

# House Calendar

---

Thursday, March 17, 2016

73rd DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 PM

---

## TABLE OF CONTENTS

---

	<b>Page No.</b>
<b>Action Postponed Until March 17, 2016</b>	
<b>Committee Bill for Second Reading</b>	
<b>H. 851</b> The conduct of forestry operations.....	740
Rep. Hebert for Natural Resources and Energy	
<b>Favorable with Amendment</b>	
<b>H. 74</b> Safety protocols for social and mental health workers.....	740
Rep. McCoy for Human Services	
<b>H. 261</b> Criminal record inquiries by an employer.....	742
Rep. Head for General, Housing and Military Affairs	
<b>H. 560</b> Traffic safety .....	743
Rep. Jewett for Judiciary	
<b>H. 818</b> Stalking.....	762
Rep. Grad for Judiciary	

## ACTION CALENDAR

### Third Reading

<b>H. 111</b> The removal of grievance decisions from the Vermont Labor Relations Board's website .....	767
<b>H. 531</b> Aboveground storage tanks .....	768
<b>H. 580</b> Conservation easements .....	768
<b>H. 595</b> Potable water supplies from surface waters .....	768
<b>H. 623</b> Compassionate release and parole eligibility .....	768
<b>H. 640</b> Expenses for the repair of town cemeteries.....	768
<b>H. 690</b> The practice of acupuncture by physicians and osteopaths.....	768

<b>H. 769</b> Strategies to reduce the incarcerated population .....	768
<b>H. 805</b> Employment rights for members of the National Guard and Reserve Components of the U.S. Armed Forces .....	768
<b>H. 812</b> Consumer protections for accountable care organizations .....	768
Rep. Gage Amendment .....	768
<b>H. 824</b> The adoption of occupational safety and health rules and standards	769
<b>H. 860</b> On-farm livestock slaughter .....	769
<b>H. 861</b> Regulation of treated article pesticides .....	769
<b>H. 862</b> Insurance laws .....	769

#### **Committee Bill for Second Reading**

<b>H. 866</b> Prescription drug manufacturer cost transparency .....	769
Rep. Pearson for Health Care Rep. McCullough Amendment.....	769
<b>H. 867</b> Classification of employees and independent contractors .....	770
Rep. Botzow for Commerce and Economic Development Rep. Pearson Amendment .....	770
Rep. Davis Amendment.....	772
<b>H. 869</b> Judicial organization and operations .....	775
Rep. Strong for Judiciary	

#### **Favorable with Amendment**

<b>H. 183</b> Security in the Capitol Complex .....	775
Rep. Macaig for Corrections and Institutions Rep. Hooper for Appropriations.....	778
<b>H. 518</b> The membership of the Clean Water Fund Board.....	778
Rep. Sheldon for Fish, Wildlife and Water Resources Rep. Toll for Appropriations .....	780
<b>H. 610</b> Clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs .....	780
Rep. Browning for Corrections and Institutions Rep. Johnson for Appropriations.....	817
<b>H. 629</b> The administration and issuance of vital records .....	818
Rep. Devereux for Government Operations Rep. Keenan for Appropriations.....	820
<b>H. 789</b> Forest integrity and municipal and regional planning.....	820
Rep. Sheldon for Fish, Wildlife and Water Resources	

Rep. Feltus for Appropriations .....	827
--------------------------------------	-----

**Favorable**

<b>H. 855</b> Forest fire suppression and forest fire wardens .....	827
Rep. Yantachka for Natural Resources and Energy	
Rep. Feltus for Appropriations .....	827

**Action Postponed Until March 18, 2016**

**Favorable with Amendment**

<b>H. 743</b> Fair and impartial policing .....	827
Rep. Burditt for Judiciary	

**NOTICE CALENDAR**

**Favorable with Amendment**

<b>H. 130</b> The Agency of Public Safety.....	830
Rep. Hubert for Government Operations	
Rep. Fagan for Appropriations .....	833
<b>H. 562</b> Professions and occupations regulated by the Office of Professional Regulation and to the review of professional regulation.....	833
Rep. Evans for Government Operations	
Rep. Keenan for Appropriations.....	864

**Consent Calendar**

<b>H.C.R. 279</b> Congratulating Peggy Fischer of St. Johnsbury on reaching the final four in the Food Network’s 2016 Kids Baking Championship.....	864
<b>H.C.R. 280</b> Designating March 9, 2016 as Turkish Cultural Day in Vermont .....	865
<b>H.C.R. 281</b> Recognizing March as Meals on Wheels Month in Vermont ...	865
<b>H.C.R. 282</b> Congratulating Abby McKearin on being named the 2015-2016 Vermont girls’ soccer Gatorade Player of the Year .....	865
<b>H.C.R. 283</b> In memory of former Lyndon Town Moderator Norman R. Messier .....	865
<b>H.C.R. 284</b> Designating May as Cystic Fibrosis Awareness Month in Vermont .....	865
<b>H.C.R. 285</b> In memory of Vermont journalist Rod Clarke .....	865
<b>H.C.R. 286</b> Congratulating the 2016 Rutland High School Raiders Division I championship cheerleading team .....	865

---

---

**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.**)

**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. 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. 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(e) 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~~ within no later than 21 days ~~of following~~ of 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. 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. 3. 12 V.S.A. § 5133 is amended to read:

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

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

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

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

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

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

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

(d)~~(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. 4. 13 V.S.A. § 1021 is amended to read:

§ 1021. DEFINITIONS

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

\* \* \*

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

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

Subchapter 7. Stalking

§ 1061. DEFINITIONS

As used in this subchapter:

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

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

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

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

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

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

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

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

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

~~(4) “Stalk” means to engage purposefully in a course of conduct directed at a specific person that the person engaging in the conduct knows or should~~

know would cause a reasonable person to fear for his or her safety or the safety of another or would cause a reasonable person substantial emotional distress.

§ 1062. STALKING

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

§ 1063. AGGRAVATED STALKING

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

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

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

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

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

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

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

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

§ 1064. DEFENSES

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

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

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

**ACTION CALENDAR**

**Third Reading**

**H. 111**

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

**H. 531**

An act relating to aboveground storage tanks

**H. 580**

An act relating to conservation easements

**H. 595**

An act relating to potable water supplies from surface waters

**H. 623**

An act relating to compassionate release and parole eligibility

**H. 640**

An act relating to expenses for the repair of town cemeteries

**H. 690**

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

**H. 769**

An act relating to strategies to reduce the incarcerated population

**H. 805**

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

**H. 812**

An act relating to consumer protections for accountable care organizations

**Amendment to be offered by Reps. Gage of Rutland City and Browning of Arlington to H. 812**

First: In Sec. 2, in 18 V.S.A. § 9551, in subdivision (7), following “emergency medical service providers,” by inserting “independent laboratories, independent diagnostic testing facilities,”

Second: In Sec. 5, 18 V.S.A. § 9352, in subsection (a), by inserting a new subdivision to be subdivision (11) to read as follows:

(11) for each health service provided to attributed patients by a health care provider participating in the ACO, the ACO provides to the Green Mountain Care Board and makes available to consumers through a public website the amount each type of provider licensed to provide that service is reimbursed for the service by Medicaid and by Medicare, as well as the average amount each type of provider is reimbursed for the service by health insurers;



and by renumbering the remaining subdivisions in subsection (a) to be numerically correct

**H. 824**

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

**H. 860**

An act relating to on-farm livestock slaughter

**H. 861**

An act relating to regulation of treated article pesticides

**H. 862**

An act relating to insurance laws

**Committee Bill for Second Reading**

**H. 866**

An act relating to prescription drug manufacturer cost transparency.

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

**Amendment to be offered by Rep. McCullough of Williston to H. 866**

By adding a new section to be Sec. 2 to read as follows:

**Sec. 2. COMPLEMENTARY AND ALTERNATIVE MEDICINE; REPORT**

(a) For each prescription drug that the Green Mountain Care Board places on the list developed pursuant to Sec. 1(b) of this act, the Board shall consider the disease or other condition for which the drug is approved by the U.S. Food and Drug Administration or for which it is commonly prescribed for “off-label” treatment and whether each such disease or condition may be treated with complementary and alternative medicine in lieu of the drug or as a complement to a lower dosage of the drug. In its consideration, the Board shall review relevant studies published in peer-reviewed scientific journals and other evidence-based materials and may consult with interested stakeholders and others knowledgeable about the use of complementary and alternative medicine and its application to treating and preventing diseases and conditions.

(b) On or before January 15, 2017, the Board shall report its findings and recommendations to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance, including:

(1) the diseases and conditions identified;

(2) the evidence supporting the use of complementary and alternative medicine in the treatment or prevention of some or all of the diseases and conditions identified;

(3) the estimated savings to the health care system from the use of complementary and alternative medicine in lieu of or in addition to prescription drugs; and

(4) the Board's recommendations, including proposed statutory changes to effect the Board's recommendations.

and by renumbering the existing Sec. 2, effective date, to be Sec. 3

### **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.)**

#### **Amendment to be offered by Rep. Pearson of Burlington to H. 867**

First: In Sec. 1, 21 V.S.A. § 601, in subdivision (14)(F), after subdivision (i)(II), by adding a subdivision (III) to read as follows:

(III) The person who is providing the individual or partner owner with compensation for the services has not hired multiple sole proprietors, partnerships, or single-member corporations or L.L.C.s to perform the same work as the individual or partner owner is performing on the project or jobsite.

Second: In Sec. 1, 21 V.S.A. § 601, in subdivision (14)(H), after subdivision (i)(II), by adding a subdivision (III) to read as follows:

(III) The person who is providing the corporation or L.L.C. with compensation for the services has not hired multiple sole proprietors, partnerships, or single-member corporations or L.L.C.s to perform the same work as the corporate executive officer or the L.L.C. manager or member is performing on the project or jobsite.

Third: In Sec. 1, 21 V.S.A. § 601, in subdivision (31), by striking out subdivision (A)(v) in its entirety and inserting a new subdivision (A)(v) to read as follows:

(v) offers its services to the general public and does not work exclusively for or with another person; and

Fourth: By striking out Sec. 2, 21 V.S.A. § 1301, in its entirety and inserting a new Sec. 2 to read as follows:

Sec. 2. 21 V.S.A. § 1301 is amended to read:

§ 1301. DEFINITIONS

The following words and phrases, as used in this chapter, shall have the following meanings unless the context clearly requires otherwise:

\* \* \*

(6)(A)(i) “Employment,” subject to the other provisions of this subdivision (6), means service within the jurisdiction of this State, performed prior to January 1, 1978, which was employment as defined in this subdivision prior to such date and, subject to the other provisions of this subdivision, service performed after December 31, 1977, by an employee, as defined in subsections 3306(i) and (o) of the Federal Unemployment Tax Act, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, expressed or implied. Services partly within and partly without this State may by election as hereinbefore provided be treated as if wholly within the jurisdiction of this State. And whenever an employing unit shall have elected to come under the provisions of a similar act of a state where a part of the services of an employee are performed, the Commissioner, upon his or her approval of said election as to any such employee, may treat the services covered by said approved election as having been performed wholly without the jurisdiction of this State.

\* \* \*

(B) Services performed by an individual for wages shall be deemed to be employment subject to this chapter unless and until it is shown to the satisfaction of the Commissioner that the individual:

~~(i) Such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact; and~~

~~(ii) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprise for which such service is performed; and~~

~~(iii) Such individual is customarily engaged in an independently established trade, occupation, profession, or business.~~

is free from the direction and control of the employing unit, both under the individual’s contract of service and in fact;

(ii) controls the means and manner of the services performed;

(iii) operates a separate and distinct business from that of the person with whom he or she contracts;

(iv) holds him- or herself out as in business for him- or herself;

(v) offers his or her services to the general public and does not work exclusively for or with another person; and

(vi) is not treated as an employee for purposes of income or employment taxation with regard to the services performed.

(C) Notwithstanding any provision of subdivision (B) of this subdivision (6), multiple individuals performing the same work on a project or job site shall be deemed to be performing services in employment.

(D) The term “employment” shall not include:

\* \* \*

~~(D)~~(E) Notwithstanding any other provisions of this subdivision, service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

Fifth: By striking out Sec. 10, 21 V.S.A. § 625, in its entirety and inserting a new Sec. 10 to read as follows:

Sec. 10. 21 V.S.A. § 625 is amended to read:

§ 625. CONTRACTING OUT FORBIDDEN

(a) ~~An~~ Except as provided in subdivisions 601(3) and (14) of this chapter, an employer shall not be relieved in whole or in part from liability created by the provisions of this chapter by any contract, rule, regulation, or device whatsoever.

(b) Any person who, for the purpose of avoiding its obligations under this title, coerces an employee or prospective employee into becoming an independent contractor, after notice and an opportunity for a hearing, may be assessed an administrative penalty of not more than \$5,000.00.

**Amendment to be offered by Rep. Davis of Washington to H. 867**

First: In Sec. 12, 21 V.S.A. § 1314a, after subdivision (f)(1)(B), by inserting the following:

\* \* \*

(h) The Attorney General may enforce the provisions of this chapter relating to the proper classification of employees by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee as an independent contractor were an unfair act in commerce. An employer subject to a complaint shall have the rights and remedies specified in 9 V.S.A. §§ 2458–2461. An investigation against an employer shall not be a prerequisite for bringing an action. In addition to any penalties, costs, or other relief permitted pursuant to 9 V.S.A. §§ 2458–2461, the Civil Division of the Superior Court may order restitution of wages or benefits, reinstatement, and other appropriate relief on behalf of an employee.

Second: In Sec. 13, 21 V.S.A. § 708, after subsection (b), by inserting the following:

\* \* \*

(e) The Attorney General may enforce the provisions of this chapter relating to the proper classification of employees by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee as an independent contractor were an unfair act in commerce. An employer subject to a complaint shall have the rights and remedies specified in 9 V.S.A. §§ 2458–2461. An investigation against an employer shall not be a prerequisite for bringing an action. In addition to any penalties, costs, or other relief permitted pursuant to 9 V.S.A. §§ 2458–2461, the Civil Division of the Superior Court may order restitution of wages or benefits, reinstatement, and other appropriate relief on behalf of an employee.

Third: After Sec. 14, by inserting four new sections to be Secs. 15–18 to read as follows:

Sec. 15. 21 V.S.A. § 211 is added to read:

§ 211. EMPLOYEE MISCLASSIFICATION; ENFORCEMENT BY  
ATTORNEY GENERAL

The Attorney General may enforce the provisions of this chapter relating to the proper classification of employees by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee as an independent contractor were an unfair act in commerce. An employer subject

to a complaint shall have the rights and remedies specified in 9 V.S.A. §§ 2458–2461. An investigation against an employer shall not be a prerequisite for bringing an action. In addition to any penalties, costs, or other relief permitted pursuant to 9 V.S.A. §§ 2458–2461, the Civil Division of the Superior Court may order restitution of wages or benefits, reinstatement, and other appropriate relief on behalf of an employee.

Sec. 16. 21 V.S.A. § 342b is added to read:

§ 342b. EMPLOYEE MISCLASSIFICATION; ENFORCEMENT BY  
ATTORNEY GENERAL

The Attorney General may enforce the provisions of this subchapter relating to the proper classification of employees by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee as an independent contractor were an unfair act in commerce. An employer subject to a complaint shall have the rights and remedies specified in 9 V.S.A. §§ 2458–2461. An investigation against an employer shall not be a prerequisite for bringing an action. In addition to any penalties, costs, or other relief permitted pursuant to 9 V.S.A. §§ 2458–2461, the Civil Division of the Superior Court may order restitution of wages or benefits, reinstatement, and other appropriate relief on behalf of an employee.

Sec. 17. 21 V.S.A. § 385 is amended to read:

§ 385. ADMINISTRATION

(a) The ~~commissioner~~ Commissioner and the ~~commissioner's~~ Commissioner's authorized representatives have full power and authority for all the following:

\* \* \*

(b) Notwithstanding subsection (a) of this section, the Attorney General may enforce the provisions of this subchapter relating to the proper classification of employees by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though the misclassification of an employee as an independent contractor were an unfair act in commerce. An employer subject to a complaint shall have the rights and remedies specified in 9 V.S.A. §§ 2458–2461. An investigation against an employer shall not be a prerequisite for bringing an action. In addition to any penalties, costs, or other relief permitted pursuant to 9 V.S.A. §§ 2458–2461, the Civil Division of the Superior Court

may order restitution of wages or benefits, reinstatement, and other appropriate relief on behalf of an employee.

Sec. 18. TRANSFER OF POSITIONS AND ASSOCIATED

APPROPRIATIONS FROM THE DEPARTMENT OF LABOR TO  
THE OFFICE OF ATTORNEY GENERAL

On or before August 1, 2016, two full-time workers' compensation investigator positions and the balance of all appropriated amounts for personal services and operating expenses related to those positions shall be transferred from the Department of Labor to the Office of the Attorney General.

and by renumbering the remaining section to be numerically correct.

**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 ~~1574~~ 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 ~~1574~~ 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, intercepter 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 ~~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~~ 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**.)

**Rep. Feltus of Lyndon**, for the Committee on **Appropriations**, recommends the bill ought to pass.

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

**Action Postponed Until March 18, 2016**

**Favorable with Amendment**

**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)**

## NOTICE CALENDAR

### Favorable with Amendment

#### H. 130

An act relating to the Agency of Public Safety

**Rep. Hubert of Milton**, 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. AGENCY OF PUBLIC SAFETY; STUDY COMMITTEE; REPORT

(a) Creation. There is created the Agency of Public Safety Study Committee to recommend whether the General Assembly should enact legislation to create an Agency of Public Safety.

(b) Membership. The Committee shall be composed of the following 11 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 Commissioner of Public Safety or designee;
- (4) the Commissioner of Fish and Wildlife or designee;
- (5) the Commissioner of Motor Vehicles or designee;
- (6) the Commissioner of Liquor Control or designee;
- (7) the Executive Director of the Vermont Criminal Justice Training Council or designee;
- (8) the Chief of the Capitol Police Department or designee;
- (9) a sheriff appointed by the Executive Committee of the Vermont Sheriffs' Association;
- (10) a chief of a municipal police department, appointed by the Chiefs of Police Association of Vermont; and
- (11) one law enforcement officer appointed by the Vermont Police Association.

(c) Powers and duties. The Committee shall study the current coordination of law enforcement services in the State and whether the creation of an Agency of Public Safety would enhance that coordination. In its study, the Committee shall consider the following issues:

(1) Current law enforcement services. The current roles and duties of law enforcement officers in the State, including:

(A) how the types of crimes committed in this State have evolved, and how that evolution has affected the roles and duties of law enforcement officers;

(B) the manner in which State, county, and municipal law enforcement entities share or coordinate their services;

(C) whether the Vermont State Police's provision of general municipal and regional law enforcement services is sustainable; and

(D) whether any municipalities should be required to maintain their own police department or contract for regional policing with other municipalities or with sheriffs.

(2) Dispatch. The manner in which dispatch services are currently provided and funded and whether there should be any changes to this structure.

(3) Agency structure. If the Committee recommends that an Agency of Public Safety should be created, the Agency's structure, including:

(A) any issues with the proposed structure or operations of the Agency as set forth in this act as it was originally introduced (2015, H.130); and

(B) the entities that should be under the jurisdiction of the Agency, including whether any of the following entities should be added to the Agency:

(i) the Vermont Criminal Justice Training Council;

(ii) wardens of the Department of Fish and Wildlife;

(iii) the Capitol Police Department;

(iv) liquor control investigators; or

(v) motor vehicle inspectors.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(e) Report. On or before December 1, 2016, the Committee shall report to the House and Senate Committees on Government Operations with its findings and any recommendations for legislative action. The report may be in the form of proposed legislation.

(f) Meetings.

(1) The House and Senate members of the Committee shall call the first meeting of the Committee, to occur on or before August 1, 2016.

(2) The House and Senate members shall be co-chairs of the Committee.

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

(B) Notwithstanding 1 V.S.A. § 172, an action may be taken by the Committee with the assent of a majority of the members attending, assuming a quorum.

(4) The Committee shall cease to exist on December 2, 2016.

(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 five 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 five meetings.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

**Rep. Fagan of Rutland City**, for the Committee on **Appropriations**, recommends the bill ought to pass when amended as recommended by the Committee on **Government Operations**.

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

**H. 562**

An act relating to professions and occupations regulated by the Office of Professional Regulation and to the review of professional regulation

**Rep. Evans of Essex**, 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:

\* \* \* Professional Regulation Review \* \* \*

Sec. 1. 26 V.S.A. chapter 57 is amended to read:

**CHAPTER 57. REVIEW OF ~~LICENSING STATUTES, BOARDS, AND COMMISSIONS~~ REGULATORY LAWS**

§ 3101. POLICY AND PURPOSE

(a) It is the policy of the ~~state~~ State of Vermont that regulation be imposed upon a profession or occupation solely for the purpose of protecting the public. The ~~legislature~~ General Assembly believes that all individuals should be permitted to enter into a profession or occupation unless there is a demonstrated need for the ~~state~~ State to protect the interests of the public by restricting entry into the profession or occupation.

(b) If such a need is identified, the form of regulation adopted by the ~~state~~ State shall be the least restrictive form of regulation necessary to protect the public interest. If regulation is imposed, the profession or occupation may be subject to ~~periodic~~ review by the ~~legislature~~ Office of Professional Regulation and the General Assembly to ~~insure~~ ensure the continuing need for and appropriateness of such regulation.

§ 3101a. DEFINITIONS

~~The definitions contained in this section shall apply throughout~~ As used in this chapter, unless the context clearly requires otherwise:

(1) "Certification" means a voluntary process by which a statutory regulatory entity grants to ~~an individual~~, a person who has met certain prerequisite qualifications; the right to assume or to use the title of the profession or occupation, or the right to assume or use the term "certified" in conjunction with the title. Use of the title or the term "certified," as the case may be, by a person who is not certified is unlawful.

(2) "Licensing" and "licensure" mean a process by which a statutory regulatory entity grants to ~~an individual~~, a person who has met certain prerequisite qualifications; the right to perform prescribed professional ~~and~~ or occupational tasks and to use the title of the profession or occupation. Practice without a license is unlawful.

(3) "License" means an individual, nontransferable authorization to carry on an activity based on qualifications such as:

(A) satisfactory completion of or graduation from an accredited or approved educational or training program; ~~and~~ or

(B) acceptable performance on a qualifying examination or series of examinations.

(4) "Office" means the Office of Professional Regulation.

(5) "Practitioner" means ~~an individual~~ a person who is actively engaged in a specified profession or occupation.

~~(5)~~(6) "Public member" means an individual who has no material financial interest in the profession or occupation being regulated other than as a consumer.

~~(6)~~(7) "Registration" means a process ~~which requires~~ requiring that, prior to rendering services, ~~all practitioners~~ a practitioner formally notify a regulatory entity of ~~their~~ his, her, or its intent to engage in the profession or occupation. Notification may include the name and address of the practitioner, the location of the activity to be performed, and a description of the service to be provided.

(8) "Regulatory entity" means the statutory entity responsible for regulating a profession or occupation, such as a board or an agency of the State.

~~(7)~~(9) "Regulatory law" ~~as used in section 3104 of this title~~, means any law in this State that requires a person engaged in a profession or occupation to be registered, certified, or licensed under this title or 4 V.S.A. chapter 23 or that otherwise regulates the operation of that profession or occupation.

## § 3102. PERIODIC REVIEW REQUIREMENT

~~(a) Each licensing law enumerated below in subsection (b) of this section, each board related thereto, and the activities resulting shall be subject to review, at least once, in the manner provided in section 3104 of this title and on the basis of the criteria in section 3105 of this title.~~

~~(b) The following laws are subject to review:~~

- ~~(1) Chapter 15 of this title on electricians;~~
- ~~(2) Chapter 39 of this title on plumbers and plumbing;~~
- ~~(3) Chapter 28 of this title on nursing;~~
- ~~(4) Chapter 10 of this title on chiropractic;~~
- ~~(5) Chapter 6 of this title on barbers;~~
- ~~(6) Chapter 6 of this title on cosmeticians and hairdressers;~~
- ~~(7) Chapter 23 of this title on medicine and surgery;~~
- ~~(8) Chapter 33 of this title on osteopathic physicians and surgeons;~~
- ~~(9) Chapter 13 of this title on dentists and dental hygienists;~~
- ~~(10) 18 V.S.A. chapter 46 on nursing home administrators;~~
- ~~(11) Chapter 17 of this title on embalmers;~~
- ~~(12) Chapter 21 of this title on funeral directors;~~
- ~~(13) Chapter 44 of this title on veterinary science;~~
- ~~(14) Chapter 1 of this title on accountants;~~
- ~~(15) Chapter 59 of this title on private detectives;~~
- ~~(16) Chapter 55 of this title on psychologists;~~
- ~~(17) Chapter 36 of this title on pharmacy;~~
- ~~(18) Chapter 51 of this title on radiological technologists;~~
- ~~(19) Chapter 41 of this title on real estate brokers and salesmen;~~
- ~~(20) Chapter 20 of this title on engineering;~~
- ~~(21) Chapter 3 of this title on architects;~~
- ~~(22) Chapter 45 of this title on land surveyors;~~
- ~~(23) Chapter 31 of this title on physicians' assistants;~~
- ~~(24) Chapter 7 of this title on podiatry;~~
- ~~(25) 4 V.S.A. chapter 23 on attorneys;~~

~~(26) Chapter 47 of this title on opticians;~~

~~(27) Chapter 65 of this title on clinical mental health counselors;~~

~~(28) Chapter 67 of this title on hearing aid dispensers;~~

~~(29) Chapter 79 of this title on tattooists;~~

~~(30) Chapter 81 of this title on naturopathic physicians;~~

~~(31) Chapter 83 of this title on athletic trainers;~~

~~(32) Chapter 87 of this title on audiologists and speech language pathologists.~~

~~(c) Any new law to regulate another profession or occupation shall be based on the relevant criteria and standards in section 3105 of this title. [Repealed.]~~

#### § 3104. PROCESS FOR REVIEW OF REGULATORY LAWS

~~(a) Either house of the general assembly may designate, by resolution, The Office may review a regulatory law ~~or an issue that affects professions and occupations generally to be reviewed by the legislative council staff that is within its jurisdiction~~, and shall review any regulatory law within or outside its jurisdiction upon the request of the House or Senate Committee on Government Operations. The ~~staff~~ Office shall base its review on the criteria and standards set forth in section 3105 of this ~~title~~ chapter.~~

~~(b) The review ~~may~~ shall also include the following inquiries in the discretion of the Office or in response to a Committee request:~~

~~(1) the extent to which ~~the board's~~ a regulatory entity's actions have been in the public interest and consistent with legislative intent;~~

~~(2) the extent to which the ~~board's~~ rules are complete, concise, and easy to understand ~~profession's historical performance, including the actual history of complaints and disciplinary actions in Vermont, indicates that the costs of regulation are justified by the realized benefits to the public;~~~~

~~(3) the extent to which the ~~board's~~ standards and procedures are fair and reasonable and accurately measure an applicant's qualifications ~~scope of the existing regulatory scheme for the profession is commensurate to the risk of harm to the public;~~~~

~~(4) the extent to which the profession's education, training, and examination requirements for a license or certification are consistent with the public interest;~~

~~(5)~~ the way in which the board receives, investigates, and resolves complaints from the public the extent to which a regulatory entity's resolutions of complaints and disciplinary actions have been effective to protect the public;

~~(5)~~(6) the extent to which the board a regulatory entity has sought ideas from the public and from those it regulates, concerning reasonable ways to improve the service of the board entity and the profession or occupation regulated;

~~(6)~~(7) the extent to which the board a regulatory entity gives adequate public notice of its hearings and meetings and encourages public participation;

~~(7)~~(8) whether the board a regulatory entity makes efficient and effective use of its funds; and meets its responsibilities; and

~~(8)~~(9) whether the board a regulatory entity has sufficient funding to carry out its mandate.

~~(c)~~(1) The legislative council staff Office shall give adequate notice to the public, the board applicable regulatory entity, and the appropriate professional societies that it is reviewing a particular regulatory law and board, as applicable, that regulatory entity. Notice to the board regulatory entity and the professional societies shall be in writing.

~~(2)~~ All The regulatory entity shall provide to the Office the information required under described in section 3107 of this title chapter and available data reasonably requested the Office requests for purposes of the review shall be provided by the boards.

~~(3)~~ The staff Office shall seek comments and information from the public and from members of the profession or occupation. It also shall give the board regulatory entity a chance to present its position and to respond to any matters raised in the review.

~~(4)~~ The staff Office, upon its request, shall have assistance from the department of finance and management Department of Finance and Management, the auditor of accounts Auditor of Accounts, the attorney general, the director of the office of professional regulation Attorney General, the joint fiscal committee Joint Fiscal Committee, or any other state State agency.

~~(d)~~ The legislative council staff Office shall file a separate written report for each review with the speaker of the house and president of the senate and with the chairman of the appropriate house or senate committee as provided in subsection (f) of this section House and Senate Committees on Government Operations and the applicable regulatory entity. The reports shall contain:

(1) findings, alternative courses of action, and recommendations;

(2) a copy of the board's regulatory entity's administrative rules; and

(3) appropriate legislative proposals.

~~(e) The legislative council staff shall send a copy of the report to the board affected, and shall make copies available for public inspection. [Repealed.]~~

~~(f) The house and senate committees on government operations shall be responsible for overseeing the preparation of reports by the legislative council staff under this chapter. [Repealed.]~~

~~(g) After considering a report each committee shall send its findings and recommendations, including proposals for legislation, if any, to the house or to the senate, as appropriate. Any proposed licensing law shall be drafted according to a uniform format recommended in the comprehensive plan. [Repealed.]~~

#### § 3105. CRITERIA AND STANDARDS

(a) A profession or occupation shall be regulated by the State only when:

(1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;

(2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(3) the public cannot be effectively protected by other means.

(b) After evaluating the criteria in subsection (a) of this section and considering governmental and societal costs and benefits, if the Legislature General Assembly finds that it is necessary to regulate a profession or occupation, the least restrictive method of regulation shall be imposed, consistent with the public interest and this section:

(1) if existing common law and statutory civil remedies and criminal sanctions are insufficient to reduce or eliminate existing harm, regulation should occur through enactment of stronger civil remedies and criminal sanctions;

(2) if a professional or occupational service involves a threat to the public and the service is performed primarily through business entities or facilities that are not regulated, the business entity or the facility should be regulated rather than its employee practitioners;

(3) if the threat to the public health, safety, or welfare, including economic welfare, is relatively small, regulation should be through a system of registration;

(4) if the consumer may have a substantial interest in relying on the qualifications of the practitioner, regulation should be through a system of certification; or

(5) if it is apparent that the public cannot be adequately protected by any other means, a system of licensure should be imposed.

(c) Any of the issues set forth in subsections (a) and (b) of this section and section 3107 of this ~~title~~ chapter may be considered in terms of their application to professions or occupations generally.

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation and upon the request of the House or Senate Committee on Government Operations, the Office ~~of Professional Regulation~~ shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the appropriate House or Senate Committee on Government Operations. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.~~

(e) After the review of a proposal to regulate a profession, the Office ~~of Professional Regulation~~ may decline to conduct an analysis and evaluation of the proposed regulation if it finds that:

(1) the proposed regulatory scheme appears to regulate fewer than 250 individuals; and

(2) the Office previously conducted an analysis and evaluation of the proposed regulation of the same profession or occupation, and no new information has been submitted that would cause the Office to alter or modify the recommendations made in its earlier report on ~~the~~ that proposed regulation ~~of the profession~~.

#### § 3106. DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION; ANNUAL REPORT

(a) Annually, prior to the commencement of each legislative session, the Director of the Office ~~of Professional Regulation~~ shall prepare a concise report on the activities of all boards and advisor professions under his or her jurisdiction. ~~Prior to the commencement of each legislative session, the Director shall prepare a report for publication on the Office's website containing~~ The report shall include his or her assessments, conclusions, and

~~recommendations with proposals for legislation, if any, to the Speaker of the House and to the Chairpersons of the House and Senate Committees on Government Operations and the chairpersons of the boards regarding those boards and advisor professions.~~

(b) The Office Director shall publish the report on the Office's website and shall also provide written copies of the report to the House and Senate Committees on Government Operations.

(c) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this section.

### § 3107. INFORMATION REQUIRED

~~Prior to review under this chapter and prior to consideration by the legislature~~ General Assembly of any bill ~~which that~~ that proposes to regulate a profession or occupation, the profession or occupation being reviewed or seeking regulation shall explain each of the following factors, in writing, to the extent requested by the ~~appropriate house or senate committees on government operations~~ House or Senate Committee on Government Operations:

(1) Why regulation is necessary, including:

(A) the nature of the potential harm or threat to the public if the profession or occupation is not regulated;

(B) specific examples of the harm or threat identified in subdivision (1)(A) of this section;

(C) the extent to which consumers will benefit from a method of regulation ~~which that~~ that permits identification of competent practitioners, indicating typical employers, if any, of practitioners;

(2) The extent to which practitioners are autonomous, as indicated by:

(A) the degree to which the profession or occupation requires the use of independent judgment, and the skill or experience required in making such judgment;

(B) the degree to which practitioners are supervised;

(3) The efforts that have been made to address the concerns that give rise to the need for regulation, including:

(A) voluntary efforts, if any, by members of the profession or occupation to:

(i) establish a code of ethics;

(ii) help resolve disputes between practitioners and consumers;



(iii) establish requirements for continuing education.

(B) recourse to and the extent of use of existing law;

(4) Why the alternatives to licensure specified in this subdivision would not be adequate to protect the public interest:

(A) stronger civil remedies or criminal sanctions;

(B) regulation of the business entity or facility providing the service rather than the employee practitioners;

(C) regulation of the program or service rather than the individual practitioners;

(D) registration of all practitioners;

(E) certification of practitioners;

(F) other alternatives;

(5) The benefit to the public if regulation is granted, including:

(A) how regulation will result in reduction or elimination of the harms or threats identified under subdivision (1) of this section;

(B) the extent to which the public can be confident that a practitioner is competent:

(i) whether the registration, certification, or licensure will carry an expiration date;

(ii) whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement;

(iii) the standards for registration, certification, or licensure as compared with the standards of other jurisdictions;

(iv) the nature and duration of the educational requirement, if any, including, ~~but not limited to,~~ whether ~~such~~ the educational program requirement includes a substantial amount of supervised field experience; whether educational programs exist in this ~~state~~ State; whether there will be an experience requirement; whether the experience must be acquired under a registered, certified, or licensed practitioner; whether there are alternative routes of entry or methods of satisfying the eligibility requirements and qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met;

(6) The form and powers of the regulatory entity, including:

(A) whether the regulatory entity is or would be a board composed of members of the profession or occupation and public members, or a ~~state~~ State agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure;

(B) the composition of the board, if any, and the number of public members, if any;

(C) the powers and duties of the ~~board or state agency~~ regulatory entity regarding examinations;

(D) the system for receiving complaints and taking disciplinary action against practitioners;

(7) The extent to which regulation might harm the public, including:

(A) whether regulation will restrict entry into the profession or occupation, including:

(i) whether the standards are the least restrictive necessary to ~~insure~~ ensure safe and effective performance; and

(ii) whether persons who are registered, certified, or licensed in a another jurisdiction ~~which~~ that the ~~board or agency~~ regulatory entity believes has requirements that are substantially equivalent to those of this ~~state~~ State will be eligible for endorsement or some form of reciprocity;

(B) whether there are similar professions or occupations ~~which~~ that should be included, or portions of the profession or occupation ~~which~~ that should be excluded from regulation;

(8) How the standards of the profession or occupation will be maintained, including:

(A) whether effective quality assurance standards exist in the profession or occupation, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics; and

(B) how the proposed form of regulation will assure quality, including:

(i) the extent to which a code of ethics, if any, will be adopted; and

(ii) the grounds for suspension, revocation, or refusal to renew registration, certification, or licensure;

(9) A profile of the practitioners in this ~~state~~ State, including a list of associations, organizations, and other groups representing the practitioners and including an estimate of the number of practitioners in each group.

(10) The effect that registration, certification, or licensure will have on the costs of the services to the public.

\* \* \* Alcohol and Drug Abuse Counselors \* \* \*

Sec. 2. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a Director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

\* \* \*

(45) Alcohol and drug abuse counselors.

Sec. 3. 18 V.S.A. § 4806 is amended to read:  
§ 4806. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective program of substance abuse programs. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

(b) The Division shall be responsible for the following services:

- (1) prevention and intervention;
- (2) ~~licensure of alcohol and drug counselors;~~ [Repealed.]
- (3) project CRASH schools; and
- (4) alcohol and drug treatment.

\* \* \*

~~(e) Under subdivision (b)(4) of this section, the Commissioner of Health may contract with the Secretary of State for provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of alcohol and drug counselors. [Repealed.]~~

Sec. 4. 26 V.S.A. chapter 62 is amended to read:

CHAPTER 62. ALCOHOL AND DRUG ABUSE COUNSELORS

§ 3231. DEFINITIONS

As used in this chapter:

(1) “Alcohol and drug abuse counselor” means a person who engages in the practice of alcohol and drug abuse counseling for compensation.

(2) ~~“Commissioner” means the Commissioner of Health~~ “Director” means the Director of the Office of Professional Regulation.

(3) ~~“Deputy Commissioner” means the Deputy Commissioner of the Division of Alcohol and Drug Abuse Programs~~ “Office” means the Office of Professional Regulation.

(4) ~~“Disciplinary action” means any action taken by the administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or applicant based on a finding of unprofessional conduct by the licensee or applicant. “Disciplinary action” includes issuance of warnings and all sanctions, including denial, suspension, revocation, limitation, or restriction of licenses and other similar limitations. [Repealed.]~~

(5) “Practice of alcohol and drug abuse counseling” means the application of methods, including psychotherapy, ~~which~~ that assist an individual or group to develop an understanding of alcohol and drug abuse dependency problems and to define goals and plan actions reflecting the individual’s or group’s interests, abilities, and needs as affected by alcohol and drug abuse dependency problems and comorbid conditions.

(6) “Supervision” means the oversight of a person for the purposes of teaching, training, or clinical review by a ~~professional in the same area of specialized practice~~ licensed alcohol and drug abuse counselor or a qualified supervisor as determined by the Director by rule.

#### § 3232. PROHIBITION; PENALTIES

(a) ~~No~~ A person shall not perform either of the following acts:

(1) practice or attempt to practice alcohol and drug abuse counseling without a valid license issued in accordance with this chapter, except as otherwise provided in section 3233 of this ~~title~~ chapter; or

(2) use in connection with the person’s name any letters, words, or insignia indicating or implying that the person is an alcohol and drug abuse counselor, unless the person is licensed or certified in accordance with this chapter.

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

#### § 3233. EXEMPTIONS

The provisions of subdivision 3232(a)(1) of this chapter, relating to the practice of alcohol and drug abuse counseling, shall not apply to:

(1) the activities and services of a rabbi, priest, minister, Christian Science practitioner, or clergy of any religious denomination or sect when engaging in activities that are within the scope of the performance of the person's regular or specialized ministerial duties and for which no separate charge is made, or when these activities are performed, with or without charge, for or under the auspices or sponsorship, individually or in conjunction with others, of an established and legally recognizable church, denomination, or sect and when the person rendering services remains accountable to the established authority of that church, denomination, or sect;

(2) the activities and services of a person licensed, certified, or registered under other laws of this State while acting within the scope of his or her profession or occupation, provided the person does not hold himself or herself out to the public as possessing a license issued pursuant to this chapter;

(3) the activities and services of a student intern or trainee in alcohol and drug abuse counseling who is pursuing a course of study in an accredited institution of higher education or a training course approved by the Director, provided these activities are performed under supervision of and constitute a part of an approved course of study;

(4) the activities and services of ~~approved alcohol and drug abuse counselors~~ an individual certified under this chapter who is working in a preferred provider program under the supervision of a licensed alcohol and drug abuse counselor; or

(5) a person acting as a member of a voluntary group of individuals who offer peer support to each other in recovering from an addiction.

#### § 3234. COORDINATION OF PRACTICE ACTS

Notwithstanding any provision of law to the contrary, a person may practice psychotherapy when acting within the scope of a license or certification granted under this chapter, provided he or she does not hold himself or herself out as a practitioner of a profession for which he or she is not licensed or certified.

#### § 3235. ~~DEPUTY COMMISSIONER~~ DIRECTOR; DUTIES

(a) ~~The Deputy Commissioner~~ In addition to the authority granted under 3 V.S.A. chapter 5, the Director shall:

(1) provide general information to applicants for licensure ~~as alcohol and drug abuse counselors~~ or certification under this chapter;

- (2) administer fees collected under this chapter;
  - (3) administer examinations refer complaints and disciplinary matters to an administrative law officer established under 3 V.S.A. § 129(j);
  - (4) explain appeal procedures to licensees, certified individuals, and applicants for licensure or certification under this chapter; and
  - (5) receive applications for licensure or certification under this chapter; issue and renew licenses or certifications; and revoke, suspend, reinstate, or condition licenses or certifications as ordered by an administrative law officer; and
  - ~~(6) contract with the Office of Professional Regulation to adopt and explain complaint procedures to the public, manage case processing, investigate complaints, and refer adjudicatory proceedings to an administrative law officer.~~
- (b) ~~The Commissioner of Health, with the advice of the Deputy Commissioner, Director may adopt rules necessary to perform the Deputy Commissioner's Director's duties under this section, including rules:~~
- (1) Specifying acceptable master's degree requirements.
  - (2) Setting standards for certifying apprentice addiction professionals and alcohol and drug abuse counselors.
  - (3) Requiring completion and documentation of not more than 40 hours of acceptable continuing education every two years as a condition for license or certification renewal.
  - (4) Requiring licensed alcohol and drug abuse counselors to disclose to each client the licensee's professional qualifications and experience, those actions that constitute unprofessional conduct, the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the licensee and the client. The rules may include provisions for applying or modifying these requirements in cases involving clients of preferred providers, institutionalized clients, minors, and adults under the supervision of a guardian.
  - (5) Regarding ethical standards for individuals licensed or certified under this chapter.
  - (6) Regarding display of license or certification.
  - (7) Regarding reinstatement of a license or certification which has lapsed for more than five years.

(8) Regarding supervised practice toward licensure or certification.

§ 3235a. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three individuals licensed under this chapter to serve as advisors in matters relating to alcohol and drug abuse counselors. Advisors shall be appointed as set forth in 3 V.S.A. § 129b. Two of the initial appointments may be for less than a full term.

(b) Appointees shall not have less than three years' licensed experience as an alcohol and drug abuse counselor in Vermont.

(c) The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this chapter.

§ 3236. LICENSED ALCOHOL AND DRUG ABUSE COUNSELOR ELIGIBILITY

(a) To be eligible for licensure as an alcohol and drug abuse counselor, an applicant shall:

(1) have received a master's degree or doctorate in a human services field from an accredited educational institution, including a degree in counseling, social work, psychology, or in an allied mental health field, or a master's degree or higher in a health care profession regulated under this title or Title 33, after having successfully completed a course of study with course work, including theories of human development, diagnostic and counseling techniques, and professional ethics, and which includes a supervised clinical practicum; and

(2)(A) ~~have been awarded an approved counselor credential from the Division of Alcohol and Drug Abuse Programs in accordance with rules adopted by the Commissioner~~ hold or be qualified to hold a current alcohol and drug counselor certification from the Office; or

(B) hold an International Certification and Reciprocity Consortium certification from another U.S. or Canadian jurisdiction or a U.S. or Canadian national certification organization approved by the Director;

(3) successfully pass the examination approved by the Director; and

(4) complete 2,000 hours of supervised practice as set forth in rule.

(b) A person who is engaged in supervised practice toward licensure who is not within the preferred provider network shall be registered on the roster of nonlicensed and noncertified psychotherapists.

§ 3236a. CERTIFICATION OF APPRENTICE ADDICTION PROFESSIONALS AND ALCOHOL AND DRUG ABUSE COUNSELORS

(a) The Director may certify an individual who has met requirements set by the Director by rule as:

- (1) an apprentice addiction professional; or
- (2) an alcohol and drug abuse counselor.

(b) The Director may seek cooperation with the International Certification and Reciprocity Consortium or other recognized alcohol and drug abuse provider credentialing organizations as a resource for examinations and rulemaking.

§ 3236b. LICENSURE OR CERTIFICATION BY ENDORSEMENT

The Director may issue a license or certification to an individual under this chapter if the individual holds a license or certification from a U.S. or Canadian jurisdiction that the Director finds has requirements for licensure or certification that are substantially equivalent to those required under this chapter.

§ 3237. APPLICATION

~~An individual may apply for a license under this chapter by filing, with the Deputy Commissioner, an application provided by the Deputy Commissioner. The application shall be accompanied by the required fees and evidence of eligibility. [Repealed.]~~

§ 3238. BIENNIAL RENEWALS

(a) Licenses and certifications shall be renewed every two years on a schedule set by the Office upon:

(1) payment of the required fee, ~~provided the person applying for renewal completes; and~~

(2) documentation that the applicant has completed at least 40 hours of continuing education, approved by the Deputy Commissioner, during the preceding two-year period. The Deputy Commissioner shall establish, by rule, guidelines and criteria for continuing education credit Director.

(b) Biennially, the Deputy Commissioner shall forward a renewal form to each license holder. Upon receipt of the completed form and the renewal fee, the Deputy Commissioner shall issue a new license. [Repealed.]

(c) Any application for ~~renewal~~ reinstatement of a license which or certification that has expired shall be accompanied by the renewal fee and a



~~reinstatement fee~~ appropriate fees. A person shall not be required to pay renewal fees for years during which the license or certifications was lapsed.

~~(d) The Commissioner of Health may, after notice and opportunity for hearing, revoke a person's right to renew a license if the license has lapsed for five or more years. [Repealed.]~~

#### § 3239. UNPROFESSIONAL CONDUCT

The following conduct and the conduct set forth in 3 V.S.A. § 129a, by a person authorized to provide alcohol and drug abuse services under this chapter or an applicant for licensure or certification, constitutes unprofessional conduct:

(1) violation of any provision of this chapter or rule adopted under this chapter;

(2) failing to use a complete title in professional activity;

(3) conduct which evidences moral unfitness to practice alcohol and drug abuse counseling;

(4) negligent, incompetent, or wrongful conduct in the practice of alcohol and drug abuse counseling; or

(5) harassing, intimidating, or abusing a client; ~~or~~

~~(6) agreeing with any other person or organization or subscribing to any code of ethics or organizational bylaws when the intent or primary effect of that agreement, code, or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the Director.~~

#### § 3240. REGULATORY FEE FUND

~~(a) An Alcohol and Drug Counselor Regulatory Fee Fund is created. All counselor licensing and examination fees received by the Division shall be deposited into the Fund and used to offset the costs incurred by the Division for these purposes and for the costs of investigations and disciplinary proceedings.~~

~~(b) To ensure that revenues derived by the Division are adequate to offset the cost of regulation, the Commissioner of Health and the Deputy Commissioner shall review fees from time to time and present proposed fee changes to the General Assembly. [Repealed.]~~

#### § 3241. FEES

In addition to the fees otherwise authorized by law, the ~~Deputy Commissioner~~ Director may charge the ~~following~~ fees:

~~(1) Late renewal penalty, \$25.00 for a renewal submitted less than 30 days late. Thereafter, the Deputy Commissioner may increase the late renewal penalty by \$5.00 for every additional month or fraction of a month, provided that the total penalty for a late renewal shall not exceed \$100.00.~~

~~(2) Reinstatement of revoked or suspended license, \$20.00.~~

~~(3) Replacement of license, \$20.00.~~

~~(4) Verification of license, \$20.00.~~

~~(5) An examination fee established by the Deputy Commissioner, which shall be no greater than the costs associated with examinations.~~

~~(6) Licenses granted under rules adopted pursuant to 3 V.S.A. § 129(a)(10), \$20.00.~~

~~(7) Application for registration, \$75.00.~~

~~(8) Application for licensure or certification, \$100.00.~~

~~(9) Biennial renewal, \$135.00.~~

~~(10) Limited temporary license or work permit, \$50.00 for professions regulated by the Director as set forth in 3 V.S.A. § 125.~~

\* \* \*

#### Sec. 5. TRANSITIONAL PROVISION; CURRENT CERTIFICATION

Notwithstanding the provisions of 26 V.S.A. § 3236a(a) set forth in Sec. 4 of this act, an individual currently certified by the Vermont Alcohol and Drug Abuse Certification Board as an apprentice addiction professional or an alcohol and drug abuse counselor may renew his or her certification as if previously granted to him or her by the Director of the Office of Professional Regulation pursuant to rules adopted by the Director.

#### Sec. 6. DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION; REQUIRED RULEMAKING

The Director of the Office of Professional Regulation may adopt any rules necessary to implement the provisions of Secs. 4 and 5 of this act, prior to the effective date of those sections.

\* \* \* Naturopathic Physicians \* \* \*

Sec. 7. 2012 Acts and Resolves No. 116, Sec. 64(e), as amended by 2015 Acts and Resolves No. 38, Sec. 42, is amended to read:

Sec. 42. 2012 Acts and Resolves No. 116, Sec. 64(e) (transitional provisions) is amended to read:

(e) Formulary sunset; transition to examination.

(1) Subsection (c) of this section (formulary authorization) shall be repealed on July 1, ~~2016~~ 2017.

(2) Any naturopathic physician who is authorized to prescribe, dispense, and administer any prescription medicines under subsection (c) of this section shall have until July 1, ~~2016~~ 2017 to successfully complete the naturopathic pharmacology examination set forth in 26 V.S.A. § 4125(d) in order to be able to continue to prescribe, dispense, and administer any prescription medicines.

\* \* \* Potable Water Supply and Wastewater System Designers and  
Pollution Abatement Facility Operators \* \* \*

Sec. 8. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

\* \* \*

(d) A discharge permit shall:

(1) ~~specify~~ Specify the manner, nature, volume, and frequency of the discharge permitted and contain terms and conditions consistent with subsection (c) of this section;

(2) ~~require~~ Require proper operation and maintenance of any pollution abatement facility necessary in the treatment or processing of the waste by qualified personnel in accordance with standards established by the ~~secretary~~ Secretary and the Director of the Office of Professional Regulation. The ~~secretary~~ Secretary may require ~~operators to be certified under a program established by the secretary~~ that a pollution abatement facility be operated by persons licensed under 26 V.S.A. chapter 97 and may prescribe the class of license required. The ~~secretary~~ Secretary may require a laboratory quality assurance sample program to ~~insure~~ ensure qualifications of laboratory analysts;

(3) ~~contain~~ Contain an operation, management, and emergency response plan when required under section 1278 of this title and additional conditions, requirements, and restrictions as the ~~secretary~~ Secretary deems necessary to preserve and protect the quality of the receiving waters, including ~~but not limited to~~ requirements concerning recording, reporting, monitoring, and inspection of the operation and maintenance of waste treatment facilities and waste collection systems; and

(4) ~~be~~ Be valid for the period of time specified therein, not to exceed five years.

\* \* \*

Sec. 9. 10 V.S.A. § 1975 is amended to read:

§ 1975. DESIGNER LICENSES

(a) The ~~secretary~~ Director of the Office of Professional Regulation, after due consultation with the Secretary, shall establish and implement a process to license and periodically renew the licenses of designers of potable water supplies or wastewater systems, establish different classes of licensing for different potable water supplies and wastewater systems, and allow individuals to be licensed in various categories.

(b) ~~No~~ A person shall not design a potable water supply or wastewater system that requires a permit under this chapter without first obtaining a designer license from the ~~secretary~~ Director of the Office of Professional Regulation, except a professional engineer who is licensed in Vermont shall be deemed to have a valid designer license under this chapter, provided that:

(1) the engineer is practicing within the scope of his or her engineering specialty; and

(2) the engineer:

(A) to design a soil-based wastewater system, has satisfactorily completed a college-level soils identification course with specific instruction in the areas of soils morphology, genesis, texture, permeability, color, and redoximorphic features; ~~or~~

(B) has passed a soils identification test administered by the ~~secretary~~ Secretary; or

(C) retains one or more licensed designers who have taken the course specified in this subdivision or passed the soils identification test, whenever performing work regulated under this chapter.

~~(c) No person shall review or act on permit applications for a potable water supply or wastewater system that he or she designed or installed. [Repealed.]~~

(d) The ~~secretary~~ Secretary or the Director of the Office of Professional Regulation may review, on a random basis, or in response to a complaint, or on his or her own motion, the testing procedures employed by a licensed designer, the systems designed by a licensed designer, the designs approved or recommended for approval by a licensed designer, and any work associated with the performance of these tasks.

~~(e) After a hearing conducted under chapter 25 of Title 3, the secretary may suspend, revoke, or impose conditions on a designer license, except for one held by a professional engineer. This proceeding may be initiated on the secretary's own motion or upon a written request which contains facts or~~

~~reasons supporting the request for imposing conditions, for suspension, or for revocation. Cause for imposing conditions, suspension, or revocation shall be conduct specified under 3 V.S.A. § 129a as constituting unprofessional conduct by a licensee. [Repealed.]~~

(f) If a person who signs a design or installation certification submitted under this chapter certifies a design, installation, or related design or installation information and, as a result of the person's failure to exercise reasonable professional judgment, submits design or installation information that is untrue or incorrect, or submits a design or installs a wastewater system or potable water supply that does not comply with the rules adopted under this chapter, the person who signed the certification may be ~~subject to penalties~~ disciplined by the Director of the Office of Professional Regulation and be required to take all actions to remediate the affected project in accordance with the provisions of chapters 201 and 211 of this title.

\* \* \*

Sec. 10. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a Director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

\* \* \*

(45) Potable water supply and wastewater system designers

(46) Pollution abatement facility operators

Sec. 11. 26 V.S.A. chapter 97 is added to read:

CHAPTER 97. POTABLE WATER SUPPLY AND WASTEWATER SYSTEM DESIGNERS

Subchapter 1. General Provisions

§ 5001. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person, other than a professional engineer exempted under this chapter, shall not design a potable water supply or wastewater system that requires a permit or designer's certification or license under the laws of this State unless currently licensed under this chapter.

## § 5002. DEFINITIONS

As used in this chapter:

(1) “Director” means the Director of the Office of Professional Regulation.

(2) “License” means a current authorization granted by the Director permitting the practice of potable water supply or wastewater system design.

(3) “Potable water supply or wastewater system designer” or “designer” means a person who is licensed under this chapter to engage in the practice of potable water supply or wastewater system design.

(4) “Practice of potable water supply or wastewater system design” or “design” means planning the physical and operational characteristics of a potable water supply or wastewater system that requires a permit or designer’s certification or license under the laws of this State:

## § 5003. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any design degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet therein;

(2) practice design under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice design unless duly registered and currently licensed or otherwise authorized to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed or otherwise authorized by this State to practice design or use in connection with a name any words, letters, signs, or figures that imply that a person is a licensed designer when not licensed or otherwise authorized under this chapter;

(5) practice design during the time a license or authorization issued under this chapter is suspended or revoked;

(6) employ an unlicensed or unauthorized person to practice as a licensed designer; or

(7) practice or employ a licensed designer to practice beyond the scope of his or her practice prescribed by rule.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

#### § 5004. EXCEPTIONS

This chapter does not prohibit:

(1) the furnishing of assistance in the case of an emergency or disaster;

(2) the practice of design by a person employed by the U.S. government or any bureau, division, or agency thereof while in the discharge of his or her official federal duties; or

(3) the practice of any other occupation or profession by a person duly licensed or otherwise authorized under the laws of this State.

#### § 5005. QUALIFIED PROFESSIONAL ENGINEERS EXEMPT

A licensed professional engineer may practice design without a license under this chapter if he or she satisfies the criteria set forth in 10 V.S.A. § 1975(b).

#### Subchapter 2. Administration

#### § 5011. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure as designers;

(2) receive applications for licensure, administer or approve examinations, and provide licenses to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(6) explain appeal procedures to licensed designers and to applicants, and complaint procedures to the public.

(b) The Director shall adopt rules necessary to perform his or her duties under this section after due consultation with the Secretary of Natural Resources and Commissioner of Environmental Conservation. These rules may establish grades, types, classes, or subcategories of licenses corresponding to prescribed scopes of practice.

#### § 5012. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be designers licensed under this chapter and

one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to design. Two of the initial appointments may be for a term of fewer than five years.

(2) A designer appointee shall have not fewer than five years' experience as a licensed designer immediately preceding appointment; shall be licensed as a designer in Vermont; and shall be actively engaged in the practice of design in this State during incumbency.

(3) The Agency of Natural Resources appointee shall be involved in the permitting program established under 10 V.S.A. chapter 64.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

### Subchapter 3. Licenses

#### § 5021. ELIGIBILITY FOR LICENSURE

(a) To be eligible for licensure as a designer, an applicant shall be at least 18 years of age; able to read and write the English language; hold a high school diploma, General Equivalency Diploma (GED), or equivalent; and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

(b) The Director may waive examination for an applicant licensed or certified in good standing by a foreign jurisdiction found by the Director to enforce equivalent standards to obtain the class of license sought in this State. The applicant's previous job description and experience in the design field may be considered.

#### § 5022. LICENSE RENEWAL

(a)(1) A license shall be renewed every two years upon application, payment of the required fee, and proof of compliance with such continuing education or periodic reexamination requirements as the Director may by rule prescribe. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

(2) A license that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

(b) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has lapsed or who has not worked for more than three years as a licensed designer is professionally



qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

#### § 5023. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

#### § 5024. LICENSURE GENERALLY

The Director shall issue a license or renew a license, upon payment of the fees required under this chapter, to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

#### § 5025. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

#### § 5026. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a committed by a licensee, an applicant, or a person who later becomes an applicant:

(1) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice as a licensed designer;

(2) whether or not committed in this State, has been convicted of a crime related to water system design or installation or a felony which evinces an unfitness to practice design;

(3) is unable to practice design competently by reason of any cause;

(4) has willfully or repeatedly violated or caused the violation of any of the provisions of this chapter, the terms of a permit, the Vermont On-Site Wastewater and Potable Water Supply Regulations, or the Vermont Water Quality Standards;

(5) is habitually intemperate or is addicted to the use of habit-forming drugs;

(6) has a mental, emotional, or physical disability, the nature of which interferes with the ability to practice design competently;

(7) engages in conduct of a character likely to deceive, defraud, or harm the public;

(8) has reviewed or acted on permit applications for a potable water supply or wastewater system that he or she designed or installed.

(b) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director or the Office of Professional Regulation about alleged incompetent, unprofessional, or unlawful conduct of a licensed designer.

## Sec. 12. TRANSITIONAL PROVISIONS

(a) The five years' experience required by 26 V.S.A. § 5012(a)(2) (advisor appointees; qualifications of appointees) set forth in Sec. 11 of this act may include experience while licensed pursuant to subchapter 7 of the Agency of Natural Resources Wastewater System and Potable Water Supply Rules, and an initial advisor appointee may be in the process of applying for licensure from the Office of Professional Regulation if he or she otherwise meets the requirements for licensure as an licensed designer and the other requirements of 26 V.S.A. § 5012(a)(2).

(b) Pending adoption by the Director of administrative rules governing licensed designers, the Director may license designers consistent with subchapter 7 of the Agency of Natural Resources Wastewater System and Potable Water Supply Rules.

(c) A person holding a design license from the Agency of Natural Resources may obtain an equivalent license from the Office of Professional Regulation at no charge, valid through the expiration date assigned by the Agency, and thereafter renewable on a biennial schedule established by the Office.

Sec. 13. 26 V.S.A. chapter 99 is added to read:

## CHAPTER 99. POLLUTION ABATEMENT FACILITY OPERATORS

### Subchapter 1. General Provisions

#### § 5101. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person shall not practice or offer to practice pollution abatement facility operation unless currently licensed under this chapter.

#### § 5102. DEFINITIONS

As used in this chapter:

(1) "Director" means the Director of the Office of Professional Regulation.

(2) “License” means a current authorization granted by the Director permitting the practice of pollution abatement facility operation.

(3) “Permit,” when used as a noun, means an authorization by the Agency of Natural Resources to operate a facility regulated under 10 V.S.A. § 1263.

(4) “Practice of pollution abatement facility operation” means the operation and maintenance of a facility regulated under 10 V.S.A. § 1263 by a person required by the terms of a permit to hold particular credentials, including those of an “operator,” “assistant chief operator,” or “chief operator.”

(5) “Pollution abatement facility operator” means a person who is licensed under this chapter, or pursuant to rules developed pursuant to this chapter, to engage in the practice of pollution abatement facility operation consistent with a permit.

#### § 5103. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any pollution abatement facility operation degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet therein;

(2) practice or knowingly permit the practice of pollution abatement facility operation under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice or permit the practice of pollution abatement facility operation other than by a person duly registered and currently licensed or otherwise authorized to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed or otherwise authorized by this State to practice pollution abatement facility operation or use in connection with a name any words, letters, signs, or figures that imply that a person is a pollution abatement facility operator when not licensed or otherwise authorized under this chapter;

(5) practice pollution abatement facility operation during the time a license or authorization issued under this chapter is suspended or revoked; or

(6) employ an unlicensed or unauthorized person to practice as a pollution abatement facility operator.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).

#### § 5104. EXCEPTIONS

This chapter does not prohibit:

(1) the furnishing of assistance in the case of an emergency or disaster; or

(2) a person not licensed under this chapter from working under the direct or indirect supervision of a pollution abatement facility operator, where such employment is consistent with the terms, conditions, and intent of a facility's permit.

#### Subchapter 2. Administration

#### § 5111. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure as pollution abatement facility operators;

(2) receive applications for licensure, administer or approve examinations and training programs, and provide licenses to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(6) explain appeal procedures to licensed pollution abatement facility operators and to applicants, and complaint procedures to the public.

(b) The Director shall adopt rules necessary to perform his or her duties under this section after due consultation with the Secretary of Natural Resources. These rules may establish grades, types, classes, or subcategories of licenses corresponding to facilities of distinct types and complexity.

#### § 5112. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be pollution abatement facility operators and one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to operation. Two of the initial appointments may be for a term of fewer than five years.

(2) A pollution abatement facility operator appointee shall have not fewer than five years' experience as a pollution abatement facility operator

immediately preceding appointment, shall be licensed as a pollution abatement facility operator in Vermont, and shall be actively engaged in the practice of pollution abatement facility operation in this State during incumbency.

(3) An appointee representing the Agency of Natural Resources shall be involved in the administration of the permitting program established under 10 V.S.A. § 1263.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

### Subchapter 3. Licenses

#### § 5121. ELIGIBILITY FOR LICENSURE

(a) To be eligible for licensure as a pollution abatement facility operator, an applicant shall be at least 18 years of age; be able to read and write the English language; hold a high school diploma, General Equivalency Diploma (GED), or equivalent; and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

(b) The Director may waive examination for an applicant licensed or certified in good standing by a foreign jurisdiction found by the Director to enforce equivalent standards to obtain the class of license sought in this State. The applicant's previous job description and experience in the pollution abatement field may be considered.

#### § 5122. LICENSE RENEWAL

(a)(1) A license shall be renewed every two years upon application, payment of the required fee, and proof of compliance with such continuing education or periodic reexamination requirements as the Director may by rule prescribe. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

(2) A license that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

(b) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has lapsed or who has not worked for more than three years as a pollution abatement facility operator is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

§ 5123. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

§ 5124. LICENSURE GENERALLY

The Director shall issue a license or renew a license upon payment of the fees required under this chapter to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

§ 5125. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 5126. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a committed by a licensee, an applicant, or a person who later becomes an applicant:

(1) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice as a water treatment facility operator;

(2) whether or not committed in this State, has been convicted of a crime related to pollution abatement or environmental compliance or a felony which evinces an unfitness to practice water treatment facility operation;

(3) is unable to practice pollution abatement facility operation competently by reason of any cause;

(4) has willfully or repeatedly violated or caused the violation of any of the provisions of this chapter, the terms of a permit, the Vermont Water Pollution Control Permit Regulations, or the Vermont Water Quality Standards;

(5) is habitually intemperate or is addicted to the use of habit-forming drugs;

(6) has a mental, emotional, or physical disability, the nature of which interferes with the ability to practice pollution abatement facility operation competently;

(7) engages in conduct of a character likely to deceive, defraud, or harm the public;

(8) fails to display prominently his or her pollution abatement facility operator license in the office of a facility at which he or she performs licensed activities; or

(9) unreasonably fails to ensure proper operations of the facility.

(b) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director or the Office of Professional Regulation about alleged incompetent, unprofessional, or unlawful conduct of a pollution abatement facility operator or facility, corporation, or municipal corporation employing such person.

#### Sec. 14. TRANSITIONAL PROVISIONS

(a) Notwithstanding the provision of 26 V.S.A. § 5112(a)(2) (advisor appointees; qualifications of appointees) that requires an appointee to be licensed as a pollution abatement facility operator in Vermont, an initial advisor appointee may be in the process of applying for licensure if he or she otherwise meets the requirements for licensure as a wastewater treatment facility operator and the other requirements of 26 V.S.A. § 5112(a)(2).

(b) Pending adoption by the Director of administrative rules governing pollution abatement facility operators, the Director may license individuals to operate pollution abatement facilities consistent with the Agency of Natural Resources Wastewater Treatment Facility Operator Certification Rule.

(c) A person holding an active certificate from the Agency of Natural Resources as an operator, assistant chief operator, or chief operator may obtain an equivalent license from the Office of Professional Regulation at no charge, valid through the expiration date assigned by the Agency, and thereafter renewable on a biennial schedule established by the Office.

#### Sec. 15. CREATION OF NEW POSITION WITHIN THE OFFICE OF PROFESSIONAL REGULATION

(a) To support the administration of new professional regulation licenses created in Secs. 11 and 13 of this act, there is created within the Secretary of State's Office of Professional Regulation one (1) Licensing Board Specialist.

(b) Any funding necessary to support the positions created under subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund, with no General Fund dollars.

\* \* \* Board of Dental Examiners \* \* \*

Sec. 16. 26 V.S.A. § 581 is amended to read:

§ 581. CREATION; QUALIFICATIONS

\* \* \*

(c) ~~No A member of the board may~~ Board shall not be an officer or serve on a committee of his or her respective state or local professional dental, dental hygiene, or dental assisting organization, ~~nor shall any member of the board be on the faculty of a school of dentistry, dental hygiene, or dental assisting.~~

\* \* \* Social Workers \* \* \*

Sec. 17. 26 V.S.A. § 3202 is amended to read:

§ 3202. PROHIBITION; OFFENSES

\* \* \*

(c) A State agency or a subdivision or contractor thereof shall not use or permit the use of the title “social worker” other than in relation to an employee holding a bachelor’s, master’s, or doctoral degree from an accredited school or program of social work.

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

Sec. 18. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except Sec. 17 which shall take effect on July 1, 2017.

( Committee Vote: 10-0-1)

**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)

### **Consent Calendar**

### **Concurrent Resolutions**

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration in either chamber should be communicated to the Secretary’s office and/or the House Clerk’s office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar.

### **H.C.R. 279**

House concurrent resolution congratulating Peggy Fischer of St. Johnsbury on reaching the final four in the Food Network’s 2016 Kids Baking Championship



**H.C.R. 280**

House concurrent resolution designating March 9, 2016 as Turkish Cultural Day in Vermont

**H.C.R. 281**

House concurrent resolution recognizing March as Meals on Wheels Month in Vermont

**H.C.R. 282**

House concurrent resolution congratulating Abby McKearin on being named the 2015-2016 Vermont girls' soccer Gatorade Player of the Year

**H.C.R. 283**

House concurrent resolution in memory of former Lyndon Town Moderator Norman R. Messier

**H.C.R. 284**

House concurrent resolution designating May as Cystic Fibrosis Awareness Month in Vermont

**H.C.R. 285**

House concurrent resolution in memory of Vermont journalist Rod Clarke

**H.C.R. 286**

House concurrent resolution congratulating the 2016 Rutland High School Raiders Division I championship cheerleading team

**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.