

Senate Calendar

WEDNESDAY, APRIL 27, 2016

SENATE CONVENES AT: 1:30 P.M.

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ACTION CALENDAR

UNFINISHED BUSINESS OF MONDAY, APRIL 25, 2016

Second Reading

Favorable

H. 111.

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

Reported favorably by Senator White for the Committee on Government Operations.

(Committee vote: 4-0-1)

(For House amendments, see House Journal of March 16, 2016, page 423)

NEW BUSINESS

Third Reading

H. 858.

An act relating to miscellaneous criminal procedure amendments.

Proposal of amendment to H. 858 to be offered by Senators Ashe, Benning, Nitka, Sears, and White before Third Reading

Senators Ashe, Benning, Nitka, Sears, and White move to amend the Senate proposal of amendment by adding new Secs. 9 and 10 to read as follows:

Sec. 9. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The Court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

* * *

Sec. 10. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

(a) Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The Court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The Court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

* * *

And by renumbering the remaining section to be numerically correct.

Second Reading

Favorable with Proposal of Amendment

H. 570.

An act relating to hunting, fishing, and trapping.

Reported favorably with recommendation of proposal of amendment by Senator Rodgers for the Committee on Natural Resources and Energy.

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

First: In Sec. 2, 10 V.S.A. § 4611, by amending the title of the section as follows:

§ 4611. ~~SALE OF SALMON, TROUT, AND BLACK-BASS FISH~~

Second: In Sec. 6, 10 V.S.A. § 4503, in the second sentence, after "4781, 4783," and before "4784" by striking out "and" and inserting or

Third: In Sec. 7, 10 V.S.A. § 4514, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof the following:

(1) Big game

no more than \$2,000.00
and no less than \$200.00
for the first offense and no
less than \$500.00
each for a second or
subsequent offense

Fourth: In Sec. 13, 10 V.S.A. § 4745, and in the second sentence, after “~~deer~~big game under” and before “of this title” by striking out “sections 4826, and 4827” and inserting in lieu thereof the following: section 4826 or 4827

Fifth: By striking out Sec. 19 in its entirety and inserting in lieu thereof the following:

Sec. 19. 10 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Secretary” means the Secretary of Natural Resources.

(3) “Species” ~~includes all subspecies of~~ means wildlife or wild plants and any subspecies or other group of wildlife or wild plants of the same species, the members of which may interbreed when mature. ~~The term generally refers to species whose continued existence as a viable component of the State’s wild fauna or flora is in jeopardy.~~

(4) “Wildlife” means any member of a nondomesticated species of the animal kingdom, whether reared in captivity or not, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and also including any part, product, egg, offspring, dead body, or part of the dead body of any such wildlife.

(5) “Plant” means any member of the plant kingdom, including seeds, roots, and other parts thereof. As used in this chapter, plants shall include fungi.

(6) “Endangered species” means a species listed ~~on the state endangered species list~~ as endangered under this chapter or ~~determined to be an “endangered species”~~ under the federal Endangered Species Act. ~~The term generally refers to species whose continued existence as a viable component of the State’s wild fauna or flora is in jeopardy.~~

(7) “Threatened species” means a species listed ~~on the State~~ as a threatened species ~~list~~ under this chapter or determined to be a “threatened species” under the federal Endangered Species Act.

(8) “Endangered Species Act” and “federal Endangered Species Act” means the Endangered Species Act of 1973, Public Law 93-205, as amended.

(9) “Habitat” means the physical and biological environment in which a particular species of plant or animal lives.

(10) “Conserve,” “conserving,” and “conservation” mean to use and the use of all methods and procedures ~~both~~ for maintaining or increasing:

(A) the number of individuals within a population of a species;

(B) the number of populations of a species; and

(C) populations of wildlife or wild plants to the optimum carrying capacity of the habitat, ~~and for maintaining those numbers.~~

(11) “Optimum carrying capacity” for a species means a population level of that species which, in that habitat, can ~~indefinitely~~ sustainably coexist with healthy populations of all wildlife and wild plant species normally present.

(12) “Methods” and “procedures” means all activities associated with ~~scientific~~ natural resources management, including, ~~without limitation,~~ scientific research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplanting. The terms also include the periodic or continuous protection of species or populations, where appropriate, and the regulated taking of individuals of the species or population in extraordinary cases where population pressures within a habitat cannot be otherwise relieved.

(13) ~~“Possession” of a member of a species means the state of possessing~~ means holding, controlling, exporting, importing, processing, selling, offering to sell, delivering, carrying, transporting, or shipping by any means a member of ~~that~~ a species.

(14) ~~“Taking,” “Take” or “taking”:~~

(A) ~~with~~ With respect to wildlife ~~means “taking” as defined in section 4001 of this title, and~~ designated a threatened or endangered species, means:

(i) pursuing, shooting, hunting, killing, capturing, trapping, harming, snaring, or netting wildlife;

(ii) an act that creates a risk of injury to wildlife, whether or not the injury occurs, including harassing, wounding, or placing, setting, drawing, or using any net or other device used to take animals; or

(iii) attempting to engage in or assisting another to engage in an act set forth under subdivision (i) or (ii) of this subdivision (14)(A).

(B) ~~with~~ With respect to ~~wild plants~~ a wild plant designated a threatened or endangered species, means uprooting, transplanting, gathering seeds or fruit, cutting, injuring, harming, or killing or any attempt to do the same or assisting another who is doing or is attempting to do the same.

(15) “Accepted silvicultural practices” means the accepted silvicultural practices defined by the Commissioner of Forests, Parks and Recreation, including the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont adopted by the Commissioner of Forests, Parks and Recreation.

(16) “Critical habitat” for a threatened species or endangered species means:

(A) a delineated location within the geographical area occupied by the species that:

(i) has the physical or biological features that are identifiable, concentrated, and decisive to the survival of a population of the species; and

(ii) is necessary for the conservation or recovery of the species; and

(iii) may require special management considerations or protection; or

(B) a delineated location outside the geographical area occupied by a species at the time it is listed under section 5402 of this title that:

(i)(I) was historically occupied by a species; or

(II) contains habitat that is hydrologically connected or directly adjacent to occupied habitat; and

(ii) contains habitat that is identifiable, concentrated, and decisive to the continued survival of a population of the species; and

(iii) is necessary for the conservation or recovery of the species.

(17) “Destroy or adversely impact” means, with respect to critical habitat, a direct or indirect activity that negatively affects the value of critical habitat for the survival, conservation, or recovery of a listed threatened or endangered species.

(18) “Farming” shall have the same meaning as used in subdivision 6001(22) of this title.

(19) “Forestry operations” means activities related to the management of forests, including a timber harvest; pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operations” include the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.

(20) “Harming,” as used in the definition of “take” or “taking” under subdivision (14) of this section, means:

(A) an act that kills or injures a threatened or endangered species; or

(B) the destruction or imperilment of habitat that kills or injures a threatened or endangered species by significantly impairing continued survival or essential behavioral patterns, including reproduction, feeding, or sheltering.

Sec. 20. 10 V.S.A. § 5402 is amended to read:

§ 5402. ENDANGERED AND THREATENED SPECIES LISTS

(a) The Secretary shall adopt by rule a ~~State-endangered~~ State endangered species list and a ~~State-threatened~~ State threatened species list. The listing for any species may apply to the whole State or to any part of the State and shall identify the species by its most recently accepted genus and species names and, if available, the common name.

(b) The Secretary shall determine a species to be endangered if it normally occurs in the State and its continued existence as ~~wildlife or a wild plant in the State~~ a sustainable component of the State’s wildlife or wild plants is in jeopardy.

(c) The Secretary shall determine a species to be threatened if:

(1) it is a sustainable component of the State’s wildlife or wild plants;

(2) it is reasonable to conclude based on available information that its numbers are significantly declining because of loss of habitat or human disturbance; and

(3) unless protected, it will become an endangered species.

(d) In determining whether a species is ~~endangered or threatened~~ or endangered, the Secretary shall consider:

(1) the present or threatened destruction, degradation, fragmentation, modification, or curtailment of the range or habitat of the species;

(2) any killing, harming, or over-utilization of the species for commercial, sporting, scientific, educational, or other purposes;

(3) disease or predation affecting the species;

- (4) the adequacy of existing regulation;
 - (5) actions relating to the species carried out or about to be carried out by any governmental agency or any other person who may affect the species; ~~and~~
 - (6) competition with other species, including nonnative invasive species;
 - (7) the decline in the population;
 - (8) cumulative impacts; and
 - (9) other natural or ~~man-made~~ human-made factors affecting the continued existence of the species.
- (e) In determining whether a species is ~~endangered or threatened~~ or endangered or whether to delist a species, the Secretary shall:

- (1) use the best scientific, commercial, and other data available;
- (2) at least 30 days prior to commencement of rulemaking, notify and consult with interested state or appropriate officials in Canada, appropriate State and federal agencies, other states having a common interest in the species, affected landowners, and any interested persons; and
- (3) notify the ~~governor~~ appropriate officials and agencies of Quebec or any state contiguous to Vermont in which the species affected is known to occur.

Sec. 21. 10 V.S.A. § 5402a is added to read:

§ 5402a. CRITICAL HABITAT; LISTING

(a) Except as provided for under subsection (f) of this section, the Secretary may, after the consultation required under subsection 5408(e) of this section, adopt or amend by rule a critical habitat designation list for threatened or endangered species. Critical habitat may be designated in any part of the State. The Secretary shall not be required to designate critical habitat for every State-listed threatened or endangered species. When the Secretary designates critical habitat, the Secretary shall identify the species for which the designation is made, including its most recently accepted genus and species names, and, if available, its common name.

(b) The Secretary shall designate only critical habitat that meets the definition of “critical habitat” under this chapter. In determining whether and where to designate critical habitat for a State-listed threatened or endangered species, the Secretary shall, after consultation with and consideration of recommendations of the Secretary of Agriculture, Food and Markets, the Secretary of Transportation, the Secretary of Commerce and Community

Development, and the Commissioner of Forests, Parks and Recreation, consider the following:

- (1) the current or historic use of the habitat by the listed species;
 - (2) the extent to which the habitat is decisive to the survival and recovery of the listed species at any stage of its life cycle;
 - (3) the space necessary for individual and population growth of the listed species;
 - (4) food, water, air, light, minerals, or other nutritional or physiological requirements of the listed species;
 - (5) cover or shelter for the listed species;
 - (6) sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; migration corridors; and overwintering;
 - (7) the present or threatened destruction, degradation, fragmentation, modification, or curtailment of the range or habitat of the listed species;
 - (8) the adequacy of existing regulation;
 - (9) actions relating to the listed species carried out or about to be carried out by any governmental agency or any other person that may affect the listed species;
 - (10) cumulative impacts; and
 - (11) natural or human-made factors affecting the continued existence of the listed species.
- (c) In determining whether to designate critical habitat for a State-listed threatened or endangered species, the Secretary shall:
- (1) use the best scientific, commercial, and other data available;
 - (2) notify and consult with appropriate officials in Canada, appropriate State and federal agencies, other states having a common interest in the species, affected landowners, any municipality where the proposed designation is located, and any interested persons at least 60 days prior to commencement of rulemaking;
 - (3) notify the appropriate officials and agencies of Quebec and any state contiguous to Vermont in which the species affected is known to occur; and
 - (4) if a critical habitat designation is proposed in a growth center, new town center, or neighborhood development area designated under 24 V.S.A. chapter 76A, notify the Secretary of Commerce and Community Development and any municipality in which the designation is proposed.

(d) Prior to initiating rulemaking under this section to designate critical habitat, the Secretary shall notify the owner of record of any land on which critical habitat is proposed for designation. The Secretary shall make all reasonable efforts to work cooperatively with affected landowners.

(e) Where appropriate, the Secretary shall include well-established mitigation practices and best management practices in the critical habitat designation rule.

(f) The Secretary shall not designate critical habitat in a designated downtown or village center, designated under 24 V.S.A. chapter 76A.

Sec. 22. 10 V.S.A. § 5403 is amended to read:

§ 5403. PROTECTION OF ENDANGERED AND THREATENED SPECIES

(a) Except as authorized under this chapter, a person shall not:

(1) take, possess, or transport wildlife or wild plants that are members of an endangered or a threatened or endangered species; or

(2) destroy or adversely impact critical habitat.

(b) Any person who takes a threatened or endangered species shall report the taking to the Secretary.

(c) The Secretary may, with advice of the Endangered Species Committee and after the consultation required under subsection 5408(e) of this section, adopt rules for the protection and conservation, or recovery of endangered and threatened species. The rules may establish application requirements for an individual permit or general permits issued under this section, including requirements that differ from the requirements of subsection 5408(h) of this title.

(d) The Secretary may bring a civil an environmental enforcement action against any person who violates subsection (a) or (b) of this section or rules adopted under this chapter in accordance with chapters 201 and 211 of this title.

(e) Instead of bringing a civil an environmental enforcement action for a violation of this chapter or rules adopted under this chapter, the Secretary may refer violations of this chapter to the Commissioner of Fish and Wildlife for criminal enforcement.

(f) A In a criminal enforcement action, a person who knowingly violates a requirement of this chapter or a rule of the Secretary adopted under subsection (b)(c) of this section related to taking, possessing, transporting, buying, or selling a threatened or endangered species shall be fined not more

~~than \$500.00~~ in accordance with section 4518 of this title, and the person shall pay restitution under section 4514 of this title.

~~(f)~~(g) Any person who violates subsection (a) or (b) of this section by knowingly injuring a member of a threatened or endangered species or knowingly destroying or adversely impacting critical habitat and who is subject to criminal prosecution may be required by the court to pay restitution for:

(1) actual costs and related expenses incurred in treating and caring for the injured plant or animal to the person incurring these expenses, including the costs of veterinarian services and Agency of Natural Resources staff time; or

(2) reasonable mitigation and restoration costs such as: species restoration plans; habitat protection; and enhancement, transplanting, cultivation, and propagation ~~for plants~~.

Sec. 23. 10 V.S.A. § 5404 is amended to read:

§ 5404. ENDANGERED SPECIES COMMITTEE

(a) A ~~Committee~~ committee on endangered species is created to be known as the “Endangered Species Committee,” and shall consist of nine members, including the Secretary of Agriculture, Food and Markets, the Commissioner of Fish and Wildlife, the Commissioner of Forests, Parks and Recreation, and six members appointed by the Governor from the public at large. Of the six public members, two shall be actively engaged in agricultural or silvicultural activities, two shall be knowledgeable concerning flora, and two shall be knowledgeable concerning fauna. Members appointed by the Governor shall be entitled to reimbursement for expenses incurred in the attendance of meetings, as approved by the Chair. The Chair of the Committee shall be elected from among and by the members each year. Members who are not employees of the State shall serve terms of three years, except that the Governor may make appointments for a lesser term in order to prevent more than two terms from expiring in any year.

(b) The Endangered Species Committee shall advise the Secretary on all matters relating to endangered and threatened species, including whether to alter the lists of endangered and threatened species ~~and~~, how to protect those species, and whether and where to designate critical habitat.

(c) The Agency of Natural Resources shall provide the Endangered Species Committee with necessary staff services.

Sec. 24. 10 V.S.A. § 5405 is amended to read:

§ 5405. CONSERVATION PROGRAMS

The Secretary, with the advice of the Endangered Species Committee, may establish conservation programs and establish recovery plans for the conservation or recovery of threatened or endangered species of wildlife or plants or for the conservation or recovery of critical habitat. The programs may include the purchase of land or aquatic habitat and the formation of contracts for the purpose of management of wildlife or wild plant refuge areas or for other purposes.

Sec. 25. 10 V.S.A. § 5406 is amended to read:

§ 5406. COOPERATION BY OTHER AGENCIES

All agencies of this State shall review programs administered by them which may relate to this chapter and shall, in consultation with the Secretary, utilize their authorities only in a manner which does not jeopardize the threatened or endangered species, critical habitat, or the outcomes of conservation or recovery programs established by this chapter or by the Secretary under ~~its~~ his or her authority.

Sec. 26. 10 V.S.A. § 5407 is amended to read:

§ 5407. ~~ENFORCEMENT~~ AUTHORITY TO SEIZE THREATENED OR ENDANGERED SPECIES

In addition to other methods of enforcement authorized by law, the Secretary may direct under this section that wildlife or wild plants ~~which~~ that were seized because of violation of this chapter be rehabilitated, released, replanted, or transferred to a zoological, botanical, educational or scientific institution, and that the costs of the transfer and staff time related to a violation may be charged to the violator. The Secretary, with the advice of the Endangered Species Committee, may adopt rules for the implementation of this section.

Sec. 27. 10 V.S.A. § 5408 is amended to read:

§ 5408. ~~LIMITATIONS~~ AUTHORIZED TAKINGS; INCIDENTAL TAKINGS; DESTRUCTION OF CRITICAL HABITAT

(a) Authorized taking. Notwithstanding any provision of this chapter, after obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as the Secretary may, ~~prescribe by rule,~~ require as necessary to carry out the purposes of this chapter, the taking of a threatened or endangered species, the destruction of or adverse impact on critical habitat, or any act otherwise prohibited by this chapter if done for any of the following purposes:

- (1) scientific purposes;

(2) to enhance the propagation or survival of a threatened or endangered species; ~~economic hardship~~;

(3) zoological exhibition;

(4) educational purposes;

(5) noncommercial cultural or ceremonial purposes; or

(6) special purposes consistent with the purposes of the federal Endangered Species Act.

(b) Incidental taking. After obtaining the advice of the Endangered Species Committee, the Secretary may permit, under such terms and conditions as necessary to carry out the purposes of this chapter, the incidental taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat if:

(1) the taking is necessary to conduct an otherwise lawful activity;

(2) the taking is attendant or secondary to, and not the purpose of, the lawful activity;

(3) the impact of the permitted incidental take is minimized; and

(4) the incidental taking will not impair the conservation or recovery of any endangered species or threatened species.

(c) Transport through State. Nothing in this chapter shall prevent a person who holds a proper permit from the federal government or any other state from transporting a member of ~~an endangered or a~~ threatened or endangered species from a point outside this State ~~to another point within or without this~~ through the State.

~~(d)~~(d) Possession. Nothing in this chapter shall prevent a person from possessing in this State wildlife or wild plants which are not determined to be “endangered” or “threatened” under the federal Endangered Species Act where the possessor is able to produce substantial evidence that the wildlife or wild plant was first taken or obtained in a place without violating the law of that place, provided that an importation permit may be required under section 4714 of this title or the rules of the Department of Fish and Wildlife.

~~(d)~~(e) Interference with agricultural or silvicultural practices. No rule adopted under this chapter shall cause undue interference with ~~normal agricultural or~~ farming, forestry operations, or accepted silvicultural practices. This section shall not be construed to exempt any person from the provisions of the ~~federal Endangered Species Act~~ requirements of this chapter. The Secretary shall not adopt rules that affect farming, forestry operations, or accepted silvicultural practices without first consulting the Secretary of

Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation.

(f) Consistency with State law. Nothing in this chapter shall be interpreted to limit or amend the definitions and applications of necessary habitat in chapter 151 of this title or in 30 V.S.A. chapter 5.

~~(e)~~(g) Effect on federal law. Nothing in this section permits a person to violate any provision of federal law concerning federally protected threatened or endangered species.

(h) Permit application. An applicant for a permit under this section shall submit an application to the Secretary that includes the following information:

(1) a description of the activities that could lead to a taking of a listed threatened or endangered species or the destruction of or adverse impact on critical habitat;

(2) the steps that the applicant has or will take to avoid, minimize, and mitigate the impact to the relevant threatened or endangered species or critical habitat;

(3) a plan for ensuring that funding is available to conduct any required monitoring and mitigation, if applicable;

(4) a summary of the alternative actions to the taking or destruction of critical habitat that the applicant considered and the reasons that these alternatives were not selected, if applicable;

(5) the name or names and obligations and responsibilities of the person or persons that will be involved in the proposed taking or destruction of critical habitat; and

(6) any additional information that the Secretary may require.

~~(f)~~(i) Permit fees.

(1) Fees to be charged to a person applying to take a threatened or endangered species under this section shall be:

(A) ~~F~~o take for scientific purposes, to enhance the propagation or survival of the species, noncommercial cultural or ceremonial purposes, or for educational purposes or special purposes consistent with the federal Endangered Species Act, \$50.00;

(B) ~~F~~o take for a zoological or botanical exhibition ~~or to lessen an economic hardship~~, \$250.00 for each listed ~~animal or plant~~ wildlife or wild plant taken up to a maximum of \$25,000.00 ~~or, if the Secretary determines that~~

~~it is in the best interest of the species, the parties may agree to mitigation in lieu of a monetary fee; and~~

(C) for an incidental taking, \$250.00 for each listed wildlife or wild plant taken up to a maximum of \$25,000.00.

(2) The Secretary may require the implementation of mitigation strategies and may collect mitigation funds, in addition to the permit fees, in order to mitigate the impacts of a taking or the destruction of or adverse impact on critical habitat. Mitigation may include:

(A) a requirement to rectify the taking or adverse impact or to reduce the adverse impact over time;

(B) a requirement to manage or restore land within the area of the proposed activity or in an area outside the proposed area as habitat for the threatened or endangered species;

(C) compensation, including payment into the Threatened and Endangered Species Fund for the uses of that Fund, provided that any payment is commensurate with the taking or adverse impact proposed; or

(3) Fees ~~or~~ and mitigation payments collected under this subsection and interest on fees and mitigation payments shall be deposited in the Threatened and Endangered Species Fund ~~within the Fish and Wildlife Fund, which Fund is hereby created~~ and shall be used solely for expenditures of the Department of Fish and Wildlife related to threatened and endangered species. Expenditures may be made for monitoring, restoration, conservation, recovery, and the acquisition of property interests and other purposes consistent with this chapter. Where practical, the fees collected for takings shall be devoted to the conservation or recovery of the taken species or its habitat. Interest accrued on the Fund shall be credited to the Fund.

~~(g)~~(j) Permit term. A permit issued under this section shall be valid for the period of time specified in the permit, not to exceed five years. A permit issued under this section may be renewed upon application to the Secretary.

(k) Public notice. Prior to issuing a permit for an incidental taking and prior to the initial issuance or amendment of a general permit under this section, the Secretary shall provide for: public notice of no fewer than 30 days; opportunity for written comment; and opportunity to request a public informational hearing. The Secretary shall post permit applications, permit decisions, and the initial or amended general permits on the website of the Agency of Natural Resources. The Secretary also shall provide notice to interested persons who request notice of permit applications, permit decisions, and proposed general permits or proposed amendments to general permits.

(1) General permits.

(1) The Secretary may issue general permits for activities that will not affect the continued survival or recovery of a threatened or endangered species.

(2) A general permit issued under this chapter shall contain those terms and conditions necessary to ensure compliance with the provisions of this statute.

(3) These terms and conditions may include the implementation of best management practices and the adoption of specific mitigation measures and required surveying, monitoring, and reporting.

(4) The Secretary may issue a general permit to take a threatened or endangered species or destroy or adversely impact critical habitat only if an activity or class of activities satisfies one or more of the following criteria:

(A) the taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat is necessary to address an imminent risk to human health;

(B) a proposed taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat would enhance the overall long-term survival of the species; or

(C) the Secretary has approved best management practices that are designed, when applied, to minimize to the greatest extent possible the taking of a threatened or endangered species or the destruction of or adverse impact on critical habitat.

(5) On or before September 1, 2017, the Secretary shall issue a general permit for vegetation management and operational and maintenance activities conducted by a utility. The general permit shall have a five-year term. A one-time application for coverage by a utility shall be made for activities authorized by the general permit, and coverage under the general permit shall be for the term of the general permit. Until the general permit has been issued, no critical habitat designation for wild plants shall be made in utility right-of-way. As used in this subdivision (5), "utility" means an electric company, telecommunication company, pipeline operator, or railroad company.

(6) Prior to issuing an initial or amended general permit under this subsection, the Secretary shall:

(A) post a draft of the general permit on the Agency website;

(B) provide public notice of at least 30 days; and

(C) provide for written comments or a public hearing, or both.

(7) For applications for coverage under the terms of an issued general permit, the applicant shall provide notice on a form provided by the Secretary. The Secretary shall post notice of the application on the Agency website and shall provide an opportunity for written comment, regarding whether the application complies with the terms and conditions of the general permit, for ten days following receipt of the application.

(8) The Secretary may require any applicant for coverage under a general permit to submit additional information that the Secretary considers necessary and may refuse to approve coverage under the terms of a general permit until the information is furnished and evaluated.

(9) The Secretary may require any applicant for coverage under a general permit to seek an individual permit under this section if the applicant does not qualify for coverage.

(10) The Secretary may require a person operating under a general permit issued under this section to obtain an individual permit under this section if the person proposes to destroy or adversely impact critical habitat that was designated under section 5402a of this title after issuance of the general permit, unless existing best management practices approved under the general permit adequately protect the critical habitat or have been amended to do so prior to the critical habitat designation pursuant to section 5402a of this title.

Sec. 28. 10 V.S.A. § 5410 is amended to read:

§ 5410. LOCATION CONFIDENTIAL

(a) ~~All information~~ The Secretary shall not disclose information regarding the specific location of threatened or endangered species sites ~~shall be kept confidential in perpetuity~~ except that the Secretary shall disclose this information ~~to~~ regarding the location of the threatened or endangered species to:

(1) the owner of land upon which the species ~~has been~~ is located, ~~or to;~~

(2) a potential buyer of land upon which the species is located who has a bona fide contract to buy the land and applies to the Secretary for disclosure of threatened or endangered species information, ~~and to;~~ or

(3) qualified individuals or organizations, public agencies and nonprofit organizations for scientific research or for preservation and planning purposes when the Secretary determines that the preservation of the species is not further endangered by the disclosure.

(b) When the Secretary issues a permit under this chapter to take a threatened or endangered species or destroy or adversely impact critical habitat

and when the Secretary designates critical habitat by rule under section 5402a of this title, the Secretary shall disclose only the municipality and general location where the threatened or endangered species or designated critical habitat is located. When the Secretary designates critical habitat under section 5402a of this title, the Secretary shall notify the municipality in which the critical habitat is located and shall disclose the general location of the designated critical habitat.

Sec. 29. STATUTORY REVISION

The Office of Legislative Council, in its statutory revision capacity, is directed to renumber the subdivisions of 10 V.S.A. § 5401 in numerical and alphabetical order and to correct any cross-references in statute to 10 V.S.A. § 5401 to reflect the renumbered subdivisions.

Sec. 30. FEE RECOMMENDATION; PERMIT TO DESTROY OR ADVERSELY IMPACT CRITICAL HABITAT

The consolidated Executive Branch fee report and request to be submitted on or before the third Tuesday of January 2018 pursuant to 32 V.S.A. § 605 shall include a recommendation from the Agency of Natural Resources of a fee for a permit under 10 V.S.A. § 5408 to destroy or adversely impact critical habitat of a State-listed threatened or endangered species. The recommendation shall include whether the owner of property where critical habitat is designated under 10 V.S.A. § 5402a should be required to pay a fee for a permit to destroy or adversely impact critical habitat on his or her property.

Sec. 31. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

* * *

(w)(1) A permit or permit amendment shall not be required for a change to a sport shooting range, as defined in section 5227 of this title, if a jurisdictional opinion issued under subsection 6007(c) of this title determines that each of the following applies:

(A) The range was in operation before January 1, 2006 and has been operating since that date.

(B) The change is for the purpose of one or more of the following:

(i) To improve the safety of range employees, users of the range, or the public.

(ii) To abate noise from activities at the range. A qualified noise abatement professional may certify that a change in a sport shooting range is for this purpose and this certification shall be conclusive evidence that a purpose of the change is to abate noise from activities at the range.

(iii) To remediate, mitigate, or reduce impacts to air or water quality from the range or the deposit or disposal of waste generated by the range or its use, provided that the range has an environmental stewardship plan approved by the Department of Environmental Conservation, in accordance with chapter 159 of this title.

(2) Obtaining a certification described in subdivision (1)(B)(ii) of this subsection shall be at the option of the range's owner.

Sec. 32. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that Secs. 1 (regulation of fish), 2 (commercial sale of fish), and 3 (importation and stocking of fish) shall take effect on January 1, 2017.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 11, 2016, page 355-365)

Reported favorably by Senator Degree for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

(Committee vote: 7-0-0)

Proposal of amendment to H. 570 to be offered by Senator Rodgers

Senator Rodgers moves that the Senate propose to the House to amend the bill in Sec. 31, 10 V.S.A. § 6081, by striking out subdivision (w)(1)(B) in its entirety and inserting in lieu thereof the following:

(B) The range has a lead management plan approved by the Department of Environmental Conservation under chapters 47 and 159 of this title that requires implementation of best management practices to mitigate environmental impacts to soil and water.

(C) The change is for the purpose of one or more of the following:

(i) To improve the safety of range employees, users of the range, or the public.

(ii) To abate noise from activities at the range. A qualified noise abatement professional may certify that a change in a sport shooting range is for this purpose and this certification shall be conclusive evidence that a purpose of the change is to abate noise from activities at the range.

(iii) To remediate, mitigate, or reduce impacts to air or water quality from the range or the deposit or disposal of waste generated by the range or its use.

NOTICE CALENDAR

Second Reading

Favorable

H. 65.

An act relating to designating the Gilfeather turnip as the State Vegetable.

Reported favorably by Senator Starr for the Committee on Agriculture.

(Committee vote: 5-0-0)

(For House amendments, see House Journal of January 19, 2016, page 42)

H. 308.

An act relating to limiting the liability of VAST arising from snowmobile operation outside the Statewide Snowmobile Trail System.

Reported favorably by Senator Flory for the Committee on Transportation.

(Committee vote: 4-0-1)

(For House amendments, see House Journal of March 11, 2016, page 353)

Favorable with Proposal of Amendment

H. 278.

An act relating to selection of the Adjutant and Inspector General.

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

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

Sec. 1. 2 V.S.A. § 12 is amended to read:

§ 12. LEGISLATIVE ELECTIONS; UNIFORM BALLOTS

(a) Whenever there is a known contested election for Speaker of the House of Representatives, or for President Pro Tempore of the Senate, and in elections by the joint assembly of the ~~Legislature~~ General Assembly, the Secretary of State shall prepare a ballot for each office, listing the names of the known candidates for the office in the alphabetical order of their surnames and leaving thereon sufficient blank spaces to take care of any nominations from the floor.

(b) A candidate for office shall, not later than one week preceding the election, notify the Secretary of State in writing of his or her candidacy, naming the particular office. If he or she fails so to notify the Secretary of State, his or her name shall not be printed on the ballot. No ballot may be used other than the official ballot provided by the Secretary of State.

(c)(1) A candidate for Adjutant and Inspector General shall:

(A) be a resident of Vermont;

(B) have attained the rank of lieutenant colonel (O-5) or above;

(C) be a current member of the U.S. Army, the U.S. Air Force, the U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard, or the Air National Guard, or be eligible to return to active service in the Army National Guard or the Air National Guard; and

(D) be a graduate of a Senior Service College, currently be enrolled in a Senior Service College, or be eligible to be enrolled in a Senior Service College during the biennium in which the candidate would first be appointed.

(2) A candidate for Adjutant and Inspector General shall, at the time he or she notifies the Secretary of State of his or her candidacy pursuant to subsection (b) of this section, certify under oath to the Secretary that he or she meets the qualifications set forth in subdivision (1) of this subsection.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 25, 2016, page 282)

H. 355.

An act relating to licensing and regulating foresters.

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

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

Sec. 1. 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:

* * *

(35) ~~[Repealed.]~~ Foresters

* * *

Sec. 2. 26 V.S.A. chapter 95 is added to read:

CHAPTER 95. FORESTERS

Subchapter 1. General Provisions

§ 4901. PURPOSE AND EFFECT

In order to implement State policy and safeguard the public welfare, a person shall not engage in the practice of forestry unless currently licensed under this chapter.

§ 4902. DEFINITIONS

As used in this chapter:

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

(2) "Disciplinary action" means any action taken against a licensee for unprofessional conduct.

(3) "Forester" means a person who is licensed to practice forestry under this chapter.

(4)(A) "Forestry" means the science, art, and practice of creating, managing, using, and conserving forests and associated resources to meet

desired goals, needs, and values, including timber management, wildlife management, biodiversity management, and watershed management. Forestry science consists of those biological, physical, quantitative, managerial, and social sciences that are applied to forest management. Forestry services include investigations, consultations, timber inventory, and appraisal, development of forest management plans, and responsible supervision of forest management or other forestry activities on public or private lands.

(B) “Forestry” does not include services for the physical implementation of cutting, hauling, handling, or processing of forest products or for the physical implementation of silvicultural treatments and practices.

(5) “License” means a current authorization granted by the Director permitting the practice of forestry pursuant to this chapter.

(6) “SAF” means the Society of American Foresters.

§ 4903. 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 forestry degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet in so doing;

(2) practice forestry 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 forestry unless licensed to do so under the provisions of this chapter;

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

(5) practice forestry during the time a license issued under this chapter is suspended or revoked.

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

§ 4904. EXEMPTIONS

This chapter does not prohibit:

(1) An individual or a college or university in this State from practicing forestry on his, her, or its own lands.

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

(3) The carrying out of forest practices as an employee of a forester when acting under the general supervision of that forester. As used in this subdivision, "general supervision" means the forester need not be on-site when the employee provides the forest practices, but shall maintain continued involvement in and accept professional responsibility for the aspects of each forest practice the employee performs.

(4) Unlicensed professional activities within or relating to forests, if such activities do not involve the application of forestry principles or judgment and do not require forestry education, training, and experience to ensure competent performance.

Subchapter 2. Administration

§ 4911. DUTIES OF THE DIRECTOR

(a) The Director shall:

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

(2) receive applications for licensure and provide licenses to applicants qualified under this chapter;

(3) provide standards and approve education programs for applicants and for the benefit of foresters who are reentering practice following a lapse of five or more years;

(4) administer fees as established by law;

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

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

(7) explain appeal procedures to licensed foresters and to applicants, and complaint procedures to the public.

(b) The Director may adopt rules necessary to perform his or her duties under this section.

§ 4912. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three foresters for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to forestry. One of the initial appointments shall be for less than a five-year term.

(2) An appointee shall have not less than ten years' experience as a forester immediately preceding appointment; shall be licensed as a forester in Vermont; and shall be actively engaged in the practice of forestry in this State during incumbency.

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

Subchapter 3. Licenses

§ 4921. QUALIFICATIONS FOR LICENSURE

Applicants for licensure shall qualify under one of the following paths to licensure:

(1) Possession of a bachelor's degree, or higher, in forestry from a program approved by the Director, satisfactory completion of two years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(2) Possession of a bachelor's degree, or higher, in a forestry-related field from a program approved by the Director, satisfactory completion of three years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(3) Possession of an associate degree in forestry from a program approved by the Director, satisfactory completion of four years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(4) Possession of a valid registration or license to engage in the practice of forestry issued by the appropriate regulatory authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements and qualifications shown by the application to be equal to or greater than the requirements of this chapter. Such an applicant may be examined on forestry matters peculiar to Vermont and may be granted a license at the discretion of the Director.

§ 4922. APPLICATIONS FOR LICENSURE

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

§ 4923. ISSUANCE OF LICENSES

The Director shall issue a license, upon payment of the fees prescribed in this chapter, to any applicant who has satisfactorily met all the requirements of this chapter.

§ 4924. RENEWALS

(a) Licenses shall be renewed every two years upon payment of the renewal fee.

(b) Biennially, the Director shall provide notice to each licensee of license expiration and renewal requirements. Upon receipt of the completed form and the renewal fee, the Director shall issue a new license.

(c) As a condition of renewal, the Director shall require that a licensee establish that he or she has completed continuing education, as approved by the Director, of 24 hours for each two-year renewal period.

(d) The Director may reinstate the license of an individual whose license has expired upon payment of the required fee and reinstatement penalty, provided the individual has satisfied all the requirements for renewal, including continuing education.

§ 4925. LICENSE AND RENEWAL FEES

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

§ 4926. UNPROFESSIONAL CONDUCT

(a) The Director may deny an application for licensure or relicensure; revoke or suspend any license to practice forestry issued under this chapter; or discipline or in other ways condition the practice of a licensee upon due notice and opportunity for hearing in compliance with the provisions of 3 V.S.A. chapter 25 if the person engages in the following conduct or the conduct set forth in 3 V.S.A. § 129a:

(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 forestry;

(2) whether or not committed in this State, has been convicted of a crime related to the practice of forestry or a felony that evinces an unfitness to practice forestry;

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

(4) has willfully or repeatedly violated any of the provisions of this chapter;

(5) is habitually intemperate or is addicted to the use of habit-forming drugs capable of impairing the exercise of professional judgment;

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

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

(8) aiding, abetting, encouraging, or negligently causing a violation of the statutes or rules of the Vermont Department of Forests, Parks and Recreation.

(b) Any person or institution aggrieved by any action of the Director under this section may appeal as provided in 3 V.S.A. § 130a.

(c) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director about incompetent, unprofessional, or unlawful conduct of a forester.

Sec. 3. TRANSITIONAL PROVISIONS; ADVISOR APPOINTEES; LICENSING OF CURRENT FORESTERS

(a) Advisor appointees. Notwithstanding the provision of 26 V.S.A. § 4912 in Sec. 2 of this act that requires an advisor appointee to be a licensed forester in Vermont, an initial advisor appointee may be in the process of applying for licensure as a forester in this State if he or she otherwise is eligible for licensure as a forester under this act.

(b) Licensing of current foresters.

(1) The Director of the Office of Professional Regulation shall establish a procedure whereby an individual who can demonstrate a record of full-time forestry practice for at least eight of the ten years immediately preceding the effective date of Sec. 2 of this act may become licensed as a forester:

(A) without examination, if he or she possesses one of the degrees described in 26 V.S.A. § 4921(1)–(3) (qualifications for licensure) in Sec. 2 of this act;

(B) without possessing a degree described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she passes the Society of American Foresters (SAF) Certified Forester Examination, which may include a State portion if required by the Director by rule; or

(C) without examination or possession of one of the degrees described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she is determined by the Director, after due consultation with the advisor appointees, to have demonstrated through a peer-review process and production of such

documentation as the Director may require, that he or she possesses forestry competencies commensurate to those of an individual eligible for licensure pursuant to Sec. 2 of this act.

(2) In addition to the ability of an individual to become licensed as a forester under the provisions of subdivision (1) of this subsection, an individual shall be eligible for expedited licensure if he or she is an SAF Certified Forester, active and in good standing.

(3) Any person licensed under this section shall thereafter be eligible for license renewal pursuant to 26 V.S.A. § 4924.

(4) The ability of a person to become licensed under the provisions of this section shall expire on January 1, 2018.

Sec. 4. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1 (amending 3 V.S.A. § 122) and 2 (adding 26 V.S.A. chapter 95) shall take effect on July 1, 2016.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for May 5, 2015, page 1556)

H. 562.

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

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out 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)(1) 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, any legislative committees of jurisdiction for the underlying field of regulation, and the applicable regulatory entity. The reports shall contain:~~

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

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

~~(3)(C) appropriate legislative proposals.~~

~~(2)(A) If the review is in regard to a regulatory law outside its jurisdiction, the Office shall submit the report in conjunction with the agency with jurisdiction over the licensing of the relevant profession.~~

~~(B) In the event the Office and the agency with jurisdiction do not agree to any aspects of the report, the report shall incorporate separate responses of the Office and that agency.~~

~~(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 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 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:

* * *

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

* * *

§ 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 certification 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:

* * *

~~(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:

(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:

* * *

(46) Potable water supply and wastewater system designers

(47) 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. 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 position 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.

* * * Land Surveyors * * *

Sec. 18. 27 V.S.A. § 1403 is amended to read:

§ 1403. COMPOSITION OF SURVEY PLATS

(a) Plats filed in accordance with this chapter shall be on sheets 11 inches by 17 inches or 18 inches by 24 inches in size or 24 inches by 36 inches if the town or city has appropriate storage facilities as determined by the town or city clerk.

(b) Plats filed in accordance with this chapter shall also conform with the following ~~further~~ requirements:

(1) Each survey plat shall contain an inset locus map clearly indicating the location of the land depicted and a legend of symbols used.

(2) All lettering and data shall be clearly legible.

(3) Plat scale ratios shall be sufficient to allow all pertinent survey data to be shown, and each plat shall contain a graphic scale graduated in units of measure used in the body of the plat.

(4) Each plat sheet shall have a minimum one-half inch margin, except the binder side, which shall have a minimum one and one-half inch margin.

(5) Each plat sheet shall contain a title area in the lower right-hand corner of the sheet stating the location of the land, scale expressed in engineering units, date of compilation, the name of the record owner as of that date, the land surveyor's certification as outlined in 26 V.S.A. § 2596, and a certification that the plat conforms with requirements of this section. These certifications shall be accompanied by the responsible land surveyor's seal, name and number, and signature.

(6) Each survey plat shall contain a graphical indication of the reference meridian used on the survey plat and a statement describing the basis of bearings referenced on the survey plat.

(7) When the plat sheet is produced by a reproduction process, the process shall be identified and certified to by the producer in the margin of the plat sheet. Original plat sheets shall be so identified and certified to by the same process.

(8) The recordable plat materials shall be composed in one of the following processes:

(A) fixed-line photographic process on stable base polyester film; or

(B) pigment ink on stable base polyester film or linen tracing cloth.

(c) Survey plats prepared and dated before July 1, 1992; shall be exempt from the requirements of subdivisions ~~(b)(2)-(7)~~ (b)(1)-(6) and (8) of this section, but shall comply with requirements in State law in effect when the plats were prepared and dated.

(d) Survey plats prepared and dated before any statutory regulation of land plats shall comply with ~~subsections~~ subsection (a) and ~~subdivisions (b)(1) and (b)(8)~~ subdivision (b)(7) of this section.

(e) Any survey plat exempted by subsection (c) or (d) of this section and revised after July 1, 1992; shall meet all the requirements of ~~sections 1401-1406~~ of this ~~title~~ chapter.

Sec. 19. 27 V.S.A. § 1404 is amended to read:

§ 1404. ~~EXCEPTIONS~~ EXEMPTIONS

(a) Survey plats prepared and filed by municipal and State government agencies shall be exempt from subdivision 1403(b)(5) of this ~~title~~ chapter. Each plat sheet filed under this exemption shall contain a title area in the lower right-hand corner of the sheet stating the location of the land, the scale expressed in engineering units, and the date of compilation. Highway plats or plans filed under this exemption shall also include right-of-way detail sheets and a title sheet.

(b) Survey plats prepared and filed in accordance with 24 V.S.A. § 4463 shall be exempt from subdivision 1403(b)(5) of this ~~title~~ chapter. Survey plats or plans filed under this exemption shall contain a title area, the location of the land, and scale expressed in engineering units. In addition, they shall include inscriptions and data required by zoning and planning boards.

(c) Survey plats prepared and filed in accordance with chapter 15 of this title shall be exempt from subdivision ~~1403(b)(6)~~ 1403(b)(5) of this ~~title~~ chapter. Each plat sheet filed under this exemption shall contain a title area stating the location of the land, the scale expressed in engineering or architectural units, and the date of compilation.

* * * Professional Regulation Report * * *

Sec. 20. FINDINGS AND PURPOSE

(a) Findings.

(1) The General Assembly finds that multiple State agencies regulate a variety of professions and occupations. This includes the Office of Professional Regulation, which is focused primarily on licensing administration and enforcement and which regulates approximately 60,000

licensees across 46 professions. It also includes other State agencies that have other functions as their primary focus, with professional regulation as an ancillary aspect of their duties.

(2) The General Assembly further finds that the State should review the organization of professional regulation in the State to determine whether the regulation of certain professions and occupations should be transferred to the Office of Professional Regulation in order to allow State government to operate in a more effective and efficient manner.

(3) The General Assembly further finds that the State should review the makeup and supervision of professional regulatory entities in the State to determine whether they comply with antitrust law in light of recent U.S. Supreme Court precedent.

(b) Purpose. The purpose of Sec. 2 of this act is to provide the General Assembly and the Office of Professional Regulation with comprehensive information regarding the organizational structures of and the resources that are necessary for other State agencies in regulating the professions and occupations under their jurisdiction. This information will help the General Assembly determine whether the regulation of certain professions and occupations should be transferred to the Office. The purpose is also to provide the General Assembly and the Office of the Attorney General with information regarding the makeup and supervision of the professional regulatory entities in the State to ensure compliance with antitrust law.

Sec. 21. PROFESSIONAL REGULATION REPORT

On or before December 15, 2016, each of the agencies and departments set forth in subdivision (1) of this section shall provide a written report to the Senate and House Committees on Government Operations, and provide a copy of that report to the Office of Professional Regulation. The report shall contain the information set forth in subdivision (2) of this section for each of the professions or occupations listed in subdivision (1) that are regulated by that agency or department or by a professional regulatory entity under the jurisdiction of the agency or department. On or before July 1, 2016, the Secretary of Administration shall prepare a form that the agencies and departments shall use to file this report, and the Secretary shall assist the agencies and departments as necessary in completing the report.

(1) Agencies and departments required to report; listed professions and occupations.

(A) Agency of Agriculture, Food and Markets:

(i) dairy technicians;

- (ii) pesticide applicators;
- (iii) weighmasters; and
- (iv) weights and measures repairers.

(B) Agency of Education: educators.

(C) Agency of Human Services:

- (i) child care center workers; and
- (ii) child care home providers.

(D) Agency of Natural Resources:

- (i) water system operators; and
- (ii) well drillers.

(E) Department of Health:

- (i) physicians;
- (ii) physician assistants;
- (iii) anesthesiologist assistants;
- (iv) podiatrists;
- (v) radiologist assistants;
- (vi) emergency medical personnel;
- (vii) asbestos abatement professionals; and
- (viii) lead abatement professionals.

(F) Department of Liquor Control:

- (i) sellers;
- (ii) manufacturers;
- (iii) distributors; and
- (iv) any other professionals who may be regulated by the

Department.

(G) Department of Public Safety:

- (i) electricians;
- (ii) plumbers;
- (iii) elevator inspectors;
- (iv) elevator mechanics;

- (v) lift mechanics;
- (vi) commissioned boiler inspectors;
- (vii) chemical suppression;
- (viii) chimney sweeps;
- (ix) fire alarm inspectors;
- (x) fire sprinkler system designers;
- (xi) fire sprinkler system installers;
- (xii) oil burner installers;
- (xiii) propane gas installers;
- (xiv) natural gas installers;
- (xv) precious metal dealers;
- (xvi) emergency generator installers;
- (xvii) polygraph examiners; and
- (xviii) explosive blasters.

(2) Information required to be reported.

- (A) Agency or department name.
- (B) Regulation type (license, certification, or registration).
- (C) Number of persons regulated.
- (D) Legal basis for regulation, including:
 - (i) statutory authority;
 - (ii) administrative rules; and
 - (iii) agency or department policies.
- (E) Purpose of regulation.
- (F) A description of stakeholders in the regulation, including:
 - (i) those subject to regulation;
 - (ii) State entities;
 - (iii) consumers or clients;
 - (iv) employers;
 - (v) the public; and

(vi) any other applicable persons.

(G) A description of the governance structure, such as:

(i) a board or commission;

(ii) an agency or division head;

(iii) a panel; or

(iv) a hearing officer.

(H) A description of the decision makers:

(i) who set application requirements and practice standards;

(ii) who make decisions on applicants, enforcement, and discipline; and

(iii) specifying whether any decision maker is an active participant in the profession being regulated or, if the decision maker has taken a hiatus from the profession, whether the decision maker plans to return to the profession.

(I) Qualifications for regulation, including:

(i) examination;

(ii) education; and

(iii) experience.

(J) A description of the application process, including:

(i) receiving applications;

(ii) reviewing applications;

(iii) rejecting applications;

(iv) appealing application rejections;

(v) issuing licenses, certifications, or registrations; and

(vi) the average time to process licenses.

(K) The duration of the license, certification, or registration.

(L) A description of the renewal process and requirements.

(M) Citation of the standards of practice or codes of conduct for persons regulated set forth in:

(i) statute;

(ii) rule;

- (iii) policy; or
- (iv) another location.

(N) A description of the enforcement process, including:

- (i) complaints;
- (ii) investigations;
- (iii) prosecutions;
- (iv) hearings;
- (v) discipline;
- (vi) follow-up or monitoring; and
- (vii) the average time to process complaints and cases.

(O) A description of any inspection process.

(P) A description of any systems, such as information technology systems, that are used to enable licensing, certification, or registration, renewal, enforcement, and inspection.

(Q) Staff members:

- (i) number of full-time staff;
- (ii) number of part-time staff;
- (iii) job titles; and
- (iv) duties.

(R) Budget:

- (i) annual expenses;
- (ii) annual revenues;
- (iii) fees:
 - (I) the amount charged;
 - (II) how fee amounts are determined and set;
 - (III) the authority to establish those fees; and

(IV) how revenues from fees are used, indicating the specific uses if those revenues are used for purposes other than regulating the profession.

- (iv) General Fund or special fund deposits; and
- (v) appropriations from the General Fund.

(S) A description and the qualifications of any supervisor responsible for the oversight of the agency's or department's professional regulatory entity and whether that supervisor has the ability to veto or modify any decision by that professional regulatory entity.

(T) Any other information the agency or department believes is relevant for the purpose of this report.

* * * Licensure by the Office of Professional Regulation
and the Agency of Education * * *

Sec. 22. 16 V.S.A. § 1696 is amended to read:

§ 1696. LICENSING

* * *

(g) Dual licensure. The Secretary and the Office of Professional Regulation shall jointly create a process for facilitating the issuance of professional licenses from both offices to the individuals seeking them.

Sec. 23. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

* * *

(h) The Office and the Secretary of Education shall jointly create a process for facilitating the issuance of professional licenses from both offices to the individuals seeking them.

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

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

(1) this section and Secs. 20 (findings and purpose) and 21 (professional regulation report) shall take effect on passage;

(2) Secs. 2-5 (regarding alcohol and drug abuse counselors) shall take effect on September 1, 2016;

(3) Secs. 8-14 (regarding potable water supply and wastewater system designers and pollution abatement facility operators) shall take effect on January 1, 2017; and

(4) Sec. 17, 26 V.S.A. § 3202 (social workers; prohibition) shall take effect on July 1, 2017.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 22, 2016, pages 582-614 and March 23, 2106, page 617)

H. 571.

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

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

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

* * * Pre-July 1, 1990 Criminal Traffic Offenses * * *

Sec. 1. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY 1, 1990 CRIMINAL TRAFFIC OFFENSES

(a) Background.

(1) Prior to July 1, 1990, traffic offenses that are handled as civil traffic violations under current Vermont law were charged as criminal offenses.

(2) A defendant's failure to appear on such charges resulted in suspension of the defendant's privilege to operate a motor vehicle in Vermont.

(3) As of February 2016, approximately 26,260 defendants who failed to appear in connection with pre-July 1, 1990 criminal traffic charges have pending suspensions as a result of their failure to appear. None of these charges relate to conduct that is criminal under current Vermont law.

(4) Many of the criminal complaints in these matters are fire- and water-damaged. In many of these cases, the facts underlying the complaints no longer can be proved.

(5) On February 22, 2016, the Office of the Attorney General mailed to all Criminal Divisions of the Superior Court and to the Judicial Bureau notices of dismissal of these pre-July 1, 1990 charges.

(b) Termination of suspensions.

(1) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle that resulted from the person's failure to appear prior to July 1, 1990 on a criminal traffic offense charged by the State for conduct that is a civil traffic violation under current Vermont law.

(2) This subsection shall not affect pending suspensions of a person's license or privilege to operate other than those specifically described in subdivision (1) of this subsection.

* * * Driver Restoration Program * * *

Sec. 2. DRIVER RESTORATION PROGRAM

(a) Program established; one-time event.

(1) The Judicial Bureau and the Department of Motor Vehicles shall carry out a Driver Restoration Program (Program) from September 1, 2016 through November 30, 2016 (the "Program time period"). It is the intent of the General Assembly that the Program be a one-time event.

(2) As used in this section, "suspension" means a suspension of a person's license or privilege to operate a motor vehicle in Vermont imposed by the Commissioner of Motor Vehicles.

(3) The Program is only targeted at suspensions arising from nonpayment of a traffic violation judgment. Even if a person benefits under the Program from the termination of suspensions arising from nonpayment of traffic violation judgments, other suspensions such as those arising from driving under the influence in violation of 23 V.S.A. chapter 13, subchapter 13 shall remain in effect.

(b) Traffic violation judgments entered before July 1, 2006; exception.

(1) During the Program time period, a person who has not paid in full the amount due on a traffic violation judgment entered prior to July 1, 2006 may apply to the Judicial Bureau for a reduction in the amount due on a form approved by the Court Administrator. Judgments for traffic violations that involve violation of a law specifically governing the operation of commercial motor vehicles shall not be eligible for reduction under the Program. The Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

(2) A person shall be permitted to apply in person or through the mail. The Judicial Bureau may accept applications electronically or by other means.

(3) If a person submits a complete application during the Program time period and the judgment is eligible for reduction under subdivision (1) of this subsection, the Clerk of the Judicial Bureau or designee shall reduce the amount due on the judgment to \$30.00. Amounts paid toward a traffic violation judgment prior to the Judicial Bureau's granting an application under this subsection shall not be refunded or credited toward the amount due under the amended judgment.

(c) Consistent with Sec. 5 of this act, amending 4 V.S.A. § 1109 to direct the Judicial Bureau to provide a more flexible payment plan option, a person who has an amount due on a traffic violation judgment shall not be required to pay more than \$100.00 per month in order to be current on all of his or her traffic violation judgments, regardless of the dates when the judgments were entered. This subsection shall not be limited by the Program time period.

(d) Restoration of driving privileges.

(1) If a person has paid all traffic violation judgments reduced under subsection (b) of this section, and is under a payment plan for any other outstanding traffic violation judgments, the Judicial Bureau shall notify the Department of Motor Vehicles that the person is in compliance with his or her obligations.

(2) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), the Commissioner of Motor Vehicles shall:

(A) upon receipt of the notice of compliance from the Judicial Bureau and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person described in subdivision (1) of this subsection (d);

(B) during the Program time period and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person who has paid all outstanding traffic violation judgments in full or is in compliance with a Judicial Bureau payment plan prior to December 1, 2016.

(3) If a person described in subdivision (1) or (2)(B) of this subsection fails to make a payment under a payment plan, the Judicial Bureau shall notify the Department of Motor Vehicles if required under 4 V.S.A. § 1109, as amended by Sec. 5 of this act.

(4) This subsection shall not affect pending suspensions other than as specifically described in this subsection.

(e) Public awareness campaign. Prior to the start of the Program, the Agency of Transportation shall commence a campaign to raise public awareness of the Program, and shall conduct the campaign until the end of the Program. The Judicial Bureau, the Department of Motor Vehicles, and the Agency of Transportation shall prominently advertise the Program on their websites until the Program ends.

(f) Allocation of amounts collected. Amounts collected on traffic violation judgments reduced under subsection (b) of this section shall be allocated in accordance with the Process Review approved by the Court Administrator's

Office entitled “Revenue Distributions - Civil Violations” and dated November 3, 2015.

* * * Termination of Suspensions Repealed in Act * * *

Sec. 3. TERMINATION OF SUSPENSIONS REPEALED IN ACT

Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person’s license or privilege to operate a motor vehicle and refusals of a person’s license or privilege to operate that were imposed pursuant to the following provisions:

(1) 7 V.S.A. § 656(g) (underage alcohol violation; failure to pay civil penalty);

(2) 7 V.S.A. § 1005 (underage tobacco violation);

(3) 13 V.S.A. § 1753 (false public alarm; students and minors);

(4) 18 V.S.A. § 4230b(g) (underage marijuana violation; failure to pay civil penalty); and

(5) 32 V.S.A. § 8909 (driver’s license suspensions for nonpayment of purchase and use tax).

* * * Amendment or Repeal of License Suspension and Registration Refusal Provisions and Underage Alcohol and Marijuana Crimes * * *

Sec. 4. REPEALS

23 V.S.A. §§ 305a (registration not renewed following nonpayment of traffic violation judgment) and 2307 (remedies for failure to pay traffic violations) are repealed.

Sec. 5. 4 V.S.A. § 1109 is amended to read:

§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

(a) Definitions. As used in this section:

(1) “Amount due” means all financial assessments contained in a Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(2) “Designated collection agency” means a collection agency designated by the Court Administrator.

(3) [Repealed.]

(b) Late fees; suspensions for nonpayment of certain traffic violation judgments.

(1) A Judicial Bureau judgment shall provide notice that a \$30.00 fee shall be assessed for failure to pay within 30 days. If the defendant fails to pay the amount due within 30 days, the fee shall be added to the judgment amount and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.

(2)(A) In the case of a traffic violation judgment, the judgment shall contain a notice that failure to pay or otherwise satisfy the amount due within 30 days of the notice will result in suspension of the person's operator's license or privilege to operate, and that payment plan options are available. If the defendant fails to pay the amount due within 30 days of the notice, or by a later date as determined by a Judicial Bureau clerk or hearing officer, and the case is not pending on appeal, the Judicial Bureau shall provide electronic notice thereof to the Commissioner of Motor Vehicles. After 20 days from the date of receiving the electronic notice, the Commissioner shall suspend the person's operator's license or privilege to operate for a period of 30 days or until the amount due is satisfied, whichever is earlier.

(B) At minimum, the Judicial Bureau shall offer a payment plan option that allows a person to avoid a suspension of his or her license or privilege to operate by paying no more than \$30.00 per traffic violation judgment per month, and not to exceed \$100.00 per month if the person has four or more outstanding judgments.

(c)(1) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the Judicial Bureau provides the defendant with a notice of judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant to this subsection.

~~(1)~~(2) Notice of hearing. The Judicial Bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision ~~(2)~~(3) of this subsection.

~~(2)~~(3) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the Judicial Bureau to do one or more of the following:

(A) ~~Cause~~ cause the matter to be reported to one or more designated collection agencies; or

(B) ~~Refer~~ refer the matter to the Criminal Division of the Superior Court for contempt proceedings.

(C) ~~Provide electronic notice thereof to the Commissioner of Motor Vehicles who shall suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied. [Repealed.]~~

~~(3)~~(4)(A) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The State or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.

(B) Traffic violations; reduction of amount due. When the judgment is based upon a traffic violation, the hearing officer may reduce the amount due on the basis of the defendant's driving history, ability to pay, or service to the community; the collateral consequences of the violation; or the interests of justice. The hearing officer's decision on a motion to reduce the amount due shall not be subject to review or appeal except in the case of a violation of rights guaranteed under the Vermont or U.S. Constitution.

~~(4)~~(5) Contempt.

(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:

(i) the defendant knew or reasonably should have known that he or she owed an amount due on a Judicial Bureau judgment;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) In the contempt order, the hearing officer may do one or more of the following:

(i) Set a date by which the defendant shall pay the amount due.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

~~(iii) Order that the Commissioner of Motor Vehicles suspend the person's operator's license or privilege to operate. However, the person shall~~

~~become eligible for reinstatement if the amount due is paid or otherwise satisfied. [Repealed.]~~

(iv) Recommend that the Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision ~~(4)(c)(5)~~, the Judicial Bureau shall notify the Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in the Criminal Division of the Superior Court, the Defender General shall assign counsel at the Defender General's expense.

(d) Collections.

(1) If an amount due remains unpaid after the issuance of a notice of judgment, the Court Administrator may authorize the clerk of the Judicial Bureau to refer the matter to a designated collection agency.

(2) The Court Administrator or the Court Administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

(e) For purposes of civil contempt proceedings, venue shall be statewide. No entry or motion fee shall be charged to a defendant who applies for a reduced judgment under subdivision (c)(4)(B) of this section.

(f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized to contract with a third party to collect fines, penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the Court Administrator.

Sec. 6. 7 V.S.A. § 656 is amended to read:

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

(a)(1) Prohibited conduct. A person under 21 years of age shall not:

(A) ~~falsely~~ Falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons;

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

(C) ~~consume~~ Consume malt or vinous beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.

(2) Offense. ~~Except as otherwise provided in section 657 of this title, a~~ A person under 21 years of age who knowingly ~~and unlawfully~~ violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(A) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a first offense; and

(B) a civil penalty of not more than ~~\$600.00~~ \$1,200.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days, for a second or subsequent offense.

* * *

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

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

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

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse

counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

* * *

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

* * *

Sec. 7. 7 V.S.A. § 657 is amended to read:

~~§ 657. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; THIRD OR SUBSEQUENT OFFENSE~~

~~A person under 21 years of age who engages in conduct in violation of subdivision 656(a)(1) of this title commits a crime if the person has been adjudicated at least twice previously in violation of subdivision 656(a)(1) of this title and shall be imprisoned not more than 30 days or fined not more than \$600.00, or both. [Repealed.]~~

Sec. 8. 13 V.S.A. § 5201(5) is amended to read:

(5) "Serious crime" does not include the following misdemeanor offenses unless the judge at arraignment but before the entry of a plea determines and states on the record that a sentence of imprisonment or a fine over \$1,000.00 may be imposed on conviction:

~~(A) Minors misrepresenting age, procuring or possessing malt or vinous beverages or spirituous liquor (7 V.S.A. § 657(a)) [Repealed.]~~

* * *

Sec. 9. 28 V.S.A. § 205(c) is amended to read:

(c)(1) Unless the Court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the Court orders a specific term of probation for a qualifying offense, the offender shall be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:

* * *

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

* * *

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

* * *

Sec. 10. 7 V.S.A. § 1005 is amended to read:

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

(a) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of \$25.00. ~~In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules. An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental suspension or delays not exceeding cumulatively the maximum periods established by this subsection.~~

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

Sec. 11. 13 V.S.A. § 1753 is amended to read:

§ 1753. FALSE PUBLIC ALARMS

(a) A person who initiates or willfully circulates or transmits a report or warning of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm, shall, for the first offense, be imprisoned for not more than two years or fined not more than \$5,000.00, or both. For the second or subsequent offense, the person shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both. In addition, the court may order the person to perform community service. Any community service ordered under this section shall be supervised by the ~~department of corrections~~ Department of Corrections.

~~(b) In addition, if the person is under 18 years of age, or if the person is enrolled in a public school, an approved or recognized independent school, a home study program, or tutorial program as those terms are defined in section 11 of Title 16:~~

~~(1) if the person has a motor vehicle operator's license issued under chapter 9 of Title 23, the commissioner of motor vehicles shall suspend the license for 180 days for a first offense and two years for a second offense; or~~

~~(2) if the person does not qualify for a license because the person is underage, the commissioner of motor vehicles shall delay the person's eligibility to obtain a drivers license for 180 days for the first offense and two years for the second offense. [Repealed.]~~

Sec. 12. 18 V.S.A. § 4230a(a)(3) is amended to read:

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

* * *

(3) ~~not more than \$500.00~~ and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days for a third or subsequent offense.

Sec. 13. 18 V.S.A. § 4230b is amended to read:

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

(a) Offense. ~~Except as otherwise provided in section 4230c of this title, a~~ A person under 21 years of age who knowingly and unlawfully possesses one

ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a first offense; and

(2) a civil penalty of not more than ~~\$600.00~~ \$1,200.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days, for a second or subsequent offense.

* * *

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

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

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

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

* * *

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

* * *

Sec. 14. 18 V.S.A. § 4230c is amended to read:

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

~~No person shall knowingly and unlawfully possess marijuana. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a crime if the person has been adjudicated at least twice previously in violation of section 4230b of this title and shall be imprisoned not more than 30 days or fined not more than \$600.00, or both. [Repealed.]~~

Sec. 15. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

(XX) 18 V.S.A. §§ 4230(a), ~~4230c,~~ and 4230d (marijuana possession);

Sec. 16. 32 V.S.A. § 8909 is amended to read:

§ 8909. ENFORCEMENT

If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is not paid as hereinbefore provided the Commissioner shall suspend ~~such purchaser's or the rental company's right to operate a motor vehicle license to act as a rental company and motor vehicle registrations~~ such purchaser's or the rental company's right to operate a motor vehicle license to act as a rental company and motor vehicle registrations within the State of Vermont until such tax is paid, and such tax may be recovered with costs in an action brought in the name of the State on this statute.

* * * Driving with License Suspended* * *

Sec. 17. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c) of this title and who operates or attempts to operate a motor vehicle upon a public highway before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(2) A person who violates section 676 of this title for the ~~sixth~~ third or subsequent time shall, if the ~~five~~ two prior offenses occurred within two years of the third offense and on or after July 1, 2003 December 1, 2016, be imprisoned not more than two years or fined not more than \$5,000.00, or both.

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the DLS Diversion Program ~~or prior to the date that a person pays the amount due to the Judicial Bureau in accordance with subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under subdivision (2) of this subsection.

* * *

* * * Operating Without Obtaining a License * * *

Sec. 18. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

* * *

(g) A person who violates this section commits a traffic violation, except that a person who violates this section after a previous conviction under this section within the prior two years shall be subject to imprisonment for not more than 60 days or a fine of not more than \$5,000.00, or both. An unsworn printout of the person's Vermont motor vehicle conviction history may be admitted into evidence to prove a prior conviction under this section.

* * * Assessment of Points Against a Person's Driving Record * * *

Sec. 19. 23 V.S.A. § 4(44) is amended to read:

(44) "Moving violation" ~~shall mean~~ means any violation of any provision of this title, while the motor vehicle is being operated on a public highway, over which operation the operator has discretion as to commission of the act, ~~with exception of~~ except for offenses pertaining to:

(A) a parked vehicle, equipment, size, weight, inspection, or registration of the vehicle ~~and child restraint or safety belt systems or;~~

(B) motorcycle headgear under section 1256 of this title; or

(C) seat belts as required in section 1258 or 1259 of this title.

Sec. 20. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(CCC)	§ 1256.	Motorcycle headgear <u>[Repealed.]</u> ;
(DDD)	§ 1257.	Face <u>Eye</u> Protection;

* * *

Sec. 21. 23 V.S.A. § 1257 is amended to read:

§ 1257. ~~FACE~~ EYE PROTECTION

If a motorcycle is not equipped with a windshield or screen, the operator of the motorcycle shall wear either eye glasses, goggles, or a protective face shield when operating the vehicle. The glasses, goggles, or face shield shall have colorless lenses when the motorcycle is being operated during the period of 30 minutes after sunset to 30 minutes before sunrise and at any other time when due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet ahead.

* * * Judicial Bureau Hearings; Consideration of Ability to Pay * * *

Sec. 22. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

(a) The Bureau shall notify the person charged and the issuing officer of the time and place for the hearing.

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the State or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the Department of Motor Vehicles or the Agency of Natural Resources and presented by the issuing officer or other person shall be admissible without testimony by a representative of the Department of Motor Vehicles or the Agency of Natural Resources.

(c) The hearing officer shall make findings which shall be stated on the record or, if more time is needed, made in writing at a later date. The hearing officer may make a finding that the person has committed a lesser included

violation. If the hearing officer finds that the defendant committed a violation, the hearing officer shall consider evidence of ability to pay, if offered by the defendant, prior to imposing a penalty.

(d) A law enforcement officer may void or amend a complaint issued by that officer by so marking the complaint and returning it to the Bureau, regardless of whether the amended complaint is a lesser included violation. At the hearing, a law enforcement officer may void or amend a complaint issued by that officer in the discretion of that officer.

(e) A State's Attorney may dismiss or amend a complaint.

(f) The Supreme Court shall establish rules for the conduct of hearings under this chapter.

* * * Awareness of Payment and Hearing Options * * *

Sec. 23. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT PAYMENT AND HEARING OPTIONS

(a) In conducting basic training courses and annual in-service trainings, the Criminal Justice Training Council is encouraged to train enforcement officers about the existence of payment plan options for traffic violation judgments. Enforcement officers are encouraged to mention these options to a motorist at the time of issuing a complaint for a traffic violation.

(b) The General Assembly recommends that the Judicial Bureau update the standard materials that enforcement officers provide to persons issued a civil complaint for a traffic violation to notify such persons of payment plan options and of the person's right to request a hearing on ability to pay.

(c) The General Assembly encourages the Judicial Bureau to prominently display on its website information about the existence of payment plan options for traffic violation judgments and the right of a person issued a complaint for a traffic violation to request a hearing on ability to pay.

(d) The Agency of Transportation shall carry out a campaign to raise public awareness of traffic violation judgment payment plan options and of a person's right to request a hearing before a Judicial Bureau hearing officer on his or her ability to pay a Judicial Bureau judgment.

* * * Immunity for Forcible Entry of Motor Vehicle for Rescue Purposes * * *

Sec. 24. 12 V.S.A. § 5784 is added to read:

§ 5784. FORCIBLE ENTRY OF MOTOR VEHICLE TO REMOVE UNATTENDED CHILD OR ANIMAL

A person who forcibly enters a motor vehicle for the purpose of removing a child or animal from the motor vehicle shall not be subject to civil liability for damages arising from the forcible entry if the person:

(1) determines the motor vehicle is locked or there is otherwise no reasonable method for the child or animal to exit the vehicle;

(2) reasonably and in good faith believes that forcible entry into the motor vehicle is necessary because the child or animal is in imminent danger of harm;

(3) notifies local law enforcement, fire department, or a 911 operator as soon as practicable under the circumstances;

(4) remains with the child or animal in a safe location reasonably close to the motor vehicle until a law enforcement, fire, or other emergency responder arrives;

(5) places a notice on the vehicle that the authorities have been notified and specifying the location of the child or animal; and

(6) uses no more force to enter the vehicle and remove the child or animal than necessary under the circumstances.

* * * Law Enforcement Training and Data Collection * * *

Sec. 25. 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 subsection 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.

(3) In order to remain certified, law enforcement officers shall receive a refresher course on the training required by this subsection during every odd-numbered year in a program approved by the Vermont Criminal Justice Training Council.

Sec. 26. 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~~ whether 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 a vendor chosen by the Council 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 vendor chosen by the Criminal Justice Training Council under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

(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.

Sec. 27. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert

(DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to:

(1) ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for enforcement efforts to address impaired driving; and

(2) collect data regarding the number and geographic distribution of law enforcement officers who receive ARIDE and DRE training.

* * * Motor Vehicle Insurance and Credit History * * *

Sec. 28. 8 V.S.A. § 4203(7) is added to read:

(7) An insurer engaged in writing private passenger motor vehicle insurance in Vermont shall not consider an applicant's or an insured's credit information, including a numerical credit-based insurance score or other credit rating, in connection with underwriting such insurance. This subdivision shall not be construed to limit an insurer from obtaining or using its own payment history information or information contained in an insurance claims history report, a motor vehicle driver history report, or any other report from a motor vehicle registry when underwriting motor vehicle insurance.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

(a) This section, Sec. 1 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 2(e) (public awareness campaign), Sec. 3 (termination of suspensions repealed in act), and Secs. 4-16 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes) shall take effect on passage.

(b) Secs. 25-26 (related to law enforcement training and data collection) shall take effect on passage, except that in Sec. 25, 20 V.S.A. § 2358(e)(3) shall take effect on January 1, 2019.

(c) All other sections shall take effect on July 1, 2016.

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

An act relating to driver's license suspensions and judicial, criminal justice, and insurance topics

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 15, 2016, page 383-408)

Reported favorably by Senator Lyons for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary.

(Committee vote: 6-0-1)

Reported favorably by Senator Sears for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary.

(Committee vote: 6-0-1)

H. 876.

An act relating to the transportation capital program and miscellaneous changes to transportation-related law.

Reported favorably with recommendation of proposal of amendment by Senator Mazza for the Committee on Transportation.

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

* * * Adoption of Proposed Transportation Program as Amended;
Definitions * * *

Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2017 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2017 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

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

(1) "Agency" means the Agency of Transportation.

(2) "Secretary" means the Secretary of Transportation.

(3) The table heading "As Proposed" means the Transportation Program referenced in subsection (a) of this section; the table heading "As Amended"

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

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

* * * Appropriation of Transportation Funds * * *

Sec. 2. 19 V.S.A. § 11a is amended to read:

§ 11a. TRANSPORTATION FUNDS APPROPRIATED FOR THE
DEPARTMENT OF PUBLIC SAFETY

(a) No transportation funds shall be appropriated for the support of government other than for the Agency, the Board, Transportation Pay Act Funds, construction of transportation capital facilities, transportation debt service, the operation of information centers by the Department of Buildings and General Services, and the Department of Public Safety. The amount of transportation funds appropriated to the Department of Public Safety shall not exceed:

(1) \$25,250,000.00 in fiscal year 2014;

(2) \$22,750,000.00 in fiscal years 2015 and 2016; and

(3) ~~\$20,250,000.00~~ \$21,550,000.00 in fiscal year 2017; and ~~in succeeding fiscal years~~

(4) \$20,250,000.00 in fiscal year 2018 and in succeeding fiscal years.

(b) In fiscal year 2017 and in succeeding fiscal years, of the funds appropriated to the Department of Public Safety pursuant to subsection (a) of this section, the amount of \$2,100,000.00 is allocated exclusively for the purchase, outfitting, assignment, and disposal of State Police vehicles. Any unexpended and unencumbered funds remaining in this allocation at the close of a fiscal year shall revert to the Transportation Fund. The Department of Public Safety may periodically recommend to the General Assembly that this allocation be adjusted to reflect market conditions for the vehicles and equipment.

* * * Program Development Program * * *

Sec. 2a. PROGRAM DEVELOPMENT; SPENDING AUTHORITY

(a) Reduction in spending authority. Spending authority in the Program Development Program within the fiscal year 2017 Transportation Program hereby is reduced by:

- (1) \$1,507,836.00 in transportation funds;
- (2) \$86,204.00 in TIB funds;
- (3) \$6,376,160.00 in federal funds.

(b) Selection of projects; notification of delays. In his or her discretion, the Secretary shall select the projects for which spending will be reduced under subsection (a) of this section. In exercising his or her discretion, the Secretary shall not delay a project that otherwise would proceed in fiscal year 2017, unless the full amount of the reduction cannot be achieved from cost savings or the delay of projects due to unforeseen circumstances. If a project that otherwise would have proceeded in fiscal year 2017 is delayed, the Secretary shall promptly notify:

- (1) the House and Senate Committees on Transportation when the General Assembly is in session; or
- (2) the Joint Transportation Oversight Committee and the Joint Fiscal Office when the General Assembly is not in session.

(c) Contingent restoration of spending authority.

(1) As used in this subsection:

(A) "Transportation Fund balance" means a positive balance of unreserved monies remaining in the Transportation Fund at the end of fiscal year 2016.

(B) "TIB Fund balance" means a positive balance of unreserved monies remaining in the Transportation Infrastructure Bond Fund at the end of fiscal year 2016.

(2) Subject to the funding of the Transportation Fund Stabilization Reserve in accordance with 32 V.S.A. § 308a and to the limitations of 19 V.S.A. § 11f (Transportation Infrastructure Bond Fund), and notwithstanding 32 V.S.A. § 308c (Transportation Fund Balance Reserve), if a Transportation Fund balance, TIB Fund balance, or balance in both funds exists at the end of fiscal year 2016, spending authority reduced in subsection (a) of this section in the fiscal year 2017 Program Development Program shall be restored to the extent of the balance or balances, up to a total of \$1,594,040.00 in

Transportation Funds or TIB funds, and by up to \$6,376,160.00 in matching federal funds.

Sec. 2b. PROGRAM DEVELOPMENT; ALLOCATION FOR
EDUCATION INITIATIVES

Within authorized spending in the Program Development Program, the Secretary shall allocate up to \$100,000.00 in federal National Highway Transportation Safety Administration grant funds to the Share the Road Program and to other highway safety educational initiatives. These monies shall be used to educate the users of the State's transportation system on how to improve the safety of all users, including bicyclists and operators of motor vehicles.

* * * Roadway Program * * *

Sec. 3. ROADWAY PROGRAM; PROJECT CANCELLATION

Pursuant to 19 V.S.A. § 10g(h) (legislative approval for cancellation of projects), the General Assembly approves cancellation of the following project from the candidate list within the Roadway Program within the fiscal year 2017 Transportation Program: Colchester STP 0207().

* * * Traffic and Safety Program * * *

Sec. 4. TRAFFIC AND SAFETY PROGRAM; PROJECTS ADDED

The following projects are added to the candidate list of the Traffic and Safety Program within the fiscal year 2017 Transportation Program:

- (1) Derby – US 5/I-91 Exit 28 – intersection improvements.
- (2) Derby – US 5/VT 105 – intersection improvements.
- (3) St. Albans – VT 104/I-89 Exit 19 – intersection improvements.

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

Sec. 5. BIKE AND PEDESTRIAN FACILITIES PROGRAM; LAMOILLE
VALLEY RAIL TRAIL

(a)(1) The Bike and Pedestrian Facilities Program within the fiscal year 2017 Transportation Program is amended to add a project for the rehabilitation or replacement of structures, permitting activities, engineering services, and trail construction related to development of the State-owned Lamoille Valley Rail Trail (LVRT). The project shall be funded with:

(A) monies raised by the Vermont Association of Snow Travelers (VAST) before January 1, 2017; plus

(B) up to \$400,000.00 of State transportation funds or eligible federal funds, or both, to match each dollar raised by VAST.

(2) Any matching funds shall be identified by the Secretary from some combination of:

(A) the unanticipated delay of projects approved in the fiscal year 2017 Bike and Pedestrian Facilities Program;

(B) cost savings on projects approved in the fiscal year 2017 Bike and Pedestrian Facilities Program;

(C) Statewide New Awards—Federal Aid Construction Projects grant money authorized in the fiscal year 2017 Bike and Pedestrian Facilities Program.

(b) In its fiscal year 2018 Transportation Program proposal, the Agency shall include a project within the Bike and Pedestrian Facilities Program for the rehabilitation or replacement of structures, permitting activities, engineering services, and trail construction related to development of the LVRT. The project shall be funded with:

(1) monies raised by the Vermont Association of Snow Travelers (VAST) from January 1, 2017 to January 1, 2018; plus

(2) up to \$1,000,000.00 of State transportation funds or eligible federal funds, or both, to match each dollar raised by VAST.

* * * Municipal Mitigation Grant Program * * *

Sec. 6. MUNICIPAL MITIGATION GRANT PROGRAM

Notwithstanding 2015 Acts and Resolves No. 40, Sec. 21a, funding sources for the fiscal year 2017 Municipal Mitigation Grant Program are amended as follows:

<u>FY17</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
State	1,440,000	1,240,000	-200,000
Federal	0	200,000	200,000
Clean Water Fund	1,465,000	1,465,000	0
Total	2,905,000	2,905,000	0

* * * Central Garage * * *

Sec. 7. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c), in fiscal year 2017, the amount of \$1,283,215.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

* * * Positions * * *

Sec. 8. POSITIONS

(a) The Agency is authorized to establish two (2) new permanent classified positions related to water quality improvements.

(b) Seven (7) of the twenty-one (21) limited service positions authorized in 2012 Acts and Resolves No. 75, Sec. 87(e), as amended by 2014 Acts and Resolves No. 95, Sec. 64, hereby are converted to permanent classified positions.

(c) Nine (9) of the seventeen (17) limited service positions authorized in 2012 Acts and Resolves No. 153, Sec. 21(a), as amended by 2014 Acts and Resolves No. 95, Sec. 65, hereby are converted to permanent classified positions.

(d) One (1) limited service position, number 861864 (Civil Engineer VII), created on May 6, 2012 and due to expire on December 31, 2016, hereby is converted to a permanent classified position.

(e) Three (3) of the seventeen (17) limited service positions authorized in 2012 Acts and Resolves No. 153, Sec. 21(a), as amended by 2014 Acts and Resolves No. 95, Sec. 65, hereby are extended to June 30, 2019. The Agency may use these three positions for activities that are not related to the response to Tropical Storm Irene and the spring 2011 flooding.

(f) The following two (2) limited service positions hereby are extended through June 30, 2019: number 861837 (Administrative Services Coordinator I), created on March 11, 2012 and due to expire on June 30, 2016, and number 861865 (Civil Engineer I), created on May 6, 2012 and due to expire on December 31, 2016.

* * * Rail Program * * *

Sec. 9. FISCAL YEAR 2016 RAIL PROGRAM; PROJECT ADDED

The following project is added to the candidate list of the Rail Program within the fiscal year 2016 Transportation Program: Rutland – Burlington – TIGERVII () (Western VT Freight–Passenger Rail).

* * * Sale of State-Owned Railroad Property * * *

Sec. 10. APPROVAL OF SALE OF STATE-OWNED RAILROAD
PROPERTY

Upon receiving satisfactory evidence of release of the leasehold interest of Vermont Railway, Inc., the Secretary as agent for the State is authorized to convey to the Town of Bennington, in consideration of the sum of \$1.00, a parcel of land of approximately 2.5 acres (the "property") in the Town of Bennington located south of River Street and west of the 150 Depot Street parcel now or formerly owned by Station Realty, LLC. The conveyance must require that the Town's interest automatically will terminate in the event the property ceases to be used for public purposes, in which event the property will revert to the State. However, the Secretary and the Town may enter into a boundary adjustment agreement with the owner of the 150 Depot Street parcel in order to cure any title defect that may exist, and the Secretary as agent for the State may disclaim any reversionary interest in the boundary adjustment area.

* * * Rail Trespassing * * *

Sec. 11. 5 V.S.A. § 3734 is amended to read:

§ 3734. TRESPASS ON RAILROAD PROPERTY; PENALTY

~~A person who, without right, loiters or remains in a depot, or upon the platform, approaches, or grounds adjacent thereto, after being requested to leave by a railroad policeman, sheriff, deputy sheriff, constable, or policeman, shall be fined not more than \$20.00 nor less than \$2.00.~~

(a) Definitions. As used in this section:

(1) "Passenger" means a person traveling by train with lawful authority and who does not participate in the train's operation. The term "passenger" does not include a stowaway.

(2) "Railroad" means any form of nonhighway ground transportation that runs on rails or electromagnetic guideways. "Railroad" does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(3) "Railroad carrier" means a person providing railroad transportation.

(4)(A) "Railroad property" means the following property owned, leased, or operated by a railroad carrier or used in its rail operations:

(i) a right-of-way, track, yard, station, shed, or depot;

(ii) a train, locomotive, engine, car, work equipment, rolling stock, or safety device; and

(iii) a "railroad structure," which means a bridge, tunnel, viaduct, trestle, culvert, abutment, communication tower, or signal equipment.

(B) “Railroad property” does not include inactive railroad property of the Twin State Railroad.

(5) “Right-of-way” means the track and roadbed owned, leased, or operated by a railroad carrier and property located on either side of the tracks that is readily recognizable to a reasonable person as being railroad property or is reasonably identified as such by fencing or appropriate signs.

(6) “Yard” means a system of parallel tracks, crossovers, and switches where railroad cars are switched and made up into trains, and where railroad cars, locomotives, and other rolling stock are kept when not in use or when awaiting repairs.

(b) Trespassing on railroad property prohibited. Except for the purpose of crossing railroad property at a public highway or other authorized crossing, a person shall not, without lawful authority or the railroad carrier’s written permission, knowingly enter or remain upon railroad property by an act including:

(1) standing, sitting, resting, walking, jogging, or running, or operating a recreational or nonrecreational vehicle, including a bicycle, motorcycle, snowmobile, car, or truck; or

(2) engaging in recreational activity, including bicycling, hiking, camping, or cross-country skiing.

(c) Stowaways prohibited. A person shall not, without lawful authority or the railroad carrier’s written permission, ride on the outside of a train or inside a passenger car, locomotive, or freight car, including a box car, flatbed, or container.

(d) Persons not subject to ticketing. The following is a nonexhaustive list of persons who, for the purposes of this section, are not subject to ticketing for trespass under subsections (b) and (c) of this section:

(1) passengers on trains, or employees of a railroad carrier while engaged in the performance of their official duties;

(2) police officers, firefighters, peace officers, and emergency response personnel, while engaged in the performance of their official duties;

(3) a person going upon railroad property in an emergency to rescue from harm a person or animal such as livestock, pets, or wildlife, or to remove an object that the person reasonably believes to pose an imminent hazard;

(4) a person on the station grounds or in the depot of the railroad carrier as a passenger or for the purpose of transacting lawful business;

(5) a person, or the person’s family or invitee, or the person’s employee or independent contractor going upon a railroad’s right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier or authorized by law in order to obtain access to land that the person owns, leases, or operates;

(6) a person who has permission from the owner, lessee, or operator of land served by a private crossing site approved by the railroad carrier or authorized by law, to use the crossing for recreational purposes and who enters upon the crossing for such purposes;

(7) a person having written permission from the railroad carrier to go upon the railroad property in question;

(8) representatives of the Transportation Board or Agency of Transportation while engaged in the performance of their official duties;

(9) representatives of the Federal Railroad Administration while engaged in the performance of their official duties;

(10) representatives of the National Transportation Safety Board while engaged in the performance of their official duties; or

(11) a person who enters or remains in a railroad right-of-way, but not within a rail yard or on a railroad structure, while lawfully engaged in hunting, fishing, or trapping; however, a person shall not be exempt from ticketing under this subdivision if he or she enters within an area extending eight feet outward from either side of the rail and within the rail unless he or she crosses and leaves this area quickly, safely, and at an angle of approximately 90 degrees to the direction of the rail.

(e) Nothing in this section is intended to modify the rights, duties, liabilities, or defenses available to any person under any other law or under a license or agreement.

(f) Penalty. A violation of this section is a traffic violation as defined in 23 V.S.A. chapter 24 and an action under this section shall be brought in accordance with 4 V.S.A. chapter 29. A person who violates this section shall be subject to a civil penalty of not more than \$200.00.

Sec. 12. 5 V.S.A. § 3735 is amended to read:

~~§ 3735. BOARDING TRAIN OR LOITERING ABOUT RAILROAD PROPERTY; PENALTY~~

~~A person boarding or riding without permission on a train, car, or locomotive, other than a passenger train, or a person boarding or riding on a passenger train without paying fare, or a person loitering in or about a railroad yard, station or car without permission, shall be imprisoned not more than 90 days, or fined not more than \$25.00, or both. [Repealed.]~~

Sec. 13. 23 V.S.A. § 2302(a) is amended to read:

(a) As used in this chapter, “traffic violation” means:

* * *

(7) a violation of 5 V.S.A. § 3408(c), relating to trail use of certain State-owned railroad corridors, or of 5 V.S.A. § 3734, related to trespassing on railroad property;

* * *

* * * Transportation Capital Program; Prioritization System * * *

Sec. 14. 19 V.S.A. § 10g(1) is amended to read:

(1) The Agency shall develop a numerical grading system to assign a priority rating to all Program Development Paving, Program Development Roadway, Program Development Safety and Traffic Operations, Program Development State and Interstate Bridge, Town Highway Bridge, and Bridge Maintenance projects. The rating system shall consist of two separate, additive components as follows:

(1) One component shall be limited to asset ~~management-based~~ management- and performance-based factors which are objective and quantifiable and shall consider, without limitation, the following:

(A) the existing safety conditions in the project area and the impact of the project on improving safety conditions;

(B) the average, seasonal, peak, and nonpeak volume of traffic in the project area, including the proportion of traffic volume relative to total volume in the region, and the impact of the project on congestion and mobility conditions in the region;

(C) the availability, accessibility, and usability of alternative routes;

(D) the impact of the project on future maintenance and reconstruction costs; ~~and~~

(E) the relative priority assigned to the project by the relevant regional planning commission ~~or the Chittenden County Metropolitan Planning Organization;~~

(F) the resilience of the transportation infrastructure to floods and other extreme weather events.

(2) The second component of the priority rating system shall consider, without limitation, the following factors:

(A) the ~~functional~~ importance of the ~~highway or bridge~~ transportation infrastructure as a ~~link~~ factor in the local, regional, or State economy; and

(B) the ~~functional~~ importance of the ~~highway or bridge~~ transportation infrastructure in the health, social, and cultural life of the surrounding communities.

(3) The priority rating system for Program Development Roadway projects shall award as bonus points an amount equal to 10 percent of the total base possible rating points to projects within a designated downtown development district established pursuant to 24 V.S.A. § 2793.

* * * Adjustments to Existing Projects * * *

Sec. 15. 19 V.S.A. § 10h is amended to read:

§ 10h. ~~ADJUSTMENTS TO EXISTING PROJECTS; SUSPENSION OF OVERRUNS; COOPERATIVE INTERSTATE AGREEMENT~~

~~(a) The agency shall report to the transportation board each project for which the current construction cost estimate exceeds the last approved construction cost estimate by a substantial level, as substantial level is defined by the transportation board. The transportation board shall review such a project, and may grant approval to proceed. If not approved by the transportation board, the project shall not proceed to contract award until approved by the general assembly. [Repealed.]~~

(b) In connection with any authorized construction project in the ~~state~~ State of Vermont which extends into or affects an adjoining state, the ~~agency~~ Agency, on behalf of the ~~state~~ State of Vermont, may enter into a cooperative agreement with the adjoining state or any political subdivision of an adjoining state which apportions duties and responsibilities for planning preliminary engineering, including environmental studies, right-of-way acquisition, construction, and maintenance.

Sec. 16. 19 V.S.A. § 10g(h) is amended to read:

(h) Should capital projects in the Transportation Program be delayed because of unanticipated problems with permitting, right-of-way acquisition, construction, local concern, or availability of federal or State funds, the Secretary is authorized to advance projects in the approved Transportation Program. The Secretary is further authorized to undertake projects to resolve emergency or safety issues. Upon authorizing a project to resolve an emergency or safety issue, the Secretary shall give prompt notice of the decision and action taken to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session, and when the General Assembly is not in session, to the Joint Transportation Oversight Committee. Should an approved project in the current Transportation Program require additional funding to maintain the approved schedule, the Agency is authorized to allocate the necessary resources. However, the Secretary shall not delay or suspend work on approved projects to reallocate funding for other projects except when other funding options are not available. In such case, the Secretary shall notify the

members of the Joint Transportation Oversight Committee and the Joint Fiscal Office. With respect to projects in the approved Transportation Program, the Secretary shall notify, in the district affected, the regional planning commission, the municipality, Legislators, members of the Senate and House Committees on Transportation, and the Joint Fiscal Office of ~~any significant change in design, change in construction cost estimates requiring referral to the Transportation Board under section 10h of this title, or~~ any change which likely will affect the fiscal year in which the project is planned to go to construction. No project shall be cancelled without the approval of the General Assembly.

* * * Reporting Required in Proposed Transportation Program * * *

Sec. 17. 19 V.S.A. § 10g(g) is amended to read:

(g) The Agency's annual proposed Transportation Program shall include a ~~separate report~~ project updates referencing this section ~~describing and listing the following:~~

(1) all proposed projects in the Program which that would be new to the State Transportation Program if adopted;

(2) all projects for which total estimated costs have increased by more than \$8,000,000.00 or by more than 100 percent from the estimate in the prior fiscal year's approved Transportation Program;

(3) all projects funded for construction in the prior fiscal year's approved Transportation Program that are no longer funded in the proposed Transportation Program submitted to the General Assembly, the projected costs for such projects in the prior fiscal year's approved Transportation Program, and the total costs incurred over the life of each such project.

* * * Joint Transportation Oversight Committee * * *

Sec. 18. 19 V.S.A. § 12b is amended to read:

§ 12b. JOINT TRANSPORTATION OVERSIGHT COMMITTEE

(a) There is created a Joint Transportation Oversight Committee composed of the Chairs of the House and Senate Committees on Appropriations, the House and Senate Committees on Transportation, the House Committee on Ways and Means, and the Senate Committee on Finance. The Committee shall be chaired alternately by the Chairs of the House and Senate Committees on Transportation, and the two-year term shall run concurrently with the biennial session of the Legislature. The Chair of the Senate Committee on Transportation shall chair the Committee during the 2009–2010 legislative session.

(b) The Committee shall meet during adjournment for official duties. Meetings shall be convened by the Chair and when practicable shall be coordinated with the regular meetings of the Joint Fiscal Committee. Members shall be entitled to compensation and reimbursement pursuant to 2 V.S.A. § 406. The Committee shall have the assistance of the staff of the Office of Legislative Council and the Joint Fiscal Office.

(c) The Committee shall provide legislative ~~overview~~ oversight of the Transportation Fund revenues collection and the operation and administration of the Agency of Transportation construction, paving, and rehabilitation programs. The Secretary of Transportation shall report to the Oversight Committee upon request.

~~(d)(1) In coordination with the regular meetings of the Joint Fiscal Committee in mid-November, the Secretary shall prepare a report on the status of the State's transportation finances and transportation programs. If a meeting of the Committee is not convened on the scheduled dates of the Joint Fiscal Committee meetings, the Secretary in advance shall transmit the report electronically to the Joint Fiscal Office for distribution to Committee members. The report shall list contract bid awards versus project estimates and all known or projected cost overruns, project savings, and funding availability from delayed projects with respect to:~~

~~(A) all paving projects other than statewide maintenance programs; and~~

~~(B) all projects in the Roadway, State Bridge, Interstate Bridge, or Town Bridge programs with authorized spending in the fiscal year of \$500,000.00 or more with a cost overrun equal to 20 percent or more of the authorized spending or generating project savings or delayed project available funding equal to 20 percent or more of the authorized spending.~~

~~(2) The report required under subdivision (1) of this subsection also shall describe the Agency's actions taken or planned to cover the cost overruns and to reallocate the project savings and delayed project funds, and shall discuss the Agency's plans to adjust spending to any changes in the consensus forecast for Transportation Fund revenues.~~

~~(3) If and when applicable, the Secretary shall submit electronically to the Joint Fiscal Office for distribution to members of the Joint Transportation Oversight Committee a report summarizing any plans or actions taken to delay project schedules as a result of:~~

~~(A)(1) a generalized increase in bids relative to project estimates;~~

~~(B)~~(2) changes in the consensus revenue forecast of the Transportation Fund or Transportation Infrastructure Bond Fund; or

~~(C)~~(3) changes in the availability of federal funds.

* * * Appropriation; State Aid for Town Highways * * *

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

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

* * *

(d) State aid for nonfederal disasters. There shall be an annual appropriation for emergency aid in repairing, building, ~~or rebuilding~~ or reconstructing class 1, 2, or 3 town highways ~~and bridges~~ and for repairing or replacing drainage structures including bridges on class 1, 2, 3, and 4 town highways damaged by natural or man-made disasters. Eligibility for use of emergency aid under this appropriation shall be subject to the following criteria:

(1) The Secretary of Transportation shall determine that the disaster is of such magnitude that State aid is both reasonable and necessary to preserve the public good. If total cumulative damages to town highways and drainage structures are less than the value of 10 percent of the town's overall total highway budget excluding the town's winter maintenance budget, the disaster shall not qualify for assistance under this subsection.

(2) The disaster shall not qualify for major disaster assistance from the Federal Emergency Management Agency (FEMA) under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121 et seq., or from the Federal Highway Administration (FHWA) under the 23 C.F.R. Part 668 Emergency Relief Program for federal-aid highways.

(3) Towns shall be eligible for reimbursement for repair or replacement costs of either up to 90 percent of the eligible repair or replacement costs or the eligible repair or replacement costs, minus an amount equal to 10 percent of the overall total highway budget, minus the town's winter maintenance budget, whichever is greater.

(4) For towns that have adopted road and bridge standards, eligibility for reimbursement for repair or replacement of infrastructure shall be to those standards. For towns that have not adopted these standards, eligibility for reimbursement for repair or replacement of infrastructure shall be limited to the specifications of the infrastructure that preexisted the emergency event; however, the repair or replacement shall be to standards approved by the Agency of Transportation.

(5) For a drainage structure on a class 4 town highway to be eligible for repair or replacement under this subsection, the town must document that it maintained the structure prior to the nonfederal disaster.

(6) Such additional criteria as may be adopted by the Agency of Transportation through rulemaking under 3 V.S.A. chapter 25.

* * *

* * * Highways; Alterations; Quasi-Judicial Process * * *

Sec. 20. 19 V.S.A. § 923 is amended to read:

§ 923. QUASI-JUDICIAL PROCESS

In order to protect the rights of ~~property owners~~ interested persons and the public, the process described in this section shall be used whenever so provided by other provisions of this title. As used in this section, “interested person” means a person who has a legal interest of record in the property that would be affected by the proposed action.

(1) ~~Notice~~ Written notice by certified mail shall be given ~~Notice. The selectboard shall give written notice by certified mail or by one of the methods allowed by Rule 4 of the Vermont Rules of Civil Procedure for service of original process to the property owner or any interested person describing the proposed activity affecting the property. The notice shall include a date and time when the selectboard shall inspect the premises. The notice shall precede the inspection by 30 days or more except in the case of an emergency.~~

(2) Inspection of premises—; The ~~selectmen~~ selectboard shall view the area and receive any testimony pertinent to the problem including suggested awards for damages, if any.

(3) Necessity—; The ~~selectmen~~ selectboard shall decide on the necessity for the activity or work proposed and establish any conditions for accomplishing it. This includes the award of damages, if applicable. The selectboard shall announce the decision and the reason for it ~~shall be announced~~ within 10 days of the inspection unless the selectboard formally ~~delayed by the selectboard~~ delays the proceeding in order to receive more testimony.

(4) Notifying parties—; The ~~selectmen~~ selectboard shall notify the ~~property owner~~ interested persons and other interested parties of their decision. They shall file a copy of their decision with the town clerk within 10 days of its announcement.

(5) Appeal—; If an ~~owner~~ interested person is dissatisfied with the award for damages, he or she may appeal using any of the procedures listed in

chapter 5 of this title. Notice or petition for appeal shall not delay the proposed work or activity.

Sec. 21. 19 V.S.A. § 518 is amended to read:

§ 518. MINOR ALTERATIONS TO EXISTING FACILITIES

(a) ~~For purposes of~~ As used in this section, the term “minor alterations to existing facilities” means any of the following activities involving existing facilities, provided the activity does not require a permit under 10 V.S.A. chapter 151 (Act 250):

(1) Activities which qualify as “categorical exclusions” under 23 C.F.R. § 771.117 and the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321–4347.

(2) Activities involving emergency repairs to or emergency replacement of an existing bridge, culvert, highway, or State-owned railroad, even if the need for repairs or replacement does not arise from damage caused by a natural disaster or catastrophic failure from an external cause. Any temporary rights under this subdivision shall be limited to 10 years from the date of taking.

(b) In cases involving minor alterations to existing facilities, the Agency, following the procedures of section 923 of this title, may exercise the powers of a selectboard. However, if an interested person has not provided the Agency with identification information necessary to process payment, or if an owner refuses an offer of payment, payment shall be deemed to be tendered when the Agency makes payment into an escrow account that is accessible by the owner upon his or her providing any necessary identification information. If Further, if an appeal is taken under subdivision 923(5) of this title, the person taking the appeal shall follow the procedure specified in section 513 of this title.

* * * Water Quality * * *

Sec. 22. FINDINGS; AGENCY OF TRANSPORTATION; STORMWATER CREDIT

For the purposes of this section and Secs. 23–29 of this act (Agency of Transportation stormwater credit), the General Assembly finds and declares that:

(1) the federal Clean Water Act, State water quality requirements under 10 V.S.A. chapter 47, and the municipal separate storm sewer system permit for transportation infrastructure, require the treatment and control of stormwater from State highway rights-of-way and other property owned, controlled, or managed by the Agency; and

(2) because of the traditional and continuing expenditures of the Agency for the construction, operation, and maintenance of stormwater control infrastructure designed to control stormwater runoff from State highway rights-of-way and developed lands owned, controlled, or managed by the Agency, it is fair and equitable to provide the Agency with a uniform credit against fees assessed by municipalities for the management of stormwater.

Sec. 23. 24 V.S.A. § 3501(7) is amended to read:

(7) “Storm water” or “storm sewage” ~~is the excess water from rainfall or continuously following therefrom~~ shall have the same meaning as “stormwater runoff” under 10 V.S.A. § 1264.

Sec. 24. 24 V.S.A. § 3615 is amended to read:

§ 3615. RENTS; RATES

(a) Such municipal corporation, through its board of sewage disposal commissioners, may establish charges to be called “sewage disposal charges,” to be paid at such times and in such manner as the commissioners may prescribe. The commissioners may establish annual charges separately for bond repayment, fixed operations and maintenance costs (not dependent on actual use), and variable operations and maintenance ~~cost~~ costs dependent on flow. Such charges may be based upon:

(1) the metered consumption of water on premises connected with the sewer system, however, the commissioners may determine no user will be billed for fixed operations and maintenance costs and bond payment less than the average single family charge;

(2) the number of equivalent units connected with or served by the sewage system based upon their estimated flows compared to the estimated flows from a single family dwelling however, the commissioners may determine no user will be billed less than the minimum charge determined for the single family dwelling charge for fixed operations and maintenance costs and bond payment;

(3) the strength and flow where wastes stronger than household wastes are involved;

(4) the appraised value of premises, in the event that the commissioners shall determine the sewage disposal plant to be of general benefit to the municipality regardless of actual connection with the same;

(5) the commissioners’ determination developed using any other equitable basis such as the number and kind of plumbing fixtures, the number of persons residing on or frequenting the premises served by those sewers, the topography, size, type of use, or impervious area of any premises; or

(6) any combination of these bases, so long as the combination is equitable.

(b) The basis for establishing sewer disposal charges shall be reviewed annually by sewage disposal commissioners. No premises otherwise exempt from taxation, including premises owned by the ~~state~~ State of Vermont, shall, by virtue of any such exemption, be exempt from charges established hereunder. The commissioners may change the rates of such charges from time to time as may be reasonably required. Where one of the bases of such charge is the appraised value and the premises to be appraised are tax exempt, the commissioners may cause the listers to appraise such property, including ~~state~~ State property, for the purpose of determining the sewage disposal charges. The right of appeal from such appraisal shall be the same as provided in 32 V.S.A. chapter 131 of Title 32. The ~~commissioner of finance and management~~ Commissioner of Finance and Management is authorized to issue his or her warrants for sewage disposal charges against ~~state~~ State property and transmit to the ~~state treasurer~~ State Treasurer who shall draw a voucher in payment thereof. No charge so established and no tax levied under the provisions of section 3613 of this title shall be considered to be a part of any tax authorized to be assessed by the legislative body of any municipality for general purposes, but shall be in addition to any such tax so authorized to be assessed. Sewage disposal charges established in accord with this section may be assessed by the board of sewage disposal commissioners as provided in section 3614 of this title to derive the revenue required to pay pollution charges assessed against a municipal corporation under ~~section 10 V.S.A. § 1265 of Title 10~~.

(c) When a sewage disposal charge established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the charge shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 35 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 25. 24 V.S.A. § 3507 is amended to read:

§ 3507. DUTIES

(a) Such sewage system commissioners shall have the supervision of such municipal sewage system and shall make and establish all needed rates for rent, with rules and regulations for its control and operation. Such commissioners may appoint or remove a superintendent at their pleasure. The rents and receipts for the use of such sewage system shall be used and applied to pay the interest and principal of the sewage system bonds of such municipal

corporation, the expense of maintenance and operation of the sewage system, as well as dedicated fund payments provided for in section 3616 of this title.

(b) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 26. 24 V.S.A. § 3679(c) is added to read:

(c) When a rate established under this section for the management of stormwater is applied to property owned, controlled, or managed by the Agency of Transportation, the rate shall not exceed the highest rate category applicable to other properties in the municipality, and the Agency of Transportation shall receive a 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 27. 10 V.S.A. § 1251(18) is added to read:

(18) "Stormwater utility" means a system adopted by a municipality or group of municipalities under 24 V.S.A. chapter 97, 101, or 105 for the management of stormwater runoff.

Sec. 28. 10 V.S.A. § 1389(e) is amended to read:

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

* * *

(H) Funding to municipalities for the establishment and operation of stormwater utilities.

(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements, and to municipalities for the establishment and operation of stormwater utilities.

* * *

Sec. 29. STORMWATER UTILITY REPORT

On or before January 15, 2017, and annually thereafter until January 15, 2021, the Agency shall report to the House and Senate Committees on Transportation, the House Committee on Fish, Wildlife and Water Resources, and the Senate Committee on Natural Resources and Energy regarding the status of municipal establishment and implementation of stormwater utilities in the State. The report shall include:

(1) the number of municipal stormwater utilities in existence at the time of each report, as indicated by the number of unique municipal rate structures for stormwater mitigation under which the Agency was invoiced in the calendar year preceding a report submitted under this section;

(2) the number of new municipal stormwater utilities established in the State in the calendar year preceding a report submitted under this section;

(3) the amount of fees paid by the Agency to stormwater utilities in the calendar year preceding a report submitted under this section; and

(4) a list of the stormwater projects or programs implemented by the Agency in municipalities with stormwater utilities in the calendar year preceding a report submitted under this section.

* * * Statewide Property Parcel Mapping Program * * *

Sec. 30. DEVELOPMENT OF STATEWIDE PROPERTY PARCEL
DATA LAYER

(a) The General Assembly finds that the State has an interest in creating a statewide property parcel data layer. The data layer will include all property parcels in each Vermont town, city, incorporated village, gore, and grant in a standard format and integrate all municipal property parcel maps into one property parcel map for the State.

(b) The General Assembly further finds that a statewide property parcel data layer will be useful to the Agency for the following applications:

(1) mapping highway centerlines that end at property boundaries;

(2) enabling the Agency to evaluate properties for alternative energy and other possible uses;

(3) providing right-of-way data to analyze Transportation Separate Storm Sewer System (TS4) assessments;

(4) streamlining title searches during the project development phase of transportation projects;

(5) providing linkages between grand list and property parcel data in order to enable the identification of all public land;

(6) locating encroachments on highways and providing notice to adjoining landowners;

(7) mapping the locations of surplus and excess property;

(8) assisting in the appraisal of land and acquisition of rights for transportation projects;

(9) improving emergency response capabilities;

(10) identifying encroachments on State-owned railroads and providing notice to adjoining landowners;

(11) evaluating applications for highway access under 19 V.S.A. § 1111, including utility installations and driveways; and

(12) improving the State's ability to identify its assets by accurately cataloguing the location and extent of State-owned rights-of-way.

(c)(1) Consistent with Secs. 31–32 of this act, starting in fiscal year 2017, the Agency shall commence development of the statewide digital parcel data layer as part of the Statewide Property Parcel Mapping Program.

(2) According to the Agency:

(A) development of the data layer is expected to take three years;

(B) 80 percent of development costs and future operating costs are expected to be funded with Federal Highway Administration funds and 20 percent with State matching funds; and

(C) transportation funds will cover the 20 percent State match in fiscal year 2017.

(3) The Agency shall continue to work with State agencies and external partners benefited by the data layer, including private funding partners, to develop a memorandum of understanding to address funding sources other than the Transportation Fund for the 20 percent State match for fiscal year 2018 and in succeeding fiscal years.

Sec. 31. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

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

* * *

(17) Administer the Statewide Property Parcel Mapping Program.

Sec. 32. 19 V.S.A. § 44 is added to read:

§ 44. STATEWIDE PROPERTY PARCEL MAPPING PROGRAM

(a) Purpose. The purpose of the Statewide Property Parcel Mapping Program is to:

- (1) develop a statewide property parcel data layer;
- (2) ensure regular maintenance, including updates, of the data layer; and
- (3) make property parcel data available to State agencies and departments, regional planning commissions, municipalities, and the public.

(b) Property Parcel Data Advisory Board. A Property Parcel Data Advisory Board (Board) is created for the purpose of monitoring the Statewide Property Parcel Mapping Program and making recommendations to the Agency of how the Program can be improved to enhance the usefulness of statewide property parcel data for State agencies and departments, regional planning commissions, municipalities, and the public. The Board shall comprise:

- (1) the Secretary of Transportation or designee, who shall serve as chair;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Commerce and Community Development or designee;
- (4) the Commissioner of Taxes or designee;
- (5) a representative of the Vermont Association of Planning and Development Agencies;
- (6) a representative of the Vermont League of Cities and Towns; and
- (7) a land surveyor licensed under 26 V.S.A. chapter 45 designated by the Vermont Society of Land Surveyors.

(c) Meetings of Board. The Board shall meet at the call of the Chair or at the request of a majority of its members. The Agency shall provide administrative assistance to the Board and such other assistance as the Board may require to carry out its duties.

(d) Standards. The Agency shall update the statewide property parcel data layer in accordance with the standards of the Vermont Geographic Information System (VGIS), as specified in 10 V.S.A. § 123 (powers and duties of Vermont Center for Geographic Information).

(e) Funding sources. Federal transportation funds shall be used for the development and operation of the Program. In fiscal year 2018 and in

succeeding fiscal years, the Agency shall make every effort to ensure that all State matching funds are provided by other State agencies or external partners or both that benefit from the Program.

* * * Quechee Gorge Bridge Safety Issues * * *

Sec. 33. QUECHEE GORGE BRIDGE SAFETY ISSUES

(a) On or before September 1, 2016, or as soon as practicable thereafter if a longer period is required to obtain necessary permits or satisfy federal requirements, the Agency shall complete a project on or proximate to Bridge 61 on US Route 4 in the town of Hartford (Quechee Gorge Bridge) to install a structure providing information and resources, signs, or communication devices, or some combination of these, aimed at preventing suicides at the Quechee Gorge Bridge.

(b) In consultation with the Agency of Commerce and Community Development, the Department of Health, the Department of Mental Health, the Department of Public Safety, local officials, local emergency personnel, the Hartford Area Chamber of Commerce, mental health practitioners, local business owners, and other interested stakeholders, the Agency of Transportation shall thoroughly review suicide prevention as well as pedestrian, first responder, and other safety measures that could be taken, and the merits of taking such measures, at the Quechee Gorge Bridge. In conducting this review, the Agency shall identify:

(1) short- and long-term suicide prevention as well as pedestrian, first responder, and other safety measures for all users that could be taken at the Quechee Gorge Bridge in addition to the measures taken pursuant to subsection (a) of this section, including:

(A) providing information and resources, including emergency contact information and means of emergency communication; and

(B) physical improvements to the bridge structure and the surrounding area;

(2) estimated costs and benefits and an expected timeline associated with implementing the measures identified in subdivision (1) of this subsection; and

(3) economic, community, and tourism concerns associated with implementing the measures identified in subdivision (1) of this subsection.

(c) On or before January 10, 2017, the Agency shall report the results of the review required under subsection (b) of this section to the House and Senate Committees on Transportation.

* * * Ignition Interlock Devices * * *

Sec. 34. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(9)(A) “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~~ resident 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.

(B) “Ignition interlock certificate” means a restricted privilege to operate a motor vehicle issued by the Commissioner allowing a nonresident whose privilege to operate a motor vehicle in Vermont 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. 35. 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 license or privilege to operate suspended or revoked under this subchapter, except a license or privilege to operate suspended under section 1216 of this title, shall be reinstated except as follows:

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

(A) after the person has successfully completed an Alcohol and Driving Education Program, at the person’s own expense, followed by an assessment of the need for further treatment by a State-designated counselor, at the person’s own expense, to determine whether reinstatement should be

further conditioned on satisfactory completion of a therapy program agreed to by the person and the Drinking Driver Rehabilitation Program Director;

(B) if the screening indicates that therapy is needed, after the person has satisfactorily 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) if the person elects to operate under an ignition interlock RDL or ignition interlock certificate, 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 (the person operates under the RDL or certificate for the applicable period set forth in subsection 1205(a) or section 1206 of this title, plus any extension of this period arising from a violation of section 1213 of this title) in all other cases; 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 or privilege to operate 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) ~~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 (~~ or ignition interlock certificate for 18 months or, in the case of a person subject to the one year hard suspension prescribed in subdivision 1213(a)(1)(C) of this title, for one year, plus any extension of this the relevant period arising from a violation of section 1213 of this title) in all other cases, except if otherwise provided in subdivision (a)(4) of this section; 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 or privilege to operate 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 under subdivision (2) of this subsection or subsection (b) of this section that a person operate under an ignition interlock RDL or certificate prior to eligibility for reinstatement if:

(A) 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; or

(B) the underlying offenses arose solely from being under the influence of a drug other than alcohol.

(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 or under an ignition interlock certificate for at least three 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 or privilege to operate 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 or ignition interlock certificate shall not apply if the person is exempt under subdivision (a)(4) of this section.~~

(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, unless exempt under subdivision (a)(4) of this section, 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. 36. 23 V.S.A. § 1213 is amended to read:

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

(a)(1) ~~First offense.~~ A person whose license or privilege to operate is suspended ~~for a first offense or revoked~~ under this subchapter ~~shall be permitted to~~ may 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 or ignition interlock certificate. ~~The~~ Upon application, 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 receipt of or ignition interlock certificate to a person otherwise licensed or eligible to be licensed to operate a motor vehicle if:~~

(A) the person submits a \$125.00 application fee, ~~and upon receipt of;~~

(B) the person submits 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;~~

(C) at least one year has passed since the suspension or revocation was imposed if the offense involved death or serious bodily injury to a person other than the operator; and

(D) the applicable period set forth below has passed since the suspension or revocation was imposed if the offense involved refusal of an enforcement officer's reasonable request for an evidentiary test:

(i) 30 days for a first offense;

(ii) 90 days for a second offense;

(iii) one year for a third or subsequent offense.

(2) A new ignition interlock RDL or ignition interlock certificate 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 or certificate 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 offense. A person whose license or privilege to operate is suspended for a second offense under this subchapter 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(m), 1208(a), 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, 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. [Repealed.]~~

~~(c) Third or subsequent offense. A person whose license or privilege to operate is suspended or revoked for a third or subsequent offense under this subchapter 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)(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, 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. [Repealed.]~~

(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 or ignition interlock certificate 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.

(e) ~~The~~ Except as provided in subsection (m) of this section, the holder of an ignition interlock RDL or ignition interlock certificate shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the Commissioner.

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

(2)(A) Prior to any such extension of the reinstatement period, the ignition interlock RDL or certificate holder shall be given notice and

opportunity for a hearing. Service of the notice shall be sent by first class mail to the last known address of the person. The notice shall include a factual description of the grounds for an extension, a reference to the particular law allegedly violated, and a warning that the right to a hearing will be deemed waived, and an extension of the reinstatement period will be imposed, if a written request for a hearing is not received at the Department of Motor Vehicles within 15 days after the date of the notice.

* * *

(3)(A) A holder of an ignition interlock RDL or certificate who, prior to eligibility for reinstatement under section 1209a or 1216 of this title, is prevented from starting a motor vehicle because the ignition interlock device records a blood alcohol concentration of 0.04 or above, shall be subject to a three-month extension of the applicable reinstatement period in the event of three such recorded events, and to consecutive three-month extensions for every additional three recorded events thereafter. The Commissioner shall disregard a recording of 0.04 or above for the purposes of this subdivision if the Commissioner in his or her discretion finds, based on a pattern of tests or other reliable information, that the recording does not indicate the consumption of intoxicating liquor by the holder. The Commissioner shall notify the holder in writing after every recording of 0.04 or above that indicates the consumption of intoxicating liquor by the holder and, prior to any extension under this subdivision, the holder shall have the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

(B) A holder of an ignition interlock RDL or certificate who, prior to eligibility for reinstatement under section 1209a or 1216 of this title, fails a random retest because the ignition interlock device records a blood alcohol concentration of 0.04 or above and below 0.08, shall be subject to consecutive three-month extensions of the applicable reinstatement period for every such recorded event. A holder who fails a random retest because of a recording of 0.08 or above shall be subject to consecutive six-month extensions of the applicable reinstatement period for every such recorded event. The Commissioner shall disregard a recording of 0.04 or above for the purposes of this subdivision if the Commissioner in his or her discretion finds, based on a pattern of tests or other reliable information, that the recording does not indicate the consumption of intoxicating liquor by the holder. The Commissioner shall notify the holder in writing after every recording of 0.04 or above that is indicative of the consumption of intoxicating liquor by the holder and, prior to any extension under this subdivision, the holder shall have the opportunity to be heard pursuant to subdivision (2) of this subsection (f).

(g) The holder of an ignition interlock RDL or certificate shall operate only motor vehicles equipped with an ignition interlock device, shall not attempt or take any action to tamper with or otherwise circumvent an ignition interlock device, and, after failing a random retest, shall pull over and shut off the vehicle's engine as soon as practicable. A person who violates any provision of this section commits a criminal offense, shall be subject to the sanctions and procedures provided for in subsections 674(b)–(i) of this title, and, upon conviction, the applicable period prior to eligibility for reinstatement under section 1209a or 1216 of this title shall be extended by six months.

(h) A person who violates a rule adopted by the Commissioner pursuant to subsection (l) of this section shall, after notice and an opportunity to be heard is provided pursuant to subdivision (f)(2) of this section, be subject to an extension of the period prior to eligibility for reinstatement under section 1209a or 1216 of this title in accordance with rules adopted by the Commissioner.

(i) Upon receipt of notice that the holder of an ignition interlock RDL or certificate 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 or certificate 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 3SquaresVT, LIHEAP, or Reach Up benefits or like benefits in another state.

(2) The rules shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. The Commissioner

shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices. Persons who elect to obtain an ignition interlock RDL or certificate following a conviction under this subchapter when the person's blood alcohol concentration is proven to be 0.16 or more shall be required to install an ignition interlock device with a Global Positioning System feature. The rules also shall establish a schedule of extensions of the period prior to eligibility for reinstatement as authorized under subsection (h) of this section.

(m)(1) There is created an Ignition Interlock Device Special Fund which shall be a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5.

(2) The Ignition Interlock Device Special Fund shall consist of funds appropriated by the General Assembly and of monies transferred to the Fund or from gifts, grants, and donations. Interest earned on monies in the Fund shall be retained in the Fund for use in accordance with the purposes of the Fund.

(3) Upon application by an eligible person, available monies in the Ignition Interlock Device Special Fund shall be used by the Department of Motor Vehicles to pay the balance of costs of installing, leasing, and deinstalling an ignition interlock device after a manufacturer's discount has been applied, on behalf of a person who:

(A) is qualified to obtain an ignition interlock RDL under this section;

(B) is required to operate under an ignition interlock RDL as a condition of reinstatement of his or her regular operator's license or privilege to operate a motor vehicle in Vermont; and

(C) furnishes proof to the Commissioner of Motor Vehicles of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits from the State of Vermont.

Sec. 36a. FY16 MAINTENANCE PROGRAM SPENDING AUTHORITY;
TRANSFER TO SPECIAL FUND; FY17 DMV SPENDING
AUTHORITY

(a) Spending authority in the Maintenance Program within the fiscal year 2016 Transportation Program hereby is reduced by \$25,000.00 in transportation funds.

(b) The sum of \$25,000.00 hereby is transferred from the Transportation Fund to the Ignition Interlock Device Special Fund for use in fiscal year 2017 for the purpose specified in 23 V.S.A. § 1213(m).

(c) Spending authority for the Department of Motor Vehicles within the fiscal year 2017 Transportation Program hereby is increased by \$25,000.00 in transportation funds for use in fiscal year 2017 for the purpose specified in 23 V.S.A. § 1213(m).

Sec. 37. 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 months and until the person complies with section 1209a of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate 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 and until the person complies with section 1209a of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate 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, a during the suspension, an eligible 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 under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

* * *

(d) Form of notice. The notice of intention to suspend and of suspension shall be in a form prescribed by the Supreme Court. The notice shall include an explanation of rights, a form to be used to request a hearing, and, if a hearing is requested, the date, time, and location of the Criminal Division of the Superior Court where the person must appear for a preliminary hearing. The notice shall also contain, in boldface print, the following:

(1) You have the right to ask for a hearing to contest the suspension of your operator's license.

(2) This notice shall serve as a temporary operator's license and is valid until 12:01 a.m. of the date of suspension. If this is your first violation of section 1201 of this title and if you do not request a hearing, your license will be suspended as provided in this notice. If this is your second or subsequent violation of section 1201 of this title, your license will be suspended on the 11th day after you receive this notice. It is a crime to drive while your license is suspended unless you have been issued an ignition interlock restricted driver's license or ignition interlock certificate.

* * *

(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. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate 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, an eligible

person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

* * *

Sec. 38. 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 and until the defendant 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 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, an eligible person may operate a motor vehicle under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.~~

Sec. 39. 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. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate 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, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate issued under section 1213 of this title.

Sec. 40. 23 V.S.A. § 1216 is amended to read:

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

(a) A person under ~~the age of 21~~ years of age 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. However, during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate 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. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for six months plus any extension of this period arising from a violation of section 1213 of this title.

(2) For a second or subsequent violation, the person's license or privilege to operate shall be suspended until the person reaches ~~the age of~~ 21 years of age or for one year, whichever is longer, and complies with subdivision 1209a(a)(2)(A), (B), and (D) of this title. However, a during the suspension, an eligible person may operate under the terms of an ignition interlock RDL or ignition interlock certificate 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. A person who elects to operate under an RDL or certificate shall not be eligible for reinstatement unless he or she operates under the RDL or certificate for one year or until the person reaches 21 years of age, whichever is longer, plus any extension of this period arising from a violation of section 1213 of this title.

(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 the provider of the 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 persons operating under an ignition interlock RDL 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. [Repealed.]~~

* * *

* * * Signs for Census-designated Places Within Towns * * *

Sec. 41. Sec. 1. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

* * *

(4) Signs erected and maintained by or with the approval of a town outside the highway right-of-way, each of which does not exceed 64 square feet in area, excluding panel and frame, which may show the place and time of services or meetings of churches and civic organizations in the town, and which may include a panel which identifies the name of the town, the charter date, the date the town was founded, or any other significant date in the history of the town, and which the town wishes to identify. The panel may bear the wording “welcome to” the particular town. Not more than two such signs may be erected and maintained readable by traffic proceeding in any one direction on any one highway. The signs shall meet the criteria of the Agency of Transportation and the Travel Information Council. A sign that otherwise meets the requirements of this subdivision may refer to a census-designated place within a town rather than the town itself. As used in this subdivision, “census-designated place” means a statistical entity consisting of a settled concentration of population that is identifiable by name, is not legally incorporated under the laws of the State, and is delineated as such a place by the U.S. Census Bureau according to its guidelines.

* * *

* * * Effective Dates and Applicability * * *

Sec. 42. EFFECTIVE DATES; APPLICABILITY TO DUI MATTERS

(a) This section, Secs. 8 (positions), 9 (Rail Program), 10 (sale of State-owned rail property), 22–28 (stormwater utilities; rates; incentives), 30 (statewide property parcel data layer), 33 (Quechee Gorge Bridge safety issues), in Sec. 36, 23 V.S.A. § 1213(m) (Ignition Interlock Device Special Fund), and Sec. 36a (spending authority and transfer to the Ignition Interlock Device Special Fund) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2016.

(c) The requirement for a second or subsequent DUI offender to operate under an ignition interlock RDL or certificate as a condition of eligibility for reinstatement of the offender’s regular operator’s license or privilege to operate, created under Sec. 35, amending 23 V.S.A. § 1209a, shall apply only

in connection with a second or subsequent DUI offense that occurs on or after July 1, 2016.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 30, 2016, page 713)

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

The Committee recommends that the bill be amended as recommended by the Committee on Transportation with the following amendments thereto:

First: In Sec. 2a, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) Reduction in spending authority. Spending authority in the Program Development Program within the fiscal year 2017 Transportation Program hereby is reduced by:

- (1) \$461,136.00 in transportation funds;
- (2) \$86,204.00 in TIB funds;
- (3) \$2,189,360.00 in federal funds.

Second: In Sec. 2a, by striking out subdivision (c)(2) in its entirety and inserting in lieu thereof the following:

(2) Subject to the funding of the Transportation Fund Stabilization Reserve in accordance with 32 V.S.A. § 308a and to the limitations of 19 V.S.A. § 11f (Transportation Infrastructure Bond Fund), and notwithstanding 32 V.S.A. § 308c (Transportation Fund Balance Reserve), if a Transportation Fund balance, TIB Fund balance, or balance in both funds exists at the end of fiscal year 2016, spending authority reduced in subsection (a) of this section in the fiscal year 2017 Program Development Program shall be restored to the extent of the balance or balances, up to a total of \$547,340.00 in transportation funds or TIB funds, and by up to \$2,189,360.00 in matching federal funds.

(Committee vote: 6-0-1)

H. 878.

An act relating to capital construction and State bonding budget adjustment.

Reported favorably with recommendation of proposal of amendment by Senator Flory for the Committee on Institutions.

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

(1) conduct engineering and design for either a single generator for the State House or a shared generator for the State House and the Capitol Complex, and the related upgrades for the electrical switch gear; and

(2) pay for or reimburse, up to \$150,000.00, for costs associated with repairing damage related to the removal of Vermont Interactive Technologies' equipment and wiring; provided, however, that the Commissioner of Buildings and General Services shall not pay for or reimburse labor costs associated with the repair.

(f) The Commissioner of Buildings and General Services is authorized to begin the design of the parking garage at 108 Cherry Street in Burlington, as described in subdivision (c)(14) of this section, prior to the start of the 2017 legislative session if the Commissioner determines it is in the best interest of the State.

Appropriation – FY 2016		\$41,313,990.00
Appropriation – FY 2017	\$29,450,622.00	<u>\$33,265,235.00</u>
Total Appropriation – Section 2	\$70,764,612.00	<u>\$74,579,225.00</u>

Sec. 2. 2015 Acts and Resolves No. 26, Sec. 3 is amended to read:

Sec. 3. ADMINISTRATION

(a) ~~The following sums are~~ sum of \$125,000.000 is appropriated in FY 2016 to the Department of Taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping:

~~(1) \$125,000.00 is appropriated in FY 2016.~~

~~(2) \$125,000.00 is appropriated in FY 2017.~~

(b) The following sums are appropriated to the Department of Finance and Management for the ERP expansion project (Phase II):

(1) \$5,000,000.00 is appropriated in FY 2016.

(2) ~~\$9,267,470.00~~ \$6,313,881.00 is appropriated in FY 2017.

(c) The sum of \$5,463,211.00 is appropriated in FY 2017 to the Agency of Human Services for the Health and Human Services Enterprise IT System.

Appropriation – FY 2016		\$5,125,000.00
Appropriation – FY 2017	\$14,855,681.00	<u>\$11,777,092.00</u>
Total Appropriation – Section 3	\$19,980,681.00	<u>\$16,902,092.00</u>

Sec. 3. 2015 Acts and Resolves No. 26, Sec. 5 is amended to read:

(h) The sum of \$200,000.00 is appropriated in FY 2017 to the Enhanced 911 Board for the Enhanced 911 Compliance Grant Program.

Appropriation – FY 2016	\$1,400,000.00
Appropriation – FY 2017	\$1,400,000.00 <u>\$1,600,000.00</u>
Total Appropriation – Section 7	\$2,800,000.00 <u>\$3,000,000.00</u>

Sec. 6. 2015 Acts and Resolves No. 26, Sec. 8 is amended to read:

Sec. 8. EDUCATION

(a) The following sums are appropriated in FY 2016 to the Agency of Education for funding the State share of completed school construction projects pursuant to 16 V.S.A. § 3448 and emergency projects:

(1) Emergency projects:	\$82,188.00 <u>\$62,175.00</u>
(2) School construction projects:	\$3,975,500.00 <u>\$3,995,513.00</u>

(b) The sum of \$60,000.00 is appropriated in FY 2017 to the Agency of Education for State aid for emergency projects.

Appropriation – FY 2016	\$4,057,688.00
Appropriation – FY 2017	\$60,000.00
Total Appropriation – Section 8	\$4,117,688.00

Sec. 7. 2015 Acts and Resolves No. 26, Sec. 9 is amended to read:

Sec. 9. UNIVERSITY OF VERMONT

* * *

(b) The sum of \$1,400,000.00 is appropriated in FY 2017 to the University of Vermont for construction, renovation, and major maintenance:
\$1,400,000.00

(c) The General Assembly acknowledges that, pursuant to the terms of the deed, the property located at 195 Colchester Avenue in Burlington shall be transferred from the State to the University of Vermont at no cost to the University, and that the University of Vermont shall retain any proceeds from the sale of the property.

Appropriation – FY 2016	\$1,400,000.00
Appropriation – FY 2017	\$1,400,000.00
Total Appropriation – Section 9	\$2,800,000.00

Sec. 8. 2015 Acts and Resolves No. 26, Sec. 10 is amended to read:

Sec. 10. VERMONT STATE COLLEGES

(a) The following sums are appropriated in FY 2016 to the Vermont State Colleges:

(1) Construction, renovation, and major maintenance: \$1,400,000.00

(2) ~~Engineering~~ Randolph, Vermont Technical College, engineering technology laboratories, plan, design, and upgrade:
\$1,000,000.00

(b) The following sums are appropriated in FY 2017 to the Vermont State Colleges:

(1) Construction, renovation, and major maintenance: \$1,400,000.00

(2) ~~Engineering~~ Randolph, Vermont Technical College, engineering technology laboratories, plan, design, and upgrade:
\$500,000.00

(3) Castleton, Castleton University, engineering technology laboratories, plan, design, and upgrade: \$1,000,000.00

(4) Lyndon, Lyndon State College, installation of solar thermal system, sound monitoring equipment: \$150,000.00

(c) It is the intent of the General Assembly that the amount appropriated in subdivision (b)(2) of this section shall be used as a challenge grant to raise funds to upgrade engineering technology laboratories at the Vermont Technical College. The funds shall only become available after the Vermont Technical College has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$500,000.00 in committed funds has been raised to match the appropriation in subdivision (b)(2) of this section and finance additional costs of comprehensive laboratory improvements.

(d) It is the intent of the General Assembly that the amount appropriated in subdivision (b)(3) of this section shall be used as a challenge grant to raise funds to upgrade engineering technology laboratories at Castleton University. Of the amount appropriated, \$500,000.00 shall become available upon passage of this act, and the remaining funds shall only become available after Castleton University has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$500,000.00 in committed funds has been raised as a match to finance costs associated with comprehensive laboratory improvements.

(e) It is the intent of the General Assembly that of the amount appropriated in subdivision (b)(4) of this section, \$100,000.00 shall become available upon passage of this act for the installation of the solar thermal system, and the remaining funds shall only become available after Lyndon State College has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$50,000.00 in committed funds has been raised as a match to finance costs associated with the purchase of sound monitoring equipment.

Appropriation – FY 2016		\$2,400,000.00
Appropriation – FY 2017	\$1,900,000.00	<u>\$3,050,000.00</u>
Total Appropriation – Section 10	\$4,300,000.00	<u>\$5,450,000.00</u>

Sec. 9. 2015 Acts and Resolves No. 26, Sec. 11 is amended to read:

Sec. 11. NATURAL RESOURCES

* * *

(d) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) the Water Pollution Control Fund for the Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,300,000.00

* * *

(3) the Drinking Water Supply, Drinking Water State Revolving Fund: ~~\$2,538,000.00~~ \$2,738,000.00

* * *

(7) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies: \$2,276,494.00

(8) Bristol, closure of town landfill: \$145,000.00

* * *

(f) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Fish and Wildlife:

(1) General infrastructure projects: \$875,000.00

(2) Lake Champlain Walleye Association, Inc. to upgrade and repair the walleye rearing, restoration, and stocking infrastructure: \$25,000.00

(g) The sum of \$2,300,000.00 is appropriated in FY 2017 to the Department of Buildings and General Services for the Department of Fish and Wildlife for the Roxbury fish hatchery reconstruction project.

(h) Notwithstanding any other provision of law, the Commissioner of Environmental Conservation may transfer any funds appropriated in a capital construction act to the Department of Environmental Conservation to support the response to PFOA contamination. If a responsible party reimburses the Department for the cost of any such response, the Department shall use those funds to support the original capital appropriation and shall notify the House Committee on Corrections and Institutions and the Senate Committee on Institutions of the reimbursement.

Appropriation – FY 2016		\$13,481,601.00
Appropriation – FY 2017	\$13,243,000.00	\$18,164,494.00
Total Appropriation – Section 11	\$26,724,601.00	\$31,646,095.00

Sec. 10. 2015 Acts and Resolves No. 26, Sec. 12 is amended to read:

Sec. 12. MILITARY

* * *

(b) The sum of \$750,000.00 is appropriated in FY 2017 to the Department of Military for maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds. The following sums are appropriated in FY 2017 to the Department of Military for the projects described in this subsection:

(1) Construction, maintenance, renovations, roof replacements, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds:

	\$750,000.00
--	--------------

(2) Randolph, Vermont Veterans Memorial Cemetery, project costs not covered by federal grant funds:

	\$188,000.00
--	--------------

(3) ADA projects, State armories. To the extent feasible, these funds shall be used to match federal funds:

	\$120,000.00
--	--------------

Appropriation – FY 2016		\$809,759.00
Appropriation – FY 2017	\$750,000.00	\$1,058,000.00
Total Appropriation – Section 12	\$1,559,759.00	\$1,867,759.00

Sec. 11. 2015 Acts and Resolves No. 26, Sec. 13 is amended to read:

Sec. 13. PUBLIC SAFETY

* * *

(c) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Department of Public Safety as described in this subsection:

(1) Williston, State Police Barracks, site location and proposal, feasibility studies, and program analysis: \$250,000.00

(2) Westminster, DPS Facility, project cost adjustment for unanticipated site conditions and code modifications: \$400,000.00

(3) Waterbury State Office Complex, blood analysis laboratory, renovations: \$460,000.00

(d) The Commissioner of Buildings and General Services is authorized to use up to \$50,000.00 of the amount appropriated in subdivision (c)(1) of this section for acoustical enhancements at the Williston Public Safety Answer Point Center (PSAP), if deemed necessary after consultation with the Department of Public Safety. Any funds remaining at the end of the fiscal year may be used to evaluate options to replace the Middlesex State Police Barracks.

Appropriation – FY 2016 \$300,000.00

Appropriation – FY 2017 \$1,110,000.00

Total Appropriation – § 13 Total Appropriation – Section 13 \$1,410,000.00

Sec. 12. 2015 Acts and Resolves No. 26, Sec. 14 is amended to read:

Sec. 14. AGRICULTURE, FOOD AND MARKETS

* * *

(b) The following sums are appropriated in FY 2017 to the Agency of Agriculture, Food and Markets for the projects described in this subsection:

(1) Best Management Practices and Conservation Reserve Enhancement Program: \$1,800,000.00

(2) Vermont Exposition Center Building, upgrades: \$115,000.00

(3) Vermont Environment and Agricultural Laboratory, equipment: \$455,000.00

Appropriation – FY 2016 \$2,202,412.00

Appropriation – FY 2017 ~~\$1,915,000.00~~ \$2,370,000.00

Total Appropriation – Section 14 ~~\$4,117,412.00~~ \$5,572,412.00

Sec. 13. 2015 Acts and Resolves No. 26, Sec. 18 is amended to read:

Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

* * *

(b) The following amounts are appropriated in FY 2017 to the Vermont Housing and Conservation Board.

- (1) Statewide, water quality improvement projects: \$1,000,000.00
- (2) Housing: \$1,800,000.00
- (3) Downtown development projects: \$1,200,000.00

(c) The Vermont Housing and Conservation Board shall use the funds appropriated in subdivision (b)(3) of this section to leverage other resources to assist economically distressed downtowns in the Northeast Kingdom. The funds shall be held in reserve until appropriate affordable housing, historic preservation, community parks, or public access to water projects can be developed. The Vermont Housing and Conservation Board may allocate up to ten percent of the funds to assist communities or community-based nonprofit organizations to support predevelopment or planning activities necessary for project implementation. It is the intent of the General Assembly that priority is given to communities acting on recommendations from a Vermont Council on Rural Development community visit, and that priority projects shall include distressed historic buildings where investment can help stabilize and improve the surrounding neighborhood.

(d) Notwithstanding the amounts allocated in subsection (b) of this section, the Vermont Housing and Conservation Board may use the amounts appropriated in subdivisions (b)(2) and (b)(3) of this section to increase the amount it allocates to conservation grant awards; provided, however, that the Vermont Housing and Conservation Board increases any affordable housing investments by the same amount from funds appropriated to the Vermont Housing and Conservation Board in the FY 2017 Appropriations Act.

Appropriation – FY 2016		\$4,550,000.00
Appropriation – FY 2017	\$2,800,000.00	<u>\$4,000,000.00</u>
Total Appropriation – Section 18	\$7,350,000.00	<u>\$8,550,000.00</u>

Sec. 14. 2015 Acts and Resolves No. 26, Sec. 19 is amended to read:

Sec. 19. VERMONT INTERACTIVE TECHNOLOGIES

~~\$220,000.00~~ The sum of \$110,810.64 is appropriated in FY 2016 to the Vermont State Colleges on behalf of Vermont Interactive Technologies (VIT) for all costs associated with the dissolution of VIT’s operations.

- (13) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 4(a) (Health laboratory): \$0.06
- (14) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 7(b)(2) (Historic Barns Preservation Grants): \$2,050.00
- (15) of the amount appropriated in 2012 Acts and Resolves No. 104, Sec. 2(c)(7) (Vermont Veterans Memorial Cemetery Master Plan): \$1,622.94
- (16) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2(b)(16) (Barre Courthouse and State Office Building, pellet boiler): \$96,389.57
- (17) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 11(a)(water pollution control): \$16,464.86
- (18) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 13(c) (land purchase and feasibility studies): \$150,000.00
- (19) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 13(d) (Public Safety land purchases): \$299,022.00
- (20) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b) (Department of Labor parking lot expansion): \$71,309.26
- (21) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 2(c) (BGS engineering, project management, and architectural cost): \$113,411.93
- (22) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 2(c)(17)(State House, security enhancements): \$142,732.59
- (23) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 2(c)(18) (State House maintenance and upgrades and renovations): \$100,000.00
- (24) of the amount appropriated to the Historic Property Stabilization and Rehabilitation Special Fund established in 29 V.S.A. § 155: \$50,000.00
- (25) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 12(a) to the Vermont Veterans Memorial Cemetery: \$38,135.00

(b) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

* * *

(6) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 6 (water pollution control projects): \$3,253.00

(7) of the amount appropriated to the Vermont Pollution Control Revolving Fund established in 24 V.S.A. § 4753: \$496,147.71

(8) of the amount appropriated to the Vermont Water Source Protection Fund established in 24 V.S.A. § 4753: \$200,000.00

(c) The following sums are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

* * *

(6) of the proceeds from the sale of property authorized in 2009 Acts and Resolves No. 43, Sec. 25 (1193 North Ave., Thayer School): \$60,991.12

(d) The amount appropriated in subdivision (b)(8) of this section shall be directed to the amount appropriated to the Vermont Environmental Protection Agency (EPA) Drinking Water State Revolving Fund in Sec. 11(d)(3) of this act.

Reallocations and Transfers – FY 2016 \$1,648,656.08

Reallocations and Transfers – FY 2017 \$1,847,575.25

Total Reallocations and Transfers – Section 21 ~~\$1,648,656.08~~ \$3,496,231.33

Sec. 18. 2015 Acts and Resolves No. 26, Sec. 22 is amended to read:

Sec. 22. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

* * *

(c) The State Treasurer is authorized to issue additional general obligation bonds in the amount of \$9,398,753.35 that were previously authorized but unissued under 2015 Acts and Resolves No. 26 for the purpose of funding the appropriations in this act.

Total Revenues – Section 22 ~~\$155,559,096.05~~ \$164,957,849.40

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 19. WATERBURY STATE OFFICE COMPLEX; PROPERTY TRANSACTIONS

(a) The Commissioner of Buildings and General Services is authorized to transfer the parcel of land designated as Lot 6A on the map prepared by Engineering Ventures PC entitled “Waterbury State Office Complex Restoration” and dated June 24, 2013, as revised by the Department of

Buildings and General Services on March 24, 2016, to the owners of the property located at 28 Park Row in Waterbury; provided, however, that the owners of the property shall be required to pay any costs associated with the transfer.

(b) The Commissioner of Buildings and General Services shall survey the parcel of land designated as Lot 8 on the map prepared by Engineering Ventures PC entitled "Waterbury State Office Complex Restoration" and dated June 24, 2013, as revised by the Department of Buildings and General Services on March 24, 2016.

Sec. 20. HOSKISON PROPERTY; PLYMOUTH; TRANSACTION

Notwithstanding 29 V.S.A. § 166(b), the Department of Buildings and General Services is authorized to transfer, sell, demolish, or gift the house located on the Hoskison property deeded to the State of Vermont in 2006 that abuts the Calvin Coolidge State Historic Site in Plymouth Notch.

Sec. 21. MONTPELIER; 144 STATE STREET; PROPERTY TRANSACTION

Notwithstanding 29 V.S.A. § 166(b), the Commissioner of Buildings and General Services is authorized to sell, subdivide, lease, lease purchase, or enter into a common interest community agreement for the property located at 144 State Street in Montpelier, if the Commissioner determines that it is in the best interest of the State. Any agreement shall ensure that the State receives fair market value for the property, and costs associated with the sale, including relocation costs.

Sec. 22. VERMONT AGRICULTURE AND ENVIRONMENTAL LABORATORY; BIOMASS FACILITY

(a) The Commissioner of Buildings and General Services shall evaluate opportunities for the future development of biomass facilities to support the Vermont Agriculture and Environmental laboratory in Randolph if the Commissioner determines that it is in the best interest of the State. The Commissioner shall ensure that all opportunities are consistent with the State Agency Energy Plan.

(b) On or before December 1, 2016, the Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the findings of the evaluation described in subsection (a) of this section.

Sec. 23. VERMONT AGRICULTURE AND ENVIRONMENTAL LABORATORY; ROXBURY HATCHERY; CONSTRUCTION

The Department of Buildings and General Services is authorized to enter into contractual obligations for construction for the following projects:

(1) the Vermont Agriculture and Environmental Laboratory, located at the Vermont Technical College site in Randolph, Vermont; and

(2) Roxbury Fish Hatchery, located in Roxbury, Vermont.

Sec. 24. 2011 Acts and Resolves No. 40, Sec. 26(b) is amended to read:

(b) ~~The commissioner of buildings and general services~~ Commissioner of Buildings and General Services on behalf of the ~~division for historic preservation~~ Division for Historic Preservation is authorized to enter into the agreements specified for the following properties, the proceeds of which shall be dedicated to the fund created by Sec. 30 of this act:

(1) Fuller farmhouse at the Hubbardton Battlefield state State historic site, authority to sell or enter into a long term lease with covenants demolish the farmhouse if the Town of Hubbardton and the Hubbardton Historical Society are not able to find adequate funding to use the farmhouse by July 1, 2016; provided, however, that if the farmhouse is demolished, the foundation shall be capped to preserve any potential archaeological sites.

* * *

(3) Bishop Cabin at Mount Independence State Historic Site in Orwell, authority to sell or enter into a long term lease with covenants on the land demolish the Cabin and remove all materials.

* * *

Sec. 25. 2011 Acts and Resolves No. 40, Sec. 29, amending 2010 Acts and Resolves No. 161, Sec. 25(f), is amended to read:

(f) Following consultation with the ~~state advisory council on historic preservation~~ State Advisory Council on Historic Preservation as required by 22 V.S.A. § 742(7) and pursuant to 29 V.S.A. § 166, the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services is authorized to subdivide and sell the house, barn, and up to 10 acres of land at 3469 Lower Newton Road in St. Albans. ~~Net proceeds of the sale shall be deposited in the historic property stabilization and rehabilitation fund established in Sec. 30 of this act.~~

Sec. 26. 29 V.S.A. § 155 is amended to read:

~~§ 155. HISTORIC PROPERTY STABILIZATION AND
REHABILITATION SPECIAL FUND~~

~~(a) There is established a special fund managed by and under the authority and control of the Commissioner, comprising net revenue from the sale or lease of underutilized State owned historic property to be used for the purposes set forth in this section. Any remaining balance at the end of the fiscal year shall be carried forward in the Fund; provided, however, that if the Fund balance exceeds \$250,000.00 as of November 15 in any year, then the General Assembly shall reallocate funds not subject to encumbrances for other purposes in the next enacted capital appropriations bill.~~

~~(b) Monies in the Fund shall be available to the Department for the rehabilitation or stabilization of State owned historic properties that are authorized by the General Assembly to be in the Fund program, for payment of costs of historic resource evaluations and archeological investigations, for building assessments related to a potential sale or lease, for one time fees for easement stewardship and monitoring, and for related one-time expenses.~~

~~(c) On or before January 15 of each year, the Department shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions concerning deposits into and disbursements from the Fund occurring in the previous calendar year, the properties sold, leased, stabilized, or rehabilitated during that period, and the Department's plans for future stabilization or rehabilitation of State owned historic properties.~~

~~(d) Annually, the list presented to the General Assembly of State owned property the Commissioner seeks approval to sell pursuant to section 166 of this title shall identify those properties the Commissioner has identified as underutilized State owned historic property pursuant to subsection (b) of this section.~~

~~(e) For purposes of this section, "historic property" has the same meaning as defined in 22 V.S.A. § 701. [Repealed.]~~

Sec. 27. 29 V.S.A. § 1556 is amended to read:

§ 1556. STATE SURPLUS PROPERTY

(a) All material, equipment, and supplies found to be surplus by any ~~state~~ State agency or department shall be transferred to the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services. The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall be responsible for the disposal of

surplus ~~state~~ State property. The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services may:

(1) transfer the property to any other ~~state~~ State agency or department having a justifiable need for the property, or transfer to any municipality, school, or nonprofit organization having a justifiable need as determined by a State agency or department, and assess an administrative fee if deemed appropriate;

(2) store or warehouse the property for future needs of the ~~state~~ State;

(3) transfer the property to municipalities for town highways and bridges;

(4) after giving priority to the provisions of subdivisions (1), (2), and (3) of this ~~section~~ subsection, transfer used bridge beams and other surplus material, equipment, and supplies to VAST, the local affiliates of VAST, or to municipalities cooperating with VAST or municipalities developing and maintaining their own trail system;

(5) recondition and repair any property for use or sale when economically feasible;

(6) sell surplus property by any suitable means, including ~~but not limited to~~, bids or auctions;

(7) donate, at no charge, surplus motor vehicles and related equipment, to any nonprofit entity engaged in rehabilitating and redistributing motor vehicles to ~~low income~~ Vermont residents with low income, provided that the ~~commissioner~~ Commissioner has first attempted to sell or satisfy the needs of the ~~state~~ State for the vehicles or equipment concerned.

(b) Any municipality, school, or nonprofit organization that receives a transfer of property pursuant to this section shall assume ownership of the property from the State.

Sec. 28. 29 V.S.A. § 821(b) is amended to read:

(b) State correctional facilities. The names of State correctional facilities shall be as follows:

* * *

~~(10) In Waterbury, "Dale Correctional Facility."~~

Sec. 29. SOUTHEAST STATE CORRECTIONAL FACILITY; WINDSOR;
LAND TRANSFER

(a) On or before August 1, 2016, the Department of Buildings and General Services shall conduct a survey of the 160-acre portion of the State-owned

parcel in the Town of Windsor known as the “Windsor Prison Farm” that is under the jurisdiction of the Department of Buildings and General Services and described in Executive Order 08-15. The survey shall identify the boundaries for all of the land used by the Departments of Corrections and of Buildings and General Services for the operation and security of the Southeast State Correctional Facility.

(b) Within 30 days of receipt of the survey described in subsection (a) of this section, the Commissioner of Buildings and General Services shall transfer to the jurisdiction of the Department of Fish and Wildlife the portion of the land identified in the survey that is not used by the Departments of Buildings and General Services and of Corrections for the operation and security of the Southeast State Correctional Facility.

* * * Corrections * * *

Sec. 30. STATE CORRECTIONAL FACILITIES; COMMITTEE;
ASSESSMENT; REPORT

(a) Creation. There is created a Correctional Facility Planning Committee to develop a 20-year capital plan for, and assess the population needs at, State correctional facilities.

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

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

(2) the Commissioner of Finance and Management or designee;

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

(4) the Commissioner for Children and Families or designee;

(5) the Commissioner of Mental Health or designee;

(6) the Commissioner of Disabilities, Aging, and Independent Living or designee; and

(7) the Executive Director of the Crime Research Group or designee.

(c) Powers and duties. The Committee shall assess the capital and programming needs of State correctional facilities, which shall include the following:

(1) An evaluation of the use, condition, and maintenance needs of each State correctional facility, including whether any facility should be closed renovated, relocated, or repurposed. This evaluation shall include an update of the most recent facilities assessment as of June 30, 2016;

(A) each facility's replacement value;
(B) each facility's deferred maintenance schedule; and
(C) the cost of each facility's five-, ten-, and 15-year scheduled maintenance.

(2) An analysis of the historic population trends of State correctional facilities, and anticipated future population trends, including age, gender, and medical, mental health, and substance abuse conditions.

(3) An evaluation of whether the design and use of existing facilities adequately serve the current population and anticipated future populations, including whether the Out-of-State inmate program may be eliminated and the feasibility of constructing new infrastructure more suitable for current and future populations.

(4) An investigation into the options for cost savings, including public-private partnerships.

(5) An evaluation on potential site locations for a replacement State correctional facility.

(d) Report and recommendations. On or before February 1, 2017, the Committee shall submit a report based on the assessment described in subsection (c) of this section, and any recommendations for legislative action, to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

* * * Judiciary * * *

Sec. 31. JUDICIARY; COUNTY COURTHOUSE; CAPITAL BUDGET REQUESTS

(a) On or before October 1 each year, any county requesting capital funds for its courthouse, or court operations, shall submit a request to the Court Administrator.

(b) The Court Administrator shall evaluate requests based on the following criteria:

(1) whether the funding request relates to an emergency that will affect the court operations and the administration of justice;

(2) whether there is a State-owned courthouse in the county that could absorb court activities in lieu of this capital investment;

(3) whether the county consistently invested in major maintenance in the courthouse;

(4) whether the request relates to a State-mandated function;

(5) whether the request diverts resources of other current Judiciary capital priorities;

(6) whether the request is consistent with the long-term capital needs of the Judiciary, including providing court services adapted to modern needs and requirements; and

(7) any other criteria as deemed appropriate by the Court Administrator.

(c) Based on the criteria described in subsection (b) of this section, the Court Administrator shall make a recommendation to the Commissioner of Buildings and General Services regarding whether the county's request should be included as part of the Judiciary's request for capital funding in the Governor's annual proposed capital budget request.

(d) On or before January 15 of each year, the Court Administrator shall advise the House Committee on Corrections and Institutions and the Senate Committee on Institutions of all county requests received and the Court Administrator's recommendations for the proposed capital budget request.

* * * Natural Resources * * *

Sec. 32. HAZARDOUS MATERIAL RESPONSE; PROJECTED CAPITAL NEEDS; BENNINGTON

On or before January 15, 2017, the Commissioner of Environmental Conservation shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the projected capital costs in fiscal year 2018 for the Department to investigate and mitigate the effects of hazardous material releases to the environment in Bennington.

* * * Public Safety * * *

Sec. 33. BRADFORD STATE POLICE BARRACKS

On or before December 1, 2016, the Commissioners of Buildings and General Services and of Public Safety shall investigate opportunities for the Bradford State Police Barracks, including selling, leasing, or gifting the property, and shall report back with the findings to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

Sec. 34. PUBLIC SAFETY; PUBLIC SAFETY FIELD STATION; SITE LOCATION; WILLISTON POLICE BARRACKS

(a) The Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, is authorized to use funds appropriated in Sec. 11 of this act to evaluate options for the site location of a public safety field station and an equipment storage facility. The investigation may include conducting feasibility studies and program analysis, site selection, purchase and lease-purchase opportunities, and consolidation of the two facilities.

(b) On or before October 10, 2016, the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, shall submit a recommendation for a site location for the public safety field station and the equipment storage facility to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, based on the evaluation described in subsection (a) of this section. It is the intent of the General Assembly that when evaluating site locations, preference shall be first given to State-owned property located in Chittenden County.

(c) The Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, in consultation with the members of the House Committee on Corrections and Institutions and the Senate Committee on Institutions, shall review the recommendation described in subsection (a) of this section. The House Committee on Corrections and Institutions and the Senate Committee on Institutions may each meet up to one time when the General Assembly is not in session to review the recommendation. The Committees shall notify the Commissioners of Buildings and General Services and of Public Safety of any meeting. Committee members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

(d) On or before December 1, 2016, the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, shall develop a detailed proposal on the site location based on the recommendation described in subsection (a) of this section; provided, however, that the Commissioner shall not proceed without unanimous approval of the site location by the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. The proposal shall include programming, size, design, and preliminary cost estimates for either separate or consolidated facilities.

(e) The Commissioner of Buildings and General Services shall notify the House Committee on Corrections and Institutions and the Senate Committee on Institutions at least monthly of updates on the proposals described in this section.

Sec. 35. 24 V.S.A. § 5609 is added to read:

§ 5609. ENHANCED 911 COMPLIANCE GRANTS PROGRAM

(a) Grant guidelines. The following guidelines shall apply to capital grants associated with the planning and implementation of the Enhanced 911 program in schools pursuant to 30 V.S.A. § 7057:

(1) Grants shall be awarded competitively to schools for fees and equipment necessary to comply with and implement the Enhanced 911 program.

(2) The Program is authorized to award matching grants of up to \$25,000.00 per project. The required match shall be met through dollars raised and not in-kind services.

(b) Administration. The Enhanced 911 Board, established in 30 V.S.A. § 7052, shall administer and coordinate grants made pursuant to this section, and shall have the authority to award grants in its sole discretion.

* * * Security * * *

Sec. 36. STATE HOUSE SECURITY

(a) The Sergeant at Arms is authorized to use funds appropriated in Sec. 15 of this act to:

(1) install seven security cameras in the State House;

(2) install a remote lockdown system for doors to the State House; and

(3) conduct trainings at the State House.

(b) The Sergeant at Arms shall consult with the Commissioner of Buildings and General Services on the design and installation of the security enhancements described in subsection (a) of this section.

(c) On or before August 1, 2016, the Capitol Complex Security Advisory Committee, established in 2 V.S.A. § 991, shall develop both a camera retention procedure and lockdown guidelines for the State House; provided, however, that any camera procedure developed by the Committee shall limit access to the Sergeant at Arms and the Capitol Police, and shall limit data retention to no more than 30 days. The camera retention procedure and lockdown guidelines shall only become effective after unanimous approval by the Senate President Pro Tempore or designee, the Speaker of the House or designee, the Sergeant at Arms, and the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions. No cameras shall be installed until the procedures have been approved.

(d) It is the intent of the General Assembly that the cameras described in subdivision (a)(1) of this section shall be installed at the entrances of the State House and shall be fixed on points of ingress.

* * * Effective Dates * * *

Sec. 37. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 26 (Historic Property Stabilization and Rehabilitation Special Fund; repeal) shall take effect on July 1, 2017.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 31, 2016, page 730 and April 1, 2016, page 735)

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

The Committee recommends that the bill be amended as recommended by the Committee on Institutions with the following amendments thereto:

First: In Sec. 13, in subsection (c), in the second sentence, after community parks, by inserting public facilities.

Second: By striking out Sec. 32, Hazardous Material Response; Projected Capital Needs; Bennington, in its entirety and inserting in lieu thereof the following:

Sec. 32. HAZARDOUS MATERIAL RESPONSE; PROJECTED CAPITAL NEEDS; BENNINGTON

On or before January 15, 2017, the Commissioner of Environmental Conservation shall submit a report to the House Committees on Corrections and Institutions and on Ways and Means, and the Senate Committees on Finance and on Institutions, on the following:

(1) the projected costs in fiscal year 2018, including capital costs, for the Department to investigate and respond to the effects of hazardous material releases to the environment in Bennington;

(2) other projected obligations of the Environmental Contingency Fund, established in 10 V.S.A. § 1283; and

(3) specific recommendations for funding the Environmental Contingency Fund in order to meet the State's obligations with respect to releases of hazardous materials.

(Committee vote: 6-0-1)

House Proposal of Amendment

S. 66

An act relating to persons who are deaf, DeafBlind, or hard of hearing.

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

Sec. 1. 33 V.S.A. chapter 16 is added to read:

CHAPTER 16. VERMONT DEAF, HARD OF HEARING, AND DEAFBLIND ADVISORY COUNCIL

§ 1601. DEFINITIONS

As used in this chapter:

(1) “Communication or language mode” means verbal or nonverbal communication that includes listening, speaking, American Sign Language (ASL), Signed English, Signed Support, reading, and writing in all domains of a language. Reference to the communication mode of individuals who are Deaf, Hard of Hearing, or DeafBlind distinguishes between modality and language. Systems that assist individuals using a particular modality or language include ASL, spoken English, signed English, sign-supported speech, speech or lip reading, cued speech, and assistive technology.

(2) “Deaf” means having a severe or complete absence of auditory sensitivity that impairs processing of linguistic information through hearing, with or without amplification or cochlear implants. Participation in Deaf Community culture and use of ASL are characteristic of persons who identify as Deaf.

(3) “DeafBlind” means having concomitant hearing and visual impairments.

(4) “Department” means the Department of Disabilities, Aging and Independent Living.

(5) “Hard of Hearing” means a reduced level of functional hearing and reliance on residual hearing and technology, including hearing aids, cochlear implants, FM listening systems, and other types of assistive listening devices to communicate via verbal language, with or without use of ASL.

§ 1602. VERMONT DEAF, HARD OF HEARING, AND DEAFBLIND ADVISORY COUNCIL

(a) Creation; purpose. There is created a Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council to promote diversity, equality, awareness, and access among individuals who are Deaf, Hard of Hearing, or DeafBlind.

(b) Membership. The Advisory Council shall consist of the following members:

(1) sixteen members of the public, appointed by the Governor in a manner that ensures geographically diverse membership, including:

(A) nine or fewer members who are Deaf, Hard of Hearing, or DeafBlind provided each population is represented and that if a member represents an organization for persons who are Deaf, Hard of Hearing, or DeafBlind no other member on the Advisory Council shall also represent that organization;

(B) two members who are each a parent or guardian of a child who is Deaf, Hard of Hearing, or DeafBlind;

(C) two members who serve persons who are Deaf, Hard of Hearing, or DeafBlind in a professional capacity, provided that these members do not represent the same organization;

(D) a professional deaf-education specialist who understands all communication and language modes;

(E) a professional interpreter; and

(F) an audiologist or hard-of-hearing education specialist;

(2) the Senior Counselor for the Deaf and Hard of Hearing in the Department's Division of Vocational Rehabilitation or designee;

(3) the Secretary of Education or designee;

(4) the Secretary of Human Services or designee;

(5) the director of the Department for Children and Families' Children's Integrated Services or designee;

(6) the director of the Vermont Early Detection and Intervention Project;

(7) a representative of the Vermont Association of the Deaf;

(8) a superintendent, selected by the Vermont Superintendents Association; and

(9) a special education administrator, selected by the Vermont Council of Special Education Administrators.

(c) Powers and duties.

(1) The Advisory Council shall assess the services, resources, and opportunities available to children in the State who are Deaf, Hard of Hearing, or DeafBlind. It may consider and make recommendations to the General Assembly and the Governor on the following:

(A) the educational rights of children who are Deaf, Hard of Hearing, or DeafBlind, including full communication and language access in all educational environments and accessibility of qualified teachers, interpreters, and paraprofessionals;

(B) appropriate and ongoing educational opportunities that recognize each child's unique learning needs, including access to a sufficient number of communication or language mode peers and exposure to adult role models who are Deaf, Hard of Hearing, or DeafBlind;

(C) adequate family supports that promote both early development of communication skills and informed participation by parents and guardians in the education of their children;

(D) identification of all losses of or reductions in services arising from the closures of the Austine School for the Deaf and the Vermont Center for the Deaf and Hard of Hearing and evaluation of the adequacy of existing services and resources, as well as identification of those resources not currently available, adequate, or accessible to children;

(E) opportunities to restore and expand educational opportunities to children in the State who are Deaf, Hard of Hearing, or DeafBlind and their families; and

(F) appropriate data collection and reporting requirements concerning students with disabilities.

(2) The Advisory Council shall assess the services, resources, and opportunities available to adults and elders in the State who are Deaf, Hard of Hearing, or DeafBlind. It may consider and make recommendations to the General Assembly and the Governor on the following:

(A) the needs of and opportunities for adults and elders within the State who are Deaf, Hard of Hearing, or DeafBlind and their families;

(B) the adequacy and systemic coordination of existing services and resources for adults and elders throughout the State who are Deaf, Hard of Hearing, or DeafBlind and their families;

(C) proposed legislation and administrative rules pertaining to adults and elders who are Deaf, Hard of Hearing, or DeafBlind; and

(D) delivery models in other states as a point of comparison for the adequacy and systemic coordination of Vermont's existing services and resources for adults and elders who are Deaf, Hard of Hearing, or DeafBlind.

(d) Assistance. The Advisory Council shall have the administrative, technical, and legal assistance of the Agencies of Education and of Human Services. The Advisory Council and Department may consult with national experts on education of persons who are Deaf, Hard of Hearing, or DeafBlind as necessary to fulfill their obligations under this section.

(e) Reports. On or before January 15 of each year, notwithstanding 2 V.S.A. § 20(d), the Advisory Council shall submit a written report to the Senate and House Committees on Education, the Senate Committee on Health and Welfare, the House Committee on Human Services, and the Governor with any findings and recommendations. A reading of each report shall be video recorded using ASL to ensure accessibility.

(f) Appointments; meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living shall convene the first meeting of the Advisory Council on or before July 1, 2016 and shall select interpreting services, computer assisted captioning in real time (CART), or FM listening system for the meeting if a member so requests.

(2) At its first meeting, the Advisory Council shall elect a chair and vice chair.

(3) The Chair shall select interpreting services, CART, or FM listening system for any Advisory Council meeting if a member so requests.

(4) The Advisory Council may meet up to eight times each year to perform its functions under this section. The Secretaries of Education and of Human Services may jointly authorize additional meetings.

(5) The Advisory Council may organize its members into subcommittees to carry out the purposes of this section, including subcommittees designed to address specific age groups within the Deaf, Hard of Hearing, and DeafBlind population.

(g) Reimbursement.

(1) Members of the Advisory Council who are not State employees or 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, payable by the Department.

(2) The Agency of Human Services shall pay for interpreting services, CART, or FM listening systems necessary to conduct all Advisory Council meetings.

(3) The Agency of Education, Department of Health, and Department of Disabilities, Aging, and Independent Living shall share costs for interpreting services, CART, or FM listening systems necessary to conduct all Advisory Council subcommittee meetings.

Sec. 2. INTERPRETERS; PROFESSIONAL REGULATION

On or before January 15, 2017, the Vermont Deaf, Hard of Hearing, and DeafBlind Advisory Council shall submit a report to the House Committees on Government Operations and on Human Services and to the Senate Committees on Government Operations and on Health and Welfare regarding its findings and recommendations for legislative action pertaining to the regulation of interpreters by the Secretary of State's Office of Professional Regulation.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Alyson Richards of Montpelier – Member of the Vermont State Colleges Board of Trustees – By Sen. Cummings for the Committee on Education. (4/25/16)

Mary Alice McKenzie of Burlington – Member of the State Police Advisory Committee – By Sen. Collamore for the Committee on Government Operations. (4/25/16)

FOR INFORMATION ONLY

CROSS OVER DATES

The Joint 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.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Miscellaneous Tax Bill).