and Recreation or designee;

(8) a representative of the Vermont Forest Roundtable through the Vermont Natural Resources Council; and

(9) a representative of the Vermont Working Lands Enterprise Board established under 6 V.S.A. § 4606, appointed by that Board.

(c) Powers and duties. The Committee shall study potential revisions to Act 250 and 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands. This study shall include the following:

(1) review of the relevant provisions of Act 250 and 24 V.S.A. chapter 117 as they exist on passage of this act;

(2) development and review of options to revise Act 250 and the bylaw provisions of chapter 117 to protect forestland from fragmentation and promote habitat connectivity;

(3) evaluation of the impact of those options on land use;

(4) a recommendation on whether to make such revisions and the reason for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made; and

(5) review of the definitions added by Sec. 2 of this act to 24 V.S.A. § 4303 and the amendments made by Secs. 3 and 4 of this act to 24 V.S.A. §§ 4348a and 4382, a recommendation on whether to make revisions to these provisions and the reasons for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made.

(d) Assistance. For purposes of scheduling meetings, preparing its recommendation on whether to make statutory revisions, and preparing any recommended legislation, the Committee shall have the assistance of the Office of Legislative Council. The Committee also shall be entitled to the technical and professional assistance of the Departments of Housing and Community

Development and of Forests, Parks and Recreation and of the Natural Resources Board.

(e) Report. On or before July 1, 2017, the Committee shall submit its written recommendation and any proposed legislation to the House Committee on Fish, Wildlife and Water Resources and the House and Senate Committees on Natural Resources and Energy.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur on or before July 15, 2016.

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

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

(g) Reimbursement.

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

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

Sec. 6. EFFECTIVE DATES

(a) This section and Sec. 5 (study and report) shall take effect on passage.

(b) Secs. 1 (purpose; goals) and 2 (definitions) shall take effect on July 1, 2016.

(c) Secs. 3 (elements of a regional plan) and 4 (plan for municipality) shall take effect on January 1, 2018.

(Committee Vote: 9-0-0)

Rep. Feltus of Lyndon, for the Committee on **Appropriations,** recommends the bill ought to pass when amended as recommended by the Committee on **Fish, Wildlife & Water Resources.**

(Committee Vote: 11-0-0)

Favorable

H. 855

An act relating to forest fire suppression and forest fire wardens.

(Rep. Yantachka of Charlotte will speak for the Committee on **Natural Resources & Energy.)**

H. 855

An act relating to forest fire suppression and forest fire wardens

Rep. Feltus of Lyndon, for the Committee on **Appropriations,** recommends the bill ought to pass.

(Committee Vote: 11-0-0)

For Informational Purposes

CROSS OVER DATES

The Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 11, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 18, 2016**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day

This provision shall not apply to the following measures:

(1) The transportation capital bill;
(2) The capital construction bill
(3) The general appropriations bill ("The Big Bill");
(4) The pay bill;
(5) The fees bill.