

# Journal of the House

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**Monday, May 2, 2016**

At two o'clock in the afternoon the Speaker called the House to order.

## **Devotional Exercises**

Devotional exercises were conducted by Rep. Sam Young of Glover, Vt.

## **Message from the Senate No. 53**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

**H. 65.** An act relating to designating the Gilfeather turnip as the State Vegetable.

**H. 111.** An act relating to the removal of grievance decisions from the Vermont Labor Relations Board's website.

**H. 308.** An act relating to limiting the liability of VAST arising from snowmobile operation outside the Statewide Snowmobile Trail System.

And has passed the same in concurrence.

The Senate has considered bills originating in the House of the following titles:

**H. 570.** An act relating to hunting, fishing, and trapping.

**H. 876.** An act relating to the transportation capital program and miscellaneous changes to transportation-related law.

**H. 878.** An act relating to capital construction and State bonding budget adjustment.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposals of amendment to the following Senate bills and has refused to concur therein and asks for Committees of Conference upon the disagreeing votes of the two Houses to which the

President announced the appointment as members of such Committees on the part of the Senate:

**S. 216.** An act relating to prescription drug formularies.

Senator Mullin  
Senator Sirotkin  
Senator Ashe

**S. 224.** An act relating to warranty obligations of equipment dealers and suppliers.

Senator Cummings  
Senator Baruth  
Senator Doyle

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill entitled:

**H. 512.** An act relating to adequate shelter of dogs and cats.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Ashe  
Senator Sears  
Senator Starr

The Senate has on its part adopted Senate concurrent resolution of the following title:

**S.C.R. 43.** Senate concurrent resolution congratulating the Green Mountain United Way on its 40th anniversary.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

**H.C.R. 363.** House concurrent resolution in memory of former Representative and Senator John C. Page of Bennington and his wife, Marjorie Page.

**H.C.R. 364.** House concurrent resolution congratulating the Windsor High School team on winning the 2016 3D Vermont architecture competition.

**H.C.R. 365.** House concurrent resolution congratulating Windsor public schools' student winners of the 2016 State Science Fair.

**H.C.R. 366.** House concurrent resolution honoring Nancy Remsen, on the conclusion of her journalism career, as a fair, perceptive, and thoughtful reporter and editor.

**H.C.R. 367.** House concurrent expressing sincere appreciation for the presence of General Electric's Aviation and Healthcare units in Vermont and for their major contribution to the State's economy.

**H.C.R. 368.** House concurrent resolution congratulating the 2016 Mt. Anthony Union High School Patriots State championship wrestling team.

**H.C.R. 369.** House concurrent resolution congratulating recent Vermont recipients of the Girl Scout Gold Award.

**H.C.R. 370.** House concurrent resolution welcoming Shen Yun Performing Arts to Vermont.

**H.C.R. 371.** House concurrent resolution congratulating Dismas of Vermont on its 30th anniversary.

**H.C.R. 372.** House concurrent resolution congratulating the Montshire Museum in Norwich on the 40th anniversary of its opening.

**H.C.R. 373.** House concurrent resolution congratulating the Southwestern Vermont Medical Center for its award-winning renal care services.

**H.C.R. 374.** House concurrent resolution congratulating the Southwestern Vermont Medical Center on its receipt of a fourth Magnet recognition.

**H.C.R. 375.** House concurrent resolution honoring James Harrison of Chittenden for his exemplary leadership of the Vermont Retail & Grocers Association.

**H.C.R. 376.** House concurrent resolution honoring Gary Rutkowski for his 40 years of outstanding editorial leadership at the *St. Albans Messenger*.

**H.C.R. 377.** House concurrent resolution recognizing the economic vibrancy of the Northeast Kingdom.

**H.C.R. 378.** House concurrent resolution congratulating Rutland's United Neighborhoods Community Justice Center on its 15th anniversary.

#### **Remarks Journalized**

On motion of **Rep. Russell of Rutland City**, the following remarks by **Rep. Young of Glover** were ordered printed in the Journal:

"Mr. Speaker:

When I went to the memorial for my late college professor and debate coach last weekend I got to talking with another former debater that said that Tuna had told him that he wasn't going to die and that they were going to implant his brain in a robot.

Interestingly he had archived so much of his thinking on the Internet through debate manuals, through his radio shows, his television shows it seems like it might actually be true.

Tuna was a big Doctor Who fan and we were also talking about how it felt like that he was so far ahead of everyone it was like he was coming back from the future to tell us things.

So I thought I would start by sharing some of those thoughts of his that he had recorded and had traveled through time to share with us at his own memorial. Particularly the ones that I think are relevant to our work here.

He said:

"Thinking IS life. And time is the most important thing we have. Money comes and goes. Time just goes."

"There is no point in arguing if you aren't willing to change your mind. Agree and move on or disagree and move on, but just move on."

"The thing about being in a debate is that you put your views at risk."

"And then you might have to change your views and that's what we need to do."

"One shouldn't be afraid to change ones views, I believe its called education."

And I also wanted to offer you this little poem as something to reflect on as we enter into this final crazy week of session.

"If", by Rudyard Kipling

If you can keep your head when all about you  
Are losing theirs and blaming it on you,  
If you can trust yourself when all men doubt you,  
But make allowance for their doubting too;  
If you can wait and not be tired by waiting,  
Or being lied about, don't deal in lies,  
Or being hated, don't give way to hating,  
And yet don't look too good, nor talk too wise:

If you can dream—and not make dreams your master;  
If you can think—and not make thoughts your aim;

If you can meet with Triumph and Disaster  
And treat those two impostors just the same;  
If you can bear to hear the truth you've spoken  
Twisted by knaves to make a trap for fools,  
Or watch the things you gave your life to, broken,  
And stoop and build 'em up with worn-out tools:

If you can make one heap of all your winnings  
And risk it on one turn of pitch-and-toss,  
And lose, and start again at your beginnings  
And never breathe a word about your loss;  
If you can force your heart and nerve and sinew  
To serve your turn long after they are gone,  
And so hold on when there is nothing in you  
Except the Will which says to them: 'Hold on!'

If you can talk with crowds and keep your virtue,  
Or walk with Kings—nor lose the common touch,  
If neither foes nor loving friends can hurt you,  
If all men count with you, but none too much;  
If you can fill the unforgiving minute  
With sixty seconds' worth of distance run,  
Yours is the Earth and everything that's in it,  
And—which is more—you'll be a Man, my son!"

### **Third Reading; Bill Passed**

#### **H. 871**

House bill, entitled

An act relating to approval of amendments to the charter of the City of Montpelier

Was taken up, read the third time and passed.

### **Third Reading; Bills Passed in Concurrence With Proposals of Amendment**

Senate bills of the following titles were severally taken up, read the third time and passed in concurrence with proposals of amendment.

#### **S. 55**

Senate bill, entitled

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An act relating to creating a flat rate for Vermont's estate tax and creating an estate tax exclusion amount that matches the federal amount

**S. 123**

Senate bill, entitled

An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation

**S. 212**

Senate bill, entitled

An act relating to court-approved absences from home detention and home confinement furlough

**S. 250**

Senate bill, entitled

An act relating to alcoholic beverages

**S. 257**

Senate bill, entitled

An act relating to residential rental agreements.

**Committee of Conference Appointed**

**S. 224**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to warranty obligations of equipment dealers and suppliers

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Kitzmiller of Montpelier**

**Rep. Baser of Bristol**

**Rep. Carr of Brandon**

**Committee of Conference Appointed**

**H. 512**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on House bill, entitled

An act relating to adequate shelter of dogs and cats

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Bartholomew of Hartland**

**Rep. Lawrence of Lyndon**

**Rep. Eastman of Orwell**

**Bill Amended; Third Reading Ordered**

**H. 880**

**Rep. Lewis of Berlin**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of the adoption and codification of the charter of the Town of Bridport

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

**Sec. 1. CHARTER APPROVAL**

The General Assembly approves the adoption of and codifies the charter of the Town of Bridport as set forth in this act. The voters approved the charter on March 1, 2016.

Sec. 2. 24 App. V.S.A. chapter 107A is added to read:

CHAPTER 107A. TOWN OF BRIDPORT

Subchapter 1. Corporate Existence Retained

§ 1. CORPORATE EXISTENCE RETAINED

(a) Pursuant to the authority granted by the General Assembly, there is hereby enacted a charter to govern the organization and operation of local government in the Town of Bridport.

(b) The inhabitants of the Town of Bridport, within the geographical limits as now established, shall continue to be a municipal corporation by the name of the Town of Bridport.

Subchapter 2. General Provisions

§ 2. GENERAL PROVISIONS

(a) Except when changed, enlarged, or modified by the provisions of this chapter, all provisions of the statutes of the State relating to municipalities shall apply to the Town.

(b) The Town shall have all the powers granted to towns and municipal corporations by the Constitution and laws of the State and this chapter, together with all the implied powers necessary to carry into execution all the powers granted. The Town may enact ordinances not inconsistent with the Constitution of the State or this chapter, and impose penalties for violation thereof.

(c) In this chapter, any mention of a particular power shall not be construed to restrict the scope of the powers that the Town would have if the particular power were not mentioned, unless this chapter otherwise provides.

(d) Nothing in this chapter shall be construed to in any way limit the powers and functions conferred on the Town, the Selectboard, or its elected or appointed officers by general or special enactment of State statutes or rules in force or effect or hereafter enacted, and the powers and functions conferred by this chapter shall be cumulative and in addition to the provisions of the general or special enactment unless this chapter otherwise provides.

#### Subchapter 3. Appointed Officers

### § 3. APPOINTED OFFICERS

(a) In addition to all other offices that may be filled by appointment by the Selectboard pursuant to State law or this chapter, the Selectboard shall appoint the following Town officers, who shall serve for such terms as the Selectboard may establish in its act of appointment or until the office otherwise becomes vacant:

(1) A Town Treasurer who shall not simultaneously hold any elective office within Town government. The Town Treasurer shall:

(A) be open to the public at hours adopted by the Selectboard;

(B) be responsible for the collection of current taxes;

(C) perform duties as specified in the accounting and financial policies adopted by the Selectboard and required by State law; and

(D) make monthly reports to the Selectboard of the financial activities of the Town. These reports shall include:

(i) a listing of all expenditures during the preceding month;

(ii) a listing of all revenue received during the preceding month, including the source of these revenues;

(iii) an accounting of all reserve funds of the Town; and



(iv) a statement showing the balance in the general, highway, and all special funds at the end of the preceding month.

(2) A Town Clerk who shall not simultaneously hold any elective office within Town government. The Town Clerk shall:

(A) be open to the public at hours adopted by the Selectboard; and

(B) perform those duties adopted by the Selectboard and required by State law.

(b) The Selectboard shall adopt and revise, from time to time, a general statement of the qualifications necessary to perform the duties and responsibilities of each of these appointed Town offices and a job description of those offices. These appointed officers shall exercise all the powers and duties necessary to carry out the provisions of this chapter as well as those provided by State law generally.

(c) These appointed officers shall be employees of the Town, subject to all personnel and employment rules, regulations, and policies of the Town. An officer appointed hereunder shall be eligible to apply for reappointment at the expiration of his or her term of office, but failure by the Selectboard to make such reappointment shall not be construed as discharge from employment.

(d) A person appointed to the position of Town Treasurer or Town Clerk need not be a resident or voter of the Town.

#### Subchapter 4. Separability

#### § 4. SEPARABILITY

If any provision of this chapter is held invalid, the other provisions of the chapter shall not be affected thereby.

#### Sec. 3. TRANSITIONAL PROVISIONS

Notwithstanding the provisions of Sec. 2 of this act, 24 App. V.S.A. chapter 107A, § 3 (appointed officers) that provides that the office of Town Clerk and Town Treasurer shall be appointed by the Selectboard, an elected Town Clerk or Town Treasurer in office immediately prior to the effective date of that section may continue to hold that office for the remainder of his or her term and until a successor is appointed. At the end of the elected Town Clerk and Town Treasurer's term of office or, in the case of a vacancy in his or her office, the provisions of Sec. 2 of this act, 24 App. V.S.A. chapter 107A, § 3, shall apply.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Government Operations agreed to and third reading ordered.

**Proposal of Amendment Agreed to; Third Reading Ordered**

**S. 169**

**Rep. Connor of Fairfield**, for the committee on Agriculture and Forest Products, to which had been referred Senate bill, entitled

An act relating to the Rozo McLaughlin Farm-to-School Program

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Farm-to-School \* \* \*

Sec. 1. 6 V.S.A. chapter 211 is amended to read:

CHAPTER 211. THE ROZO MCLAUGHLIN  
FARM-TO-SCHOOL PROGRAM

§ 4719. PURPOSE AND STATE GOAL

(a) Purpose. It is the purpose of this chapter to establish a farm-to-school program to:

(1) encourage Vermont residents in developing healthy and lifelong habits of eating nutritious local foods;

(2) maximize use by Vermont schools of fresh and locally grown, produced, or processed food;

(3) work with partners to establish a food, farm, and nutrition education program that educates Vermont students regarding healthy eating habits through the use of educational materials, classes, and hands-on techniques that inform students of the connections between farming and the foods that students consume;

(4) increase the size and stability of direct sales markets available to farmers; and

(5) increase participation of Vermont students in school meal programs by increasing the selection of available foods.

(b) State Farm to School Network goal. It is the goal of the Farm-to-School Program to establish a food system that by 2025:

(1) engages 75 percent of Vermont schools in an integrated food system education program that incorporates community-based learning; and

(2) purchases 50 percent of food from local or regional food sources.

#### § 4720. DEFINITIONS

As used in this chapter, “Farm-to-School Program” means an integrated food, farm, and nutrition education program that utilizes community-based learning opportunities to connect schools with nearby farms to provide students with locally produced fresh fruits and vegetables, dairy and protein products, and other nutritious, locally produced foods in child nutrition programs; help children develop healthy eating habits; provide nutritional and agricultural education in the classroom, cafeteria, and school community; and improve farmers’ incomes and direct access to markets.

#### § 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont’s agricultural economy.

(b) A school, a school district, a consortium of schools, ~~or~~ a consortium of school districts, or licensed childcare providers may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in the ~~School Food Service~~ Nutrition Program;

(2) fund items, including local ~~farm~~ food products, gardening supplies, field trips to farms, gleanings on farms, and stipends to visiting farmers, that will help teachers to use hands-on educational techniques to teach children about nutrition and farm-to-school connections; and

(3) ~~provide fund~~ professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, school nutrition personnel, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools in developing a farm-to-school program.

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, ~~food service workers~~ school nutrition staff, and educators, and farm-to-school technical service providers jointly shall ~~jointly~~ adopt ~~rules~~ procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools ~~and~~ school districts and licensed child care providers that are developing farm-to-school connections and education that indicate a willingness to make changes to their school or childcare nutrition programs that increase student access and participation and that are making progress toward the implementation of the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, ~~dated November 2005~~ updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than \$15,000.00.

§ 4722. FARM ASSISTANCE; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Secretary of Agriculture, Food and Markets shall work with existing programs and organizations to develop and implement educational opportunities for farmers to help them to increase their markets through selling their products to schools, licensed child care providers, and State government agencies ~~and participating in the federal food commodities program, including the federal Department of Defense Fresh Program, and selling to regulated child care programs participating in the Adult and Child Food Program that operate or participate in child nutrition programs.~~

(b) ~~For the purposes of this section and section 4723 of this title, the Secretary may provide funds to one or more technical assistance providers to provide farm-to-school education and teacher training to more school districts and to assist the Secretaries of Agriculture, Food and Markets and of Education to carry out farmer and food service worker training.~~ The Secretary of Agriculture, Food and Markets shall work with distributors that sell products to schools, licensed child care providers, and State government agencies to increase the availability of local products.

§ 4723. PROFESSIONAL DEVELOPMENT FOR FOOD SERVICE PERSONNEL

(a) The Secretary of Education, in consultation with the Secretary of Agriculture, Food and Markets, the Commissioner of Health, and farm-to-school organizations and partners, shall offer ~~expanded regional training sessions~~ professional development opportunities for public school food service and child care personnel and child care resource development specialists ~~as funds are made available~~. Training shall include information about strategies for ~~purchasing~~ procuring, processing, and serving locally grown foods, especially with regard to federal procurement program requirements, as well as information about nutrition, obesity prevention, coping with severe food allergies, universal recycling, and food service operations. The Secretary of Education may use a portion of the funds appropriated for this training session to pay a portion of or all expenses for attendees and to develop manuals or other materials to help in the training.

(b) The Secretary of Education shall ~~train people as funds are made available to,~~ with existing programs and organizations, provide training related to procurement of local food and technical assistance to school food service and child care personnel and use a portion of the funds appropriated for this purpose to enable the trained people to provide technical assistance at the school and school district levels.

(c) Training provided under this section shall promote the policies established in the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agencies of Agriculture, Food and Markets and of Education and the Department of Health, ~~dated November 2005~~ updated in June 2015, or the guidelines' successor.

§ 4724. ~~LOCAL FOODS COORDINATOR~~ FOOD SYSTEMS ADMINISTRATOR

(a) The position of ~~local food coordinator~~ Food Systems Administrator is established in the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets for the purpose of assisting Vermont producers ~~to increase~~ in increasing their access to commercial markets and institutions, including schools, ~~state~~ licensed child care providers, State and municipal governments, and hospitals.

(b) The duties of the ~~local foods coordinator~~ Food Systems Administrator shall include:

(1) working with institutions, schools, licensed child care providers, distributors, producers, commercial markets, and others to create matchmaking

opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets, and coordinating with interested parties to access funding or create matchmaking opportunities across the supply chain that increase participation in those programs;

(3) encouraging and facilitating ~~the enrollment of state employees~~ State employee access and awareness of opportunities for purchasing local food, including: enrollment in a local community supported agriculture (CSA) organization, purchasing from local farm stands, and participation in a farmers' market;

(4) developing a database of producers and potential purchasers and enhancing the ~~agency's website~~ Agency and partners' ability to improve and support local foods coordination through the use of information technology; and

(5) providing technical support to local communities with their food security efforts.

(c) The ~~local foods coordinator~~ Food Systems Administrator, working with the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services pursuant to rules adopted under 29 V.S.A. § 152(14), shall:

(1) encourage and facilitate ~~CSA enrollment~~ awareness of and opportunities to procure healthy local foods by ~~state~~ State employees through the use of approved advertisements and solicitations on ~~state-owned~~ State-owned property; and

(2) implement guidelines for the appropriate use of ~~state~~ State property for employee participation in CSA organizations, including reasonable restrictions on the time, place, and manner of solicitations, advertisements, deliveries, and related activities to ensure the safety and welfare of ~~state~~ State property and its occupants.

(d) The ~~local foods coordinator~~ Food Systems Administrator shall administer a local foods grant program, the purpose of which shall be to provide grants to allow Vermont producers to increase their access to commercial and institutional markets.

Sec. 2. 16 V.S.A. § 559 is amended to read:

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§ 559. PUBLIC BIDS

(a) When the cost exceeds \$15,000.00. A school board or supervisory union board shall publicly advertise or invite three or more bids from persons deemed capable of providing items or services if costs are in excess of \$15,000.00 for any of the following:

(1) the construction, purchase, lease, or improvement of any school building;

(2) the purchase or lease of any item or items required for supply, equipment, maintenance, repair, or transportation of students; or

(3) a contract for transportation, maintenance, or repair services.

\* \* \*

(e) Application of this section. Any contract entered into or purchase made in violation of the provisions of this section shall be void; provided, however, that:

\* \* \*

(4) nothing in this section shall be construed to prohibit a school board from awarding a school nutrition contract after using any method of bidding or requests for proposals permitted under federal law for award of the contract. Notwithstanding the monetary amount in subsection (a) of this section for which a school board is required to advertise publicly or invite three or more bids or requests for proposal, a school board is required to publicly advertise or invite three or more bids or requests for proposal for purchases made from the nonprofit school food service account for purchases in excess of \$25,000.00, unless a municipality sets a lower threshold for purchases from the nonprofit school food service account;

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\* \* \* Shelter of Dogs and Cats \* \* \*

Sec. 3. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

(1) “Animal” means all living sentient creatures, not human beings.

\* \* \*

(11) “Livestock” means cattle, bison, horses, sheep, goats, swine, cervidae, ratites, and camelids.

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\* \* \*

(13) "Livestock and poultry husbandry practices" means the raising, management, and using of animals to provide humans with food, fiber, or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

\* \* \*

(15) "Living space" means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing and that provides protection from the elements. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) "Adequate food" means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted ~~agricultural or veterinarian~~ veterinary practices or livestock and poultry husbandry practices.

(17) "Adequate water" means ~~fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water~~ potable water that is either accessible to the animal at all times or is provided at suitable intervals for the species and in sufficient quantity for the health of the animal. In no event shall the interval when water is provided exceed 24 hours. Snow or ice is not an adequate water source unless provided in accordance with livestock and poultry husbandry practices.

(18) "Adequate shelter" means shelter ~~which~~ that protects the animal from injury and environmental hazards.

(19) "Enclosure" means any structure, fence, device, or other barrier used to restrict an animal or animals to a limited amount of space.

(20) "Livestock guardian dog" means a purpose-bred dog that is:



(A) specifically trained to live with livestock without causing them harm while repelling predators;

(B) being used to live with and guard livestock; and

(C) acclimated to local weather conditions.

Sec. 4. 13 V.S.A. § 365 is amended to read:

§ 365. SHELTER OF ANIMALS

(a) Adequate shelter. All livestock and animals ~~which that~~ are to be predominantly maintained ~~out of doors must~~ in an outdoor area shall be provided with adequate shelter to prevent direct exposure to the elements.

(b) Shelter for livestock.

(1) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained ~~out of doors in an outdoor area~~ shall be provided. The building opening size and height ~~must shall~~, at a minimum, extend one foot above the withers of the largest animal housed and ~~must shall~~ be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall, or stanchion ties, or other housing under control of the ~~department of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, livestock may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with livestock and poultry husbandry practices, and are provided sufficient food, water, shelter, and proper ventilation.

(c) Minimum size of living space; dogs and cats.

(1) A dog, ~~whether chained or penned,~~ shall be provided an adequate living space no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs that is large enough to allow the dog, in a normal manner, to turn about freely, stand, sit, and lie down. A dog shall be presumed to have adequate living space if provided with the floor space in square footage calculated according to the following formula: Floor space in square feet = (length of dog in inches + 6) × (length of dog in inches + 6)

÷ 144. The length of the dog in inches shall be measured from the tip of the nose of the dog to the base of its tail.

(2) The specifications required by subdivision (c)(1) of this section shall ~~apply to be required for~~ each dog, regardless of whether the dog is housed individually or with other animals.

(3)(A) A cat over the age of two months shall be provided adequate living space that is large enough to allow the cat, in a normal manner, to turn about freely, stand, sit, and lie down. A cat shall be presumed to have adequate living space if provided with:

(i) floor space, including raised resting platforms, of at least nine square feet; and

(ii) a primary structure of at least 24 inches in height.

(B) The requirements of this subdivision (c)(3) shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(4)(A) Each female dog with nursing puppies shall be provided the living space required under subdivision (1) of this subsection (c) plus sufficient additional floor space to allow for a whelping box and the litter, based on the size or the age of the puppies. When the puppies discontinue nursing, the living space requirements of subdivisions (1) and (2) of this subsection shall apply for all dogs housed in the same living space.

(B) Each female cat with nursing kittens shall be provided the living space required under subdivision (3) of this subsection (c) plus sufficient additional floor space to allow for a queening box and the litter, based on the size or the age of the kittens. When the kittens discontinue nursing, the living space requirements of subdivision (3) of this subsection shall apply for all cats housed in the same living space.

(5) Dogs or cats that are housed in the same primary living space or enclosure shall be compatible, as determined by observation, provided that:

(A) Females in heat (estrus) shall not be housed in the same primary living space or enclosure with males, except for breeding purposes.

(B) A dog or cat exhibiting a vicious or overly aggressive disposition shall be housed separately from other dogs or cats.

(6) All dogs or cats shall have access to adequate water and adequate food.

(d) Daily exercise; dogs or cats. A dog or cat confined in a living space shall be permitted outside the ~~eage, crate, or structure~~ living space for an

opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) Shelter for dogs maintained outdoors in enclosures.

(1) A ~~Except as provided in subdivision (2) of this subsection, a dog or dogs maintained out of doors must~~ outdoors in an enclosure shall be provided with suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain and other environmental hazards throughout the year a primary one or more shelter structure structures. A shelter structure shall:

(A) Provide each dog housed in the structure sufficient space to, in a normal manner, turn about freely, stand, sit, and lie down.

(B) Be structurally sound and constructed of suitable, durable material.

(C) Have four sides, a roof, and a ground or floor surface that enables the dog to stay clean and dry.

(D) Have an entrance or portal large enough to allow each dog housed in the shelter unimpeded access to the structure, and the entrance or portal shall be constructed with a windbreak or rainbreak.

(E) Provide adequate protection from cold and heat, including protection from the direct rays of the sun and the direct effect of wind, rain, or snow. Shivering due to cold is evidence of inadequate shelter for any dog.

(F) Contain clean, dry bedding material if the ambient temperature is below 50 degrees Fahrenheit.

(2) A shelter structure is not required for a healthy livestock guardian dog that is maintained outdoors in an enclosure.

(3) If multiple dogs are maintained outdoors in an enclosure at one time:

(A) Each dog will be provided with an individual structure, or the structure or structures provided shall be cumulatively large enough to contain all of the dogs at one time.

(B) A shelter structure shall be accessible to each dog in the enclosure.

(4) The following categories of dogs shall not be maintained outdoors in an enclosure when the ambient temperature is below 50 degrees Fahrenheit:

(A) dogs that are not acclimated to the temperatures prevalent in the area or region where they are maintained;

(B) dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort; and

(C) sick or infirm dogs or dogs that cannot regulate their own body temperature.

(5) Metal barrels, cars, refrigerators, freezers, and similar objects shall not be used as a shelter structure for a dog maintained in an outdoor enclosure.

(6) In addition to the shelter structure, one or more separate outdoor areas of shade shall be provided, large enough to contain all the animals and protect them from the direct rays of the sun.

(f) Tethering of dog.

(1) A ~~Except as provided under subdivision (2) of this subsection, a dog chained to a shelter must~~ maintained outdoors on a tether shall be on a tether chain or trolley and cable system that is, in its entirety, at least four times the length of the dog as measured from the tip of its nose to the base of its tail, and shall allow the dog access to the shelter.

(2) A dog regularly used in training or participation in competitive or recreational sled dog activities and housed outdoors in close proximity with other dogs may, if necessary for the safety of the dog, be maintained on a tether at least two times the length of the dog, as measured from the tip of its nose to the base of its tail.

(3) A tether used for any dog shall be attached to both the dog and the anchor using swivels or similar devices that prevent the tether from becoming entangled or twisted. The tether shall be attached to a well-fitted collar or harness on the dog. The tether shall be of a size and weight that will not cause discomfort to a tethered dog. A choke collar shall not be used as part of a tethering method. The tether system shall function properly regardless of snow depth.

(g) ~~A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals. [Repealed.]~~

~~(h) Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter, and proper ventilation. [Repealed.]~~

(i) Violations. Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

~~(j) Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out of doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices. [Repealed.]~~

\* \* \* State Vegetable \* \* \*

Sec. 5. 1 V.S.A. § 519 is added to read:

§ 519. STATE VEGETABLE

The State Vegetable shall be the Gilfeather turnip.

\* \* \* Effective Date \* \* \*

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

and that after passage the title of the bill be amended to read: “An act relating to miscellaneous agricultural subjects”

**Rep. Feltus of Lyndon**, for the committee on Appropriations, recommended that the House propose to the Senate to amend the bill as recommended by the committee on Agriculture and Forest Products, and when further amended as follows:

In Sec. 1, in 6 V.S.A. § 4721, in subsection (a), after “Rozo McLaughlin Farm-to-School Program to” and before “award local grants for” by inserting “execute, operate, and”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committees on Agriculture and Forest Products and Appropriations agreed to and third reading ordered.

**Proposal of Amendment Agreed to; Third Reading Ordered**

**S. 245**

**Rep. Pearson of Burlington**, for the committee on Health Care, to which had been referred Senate bill, entitled

An act relating to notice to patients of new health care provider affiliations

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. GREEN MOUNTAIN CARE BOARD; NOTICE TO PATIENTS OF NEW AFFILIATION

The Green Mountain Care Board shall maintain a policy for reviewing new physician acquisitions and transfers as part of the Board's hospital budget review responsibilities. The policy shall require hospitals to provide written notice about a new acquisition or transfer of health care providers to each patient served by an acquired or transferred health care provider, including:

(1) notifying the patient that the health care provider is now affiliated with the hospital;

(2) providing the hospital's name and contact information;

(3) notifying the patient that the change in affiliation may affect his or her out-of-pocket costs, depending on the patient's health insurance plan and the services provided; and

(4) recommending that the patient contact his or her insurance company with specific questions or to determine his or her actual financial liability.

Sec. 2. 18 V.S.A. § 9405c is added to read:

§ 9405c. NOTICE OF ACQUISITION

(a) As used in this section:

(1) "Acquire" means a purchase or transfer through which a hospital will own or control the business of a medical practice.

(2) "Hospital" means a general hospital or hospital facility licensed under chapter 43 of this title.

(3) "Medical practice" means a business through which one or more physicians practice medicine.

(b) Each hospital shall provide notice to the Office of the Attorney General at least 90 days or as soon as practicable prior to the effective date of a transaction through which the hospital will acquire a medical practice. The notice shall include at least the following information:

(1) the name and address of the hospital acquiring the medical practice and contact information for a representative of the hospital; and

(2) the name and address of the medical practice being acquired and contact information for a representative of the medical practice.

(c) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public Records Act and shall be kept confidential except to the extent necessary to allow the Office to perform an inquiry into potentially anticompetitive practices.

### Sec. 3. REDUCING PAYMENT DIFFERENTIALS; GUIDANCE AND IMPLEMENTATION; REPORT

(a) On or before July 15, 2016, the Green Mountain Care Board shall provide to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance a copy of each implementation plan for providing fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, as required to be developed by health insurers pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b).

(b) No later than 30 days following the Board's review of each implementation plan pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b) but in no event later than December 1, 2016, the Board shall report to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance on its progress toward achieving fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, without increasing health insurance premiums or public funding of health care, as required by 2015 Acts and Resolves No. 54, Sec. 23(b).

### Sec. 4. EFFECTIVE DATES

(a) Secs. 1 (notice to patients) and 2 (notice to Attorney General) shall take effect on July 1, 2016.

(b) Sec. 3 (Green Mountain Care Board reports) and this section shall take effect on passage.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and the recommendation of proposal of amendment agreed to and third reading ordered.

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**Favorable Report; Third Reading Ordered****H. 883**

**Rep. Lewis of Berlin**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the City of Winooski

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Favorable Report; Third Reading Ordered****H. 887**

**Rep. Lewis of Berlin**, for the committee on Government Operations, to which had been referred House bill, entitled

An act relating to approval of amendments to the charter of the Village of Barton

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**Rules Suspended; Bill Read Third Reading and Passed;  
Rules Suspended and Bill Ordered Messaged to the Senate Forthwith****H. 883**

House bill, entitled

An act relating to approval of amendments to the charter of the City of Winooski

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill placed on all remaining stages of passage.

Thereupon, the bill was read the third time and passed.

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Rules Suspended; Bill Read Third Time and Passed;  
Rules Suspended and the Bill Ordered Messaged to the Senate Forthwith****H. 880**

House bill, entitled



An act relating to approval of the adoption and codification of the charter of the Town of Bridport;

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill placed on all remaining stages of passage.

Thereupon, the bill was read the third time and passed.

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Rules Suspended; Bill Read Third Time and Passed;  
Rules Suspended and Bill Ordered Messaged to the Senate Forthwith**

**H. 887**

House bill, entitled

An act relating to approval of amendments to the charter of the Village of Barton

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill placed on all remaining stages of passage.

Thereupon, the bill was read the third time and passed.

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Proposal of Amendment Agreed to; Third Reading Ordered;  
Rules Suspended; Bill Read Third Time and Passed in Concurrence  
with Proposal of Amendment; Rules Suspended and the Bill was  
Messaged to the Senate Forthwith**

**S. 243**

**Rep. Pugh of South Burlington**, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to combating opioid abuse in Vermont

Reported in favor of its passage in concurrence with proposal of amendment as follows:

By striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Vermont Prescription Monitoring System \* \* \*

Sec. 1. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

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\* \* \*

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

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

\* \* \*

Sec. 2. 18 V.S.A. § 4289 is amended to read:

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

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of acute pain, chronic pain, and for other medical conditions to be determined by the licensing authority. The standards developed by the licensing authorities shall be consistent with rules adopted by the Department of Health. The licensing authorities shall submit their standards to the Commissioner of Health, who shall review for consistency across health care providers and notify the applicable licensing authority of any inconsistencies identified.

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

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the Commissioner of Health shall notify the applicable licensing authority and the provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

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

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

~~(d) Health~~ Except in the event of electronic or technological failure, health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

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

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

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

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

(d)(1) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS.

(2) Except in the event of electronic or technological failure, dispensers shall query the VPMS in accordance with rules adopted by the Commissioner of Health.

(3) Pharmacies and other dispensers shall report each dispensed prescription for a Schedule II, III, or IV controlled substance to the VPMS within 24 hours or one business day after dispensing.

(e) The Commissioner of Health shall, after consultation with the ~~Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

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

~~(1) query the VPMS; and~~

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

(g) Each professional licensing authority for health care providers and dispensers shall consider the statutory requirements, rules, and standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

\* \* \* Rulemaking \* \* \*

Sec. 2a. PRESCRIBING OPIOIDS FOR ACUTE AND CHRONIC PAIN;

RULEMAKING

(a) The Commissioner of Health, after consultation with the Controlled Substances and Pain Management Advisory Council, shall adopt rules governing the prescription of opioids. The rules may include numeric and temporal limitations on the number of pills prescribed, including a maximum number of pills to be prescribed following minor medical procedures, consistent with evidence-informed best practices for effective pain management. The rules may require the contemporaneous prescription of naloxone in certain circumstances, and shall require informed consent for patients that explains the risks associated with taking opioids, including addiction, physical dependence, side effects, tolerance, overdose, and death. The rules shall also require prescribers prescribing opioids to patients to provide information concerning the safe storage and disposal of controlled substances.

(b) The Commissioner of Health, after consultation with the Board of Pharmacy, retail pharmacists, and the Controlled Substances and Pain Management Advisory Council, shall adopt rules regarding the circumstances in which dispensers shall query the Vermont Prescription Monitoring System, which shall include:

(1) prior to dispensing a prescription for a Schedule II, III, or IV opioid controlled substance to a patient who is new to the pharmacy;

(2) when an individual pays cash for a prescription for a Schedule II, III, or IV opioid controlled substance when the individual has prescription drug coverage on file;

(3) when a patient requests a refill of a prescription for a Schedule II, III, or IV opioid controlled substance substantially in advance of when a refill would ordinarily be due;

(4) when the dispenser is aware that the patient is being prescribed Schedule II, III, or IV opioid controlled substances by more than one prescriber; and

(5) an exception for a hospital-based dispenser dispensing a quantity of a Schedule II, III, or IV opioid controlled substance that is sufficient to treat a patient for 48 hours or fewer.

\* \* \* Expanding Access to Substance Abuse Treatment  
with Buprenorphine \* \* \*

Sec. 3. 18 V.S.A. chapter 93 is amended to read:

#### CHAPTER 93. TREATMENT OF OPIOID ADDICTION

##### § 4751. PURPOSE

It is the purpose of this chapter to authorize the ~~department of health~~ Departments of Health and of Vermont Health Access to establish a regional system of opioid addiction treatment.

##### § 4752. OPIOID ADDICTION TREATMENT SYSTEM

(a) The ~~department of health~~ Departments of Health and of Vermont Health Access shall establish by rule a regional system of opioid addiction treatment.

\* \* \*

~~(c) No later than January 15 of each year from 2013 through 2016, inclusive, the commissioner shall report to the house committees on human services and on health care and the senate committee on health and welfare regarding the regional system of opioid addiction treatment, including the system's effectiveness. [Repealed.]~~

\* \* \*

##### § 4753. CARE COORDINATION

Prescribing physicians and collaborating health care and addictions professionals may coordinate care for patients receiving medication-assisted treatment for substance use disorder, which may include monitoring adherence to treatment, coordinating access to recovery supports, and providing counseling, contingency management, and case management services.

Sec. 4. 8 V.S.A. § 4100k is amended to read:

##### § 4100k. COVERAGE OF TELEMEDICINE SERVICES

\* \* \*

(g) In order to facilitate the use of telemedicine in treating substance use disorder, health insurers and the Department of Vermont Health Access shall ensure that both the treating clinician and the hosting facility are reimbursed

for the services rendered, unless the health care providers at both the host and service sites are employed by the same entity.

(h) As used in this subchapter:

\* \* \*

\* \* \* Expanding Role of Pharmacies and Pharmacists \* \* \*

Sec. 5. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

\* \* \*

(14)(A) “Practice of pharmacy” means:

(i) the interpretation and evaluation of prescription orders;

(ii) the compounding, dispensing, and labeling of drugs and legend devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and legend devices);

(iii) the participation in drug selection and drug utilization reviews;

(iv) the proper and safe storage of drugs and legend devices and the maintenance of proper records therefor;

(v) the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and legend devices; ~~and~~

(vi) the providing of patient care services within the pharmacist’s authorized scope of practice;

(vii) the optimizing of drug therapy through the practice of clinical pharmacy; and

(viii) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

(B) “Practice of clinical pharmacy” means:

(i) the health science discipline in which, in conjunction with the patient’s other practitioners, a pharmacist provides patient care to optimize

medication therapy and to promote disease prevention and the patient's health and wellness;

(ii) the provision of patient care services within the pharmacist's authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; or

(iii) the practice of pharmacy by a pharmacist pursuant to a collaborative practice agreement.

(C) A rule shall not be adopted by the Board under this chapter that shall require the sale and distribution of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise interfere with the sale and distribution of such medicines.

\* \* \*

(19) "Collaborative practice agreement" means a written agreement between a pharmacist and a health care facility or prescribing practitioner that permits the pharmacist to engage in the practice of clinical pharmacy for the benefit of the facility's or practitioner's patients.

Sec. 6. 26 V.S.A. § 2023 is added to read:

§ 2023. CLINICAL PHARMACY

In accordance with rules adopted by the Board, a pharmacist may engage in the practice of clinical pharmacy.

Sec. 7. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

~~(a) A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.~~

~~(b)~~ As used in this section:

(1) ~~"Health insurer" is defined by~~ shall have the same meaning as in 18 V.S.A. § 9402 and shall also include Medicaid and any other public health care assistance program.

(2) ~~"Pharmacy benefit manager" means an entity that performs pharmacy benefit management. "Pharmacy benefit management" means an arrangement for the procurement of prescription drugs at negotiated dispensing~~

rates, the administration or management of prescription drug benefits provided by a health insurance plan for the benefit of beneficiaries, or any of the following services provided with regard to the administration of pharmacy benefits:

- (A) mail service pharmacy;
- (B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;
- (C) clinical formulary development and management services;
- (D) rebate contracting and administration;
- (E) certain patient compliance, therapeutic intervention, and generic substitution programs; and
- (F) disease management programs.

(3) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement.

(b) A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.

(c) ~~This section shall apply to Medicaid and any other public health care assistance program.~~ Notwithstanding any provision of a health insurance plan to the contrary, if a health insurance plan provides for payment or reimbursement that is within the lawful scope of practice of a pharmacist, the insurer may provide payment or reimbursement for the service when the service is provided by a pharmacist.

## Sec. 8. ROLE OF PHARMACIES IN PREVENTING OPIOID ABUSE;

### REPORT

(a) The Department of Health, in consultation with the Board of Pharmacy, pharmacists, prescribing health care practitioners, health insurers, pharmacy benefit managers, and other interested stakeholders shall consider the role of pharmacies in preventing opioid misuse, abuse, and diversion. The Department's evaluation shall include a consideration of whether, under what circumstances, and in what amount pharmacists should be reimbursed for counting or otherwise evaluating the quantity of pills, films, patches, and



solutions of opioid controlled substances prescribed by a health care provider to his or her patients.

(b) On or before January 15, 2017, the Department shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare its findings and recommendations with respect to the appropriate role of pharmacies in preventing opioid misuse, abuse, and diversion.

\* \* \* Continuing Medical Education \* \* \*

#### Sec. 9. CONTINUING EDUCATION

(a) All physicians, osteopathic physicians, dentists, pharmacists, advanced practice registered nurses, optometrists, and naturopathic physicians with a registration number from the U.S. Drug Enforcement Administration (DEA), who have a pending application for a DEA number, or who dispense controlled substances shall complete a total of at least two hours of continuing education for each licensing period beginning on or after July 1, 2016 on the topics of the abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances.

(b) The Department of Health shall consult with the Board of Veterinary Medicine and the Agency of Agriculture, Food and Markets to develop recommendations regarding appropriate safe prescribing and disposal of controlled substances prescribed by veterinarians for animals and dispensed to their owners, as well as appropriate continuing education for veterinarians on the topics described in subsection (a) of this section. On or before January 15, 2017, the Department shall report its findings and recommendations to the House Committees on Agriculture and Forest Products and on Human Services and the Senate Committees on Agriculture and on Health and Welfare.

\* \* \* Medical Education Core Competencies \* \* \*

#### Sec. 10. MEDICAL EDUCATION CORE COMPETENCIES;

##### PREVENTION AND MANAGEMENT OF PRESCRIPTION DRUG MISUSE

The Commissioner of Health shall convene medical educators and other stakeholders to develop appropriate curricular interventions and innovations to

ensure that students in medical education programs have access to certain core competencies related to safe prescribing practices and to screening, prevention, and intervention for cases of prescription drug misuse and abuse. The goal of the core competencies shall be to support future health care professionals over the course of their medical education to develop skills and a foundational knowledge in the prevention of prescription drug misuse. These competencies should be clear baseline standards for preventing prescription drug misuse, treating patients at risk for substance use disorders, and managing substance use disorders as a chronic disease, as well as developing knowledge in the areas of screening, evaluation, treatment planning, and supportive recovery.

\* \* \* Community Grant Program for Opioid Prevention \* \* \*

#### Sec. 11. REGIONAL PREVENTION PARTNERSHIPS

The Department of Health shall establish a community grant program for the purpose of supporting local opioid prevention strategies. This program shall support evidence-based approaches and shall be based on a comprehensive community plan, including community education and initiatives designed to increase awareness or implement local programs, or both. Partnerships involving schools, local government, and hospitals shall receive priority.

\* \* \* Pharmaceutical Manufacturer Fee \* \* \*

Sec. 12. 33 V.S.A. § 2004 is amended to read:

#### § 2004. MANUFACTURER FEE

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be ~~0.5~~ 1.5 percent of the previous calendar year's prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities; the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; statewide unused prescription drug disposal initiatives; prevention of prescription drug misuse, abuse, and diversion; treatment of substance use

disorder; exploration of nonpharmacological approaches to pain management; a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; the purchase and distribution of naloxone to emergency medical services personnel; and any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. The fees shall be collected in the Evidence-Based Education and Advertising Fund established in section 2004a of this title.

(c) The Secretary of Human Services or designee shall make rules for the implementation of this section.

(d) A pharmaceutical manufacturer that fails to pay a fee as required under this section shall be assessed penalties and interest in the same amounts and under the same terms as apply to late payment of income taxes pursuant to 32 V.S.A. chapter 151. The Department shall maintain on its website a list of the manufacturers who have failed to provide timely payment as required under this section.

Sec. 13. 33 V.S.A. § 2004a(a) is amended to read:

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities; for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2; for statewide unused prescription drug disposal initiatives; for the prevention of prescription drug misuse, abuse, and diversion; for treatment of substance use disorder; for exploration of nonpharmacological approaches to pain management; for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; for the purchase and distribution of naloxone to emergency medical services personnel; and for the support of any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

\* \* \* Controlled Substances and Pain Management Advisory Council \* \* \*

Sec. 14. 18 V.S.A. § 4255 is added to read:

§ 4255. CONTROLLED SUBSTANCES AND PAIN MANAGEMENT

ADVISORY COUNCIL

(a) There is hereby created a Controlled Substances and Pain Management Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The Controlled Substances and Pain Management Advisory Council shall consist of the following members:

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

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

(C) the Commissioner of Mental Health or designee;

(D) the Commissioner of Public Safety or designee;

(E) the Commissioner of Labor or designee;

(F) the Vermont Attorney General or designee;

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

(H) the Medical Director of the Department of Vermont Health Access;

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

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

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

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

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

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

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

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

(Q) a representative from the Vermont Association of Naturopathic Physicians, who shall be a naturopathic physician;

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

(S) a representative of the Vermont Ethics Network;

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

(U) a representative of the Office of the Health Care Advocate;

(V) a representative of health insurers, to be selected by the three health insurers with the most covered lives in Vermont;

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

(X) a clinician who specializes in occupational medicine, to be selected by the Commissioner of Health;

(Y) a clinician who specializes in physical medicine and rehabilitation, to be selected by the Commissioner of Health;

(Z) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse who has clinical experience that includes working with patients who are experiencing acute or chronic pain;

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

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

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

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

(EE) an advanced practice registered nurse full-time faculty member from the University of Vermont's College of Nursing and Health Sciences with a current clinical practice that includes caring for patients with acute or chronic pain;

(FF) a licensed acupuncturist with experience in pain management, to be selected by the Vermont Acupuncture Association;

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

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

(II) a consumer representative who is or has been an injured worker and has been prescribed opioids.

(2) In addition to the members appointed pursuant to subdivision (1) of this subsection (b), the Council shall consult with the Opioid Prescribing Task Force, specialists, and other individuals as appropriate to the topic under consideration.

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

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion.

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

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

acute pain and chronic noncancer pain; the appropriate use of the Vermont Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion, after seeking the advice of the Council.

\* \* \* Unused Prescription Drug Disposal Program \* \* \*

Sec. 14a. 18 V.S.A. § 4224 is added to read:

§ 4224. UNUSED PRESCRIPTION DRUG DISPOSAL PROGRAM

The Department of Health shall establish and maintain a statewide unused prescription drug disposal program to provide for the safe disposal of Vermont residents' unused and unwanted prescription drugs. The program may include establishing secure collection and disposal sites and providing medication envelopes for sending unused prescription drugs to an authorized collection facility for destruction.

\* \* \* Acupuncture \* \* \*

Sec. 15. INSURANCE COVERAGE FOR ACUPUNCTURE; REPORT

Each nonprofit hospital and medical service corporation licensed to do business in this State pursuant to both 8 V.S.A. chapters 123 and 125 and providing coverage for pain management shall evaluate the evidence supporting the use of acupuncture as a modality for treating and managing pain in its enrollees, including the experience of other states in which covered by health insurance plans. On or before January 15, 2017, each such corporation shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare its assessment of whether its insurance plans should provide coverage for acupuncture when used to treat or manage pain.

Sec. 15a. ACUPUNCTURE; MEDICAID PILOT PROJECT

(a) The Department of Vermont Health Access shall develop a pilot project to offer acupuncture services to Medicaid-eligible Vermonters with a diagnosis of chronic pain. The project would provide acupuncture services for a defined period of time to determine if acupuncture treatment as an alternative or adjunctive to prescribing opioids is as effective or more effective than opioids alone for returning individuals to social, occupational, and psychological function. The project shall include:

(1) an advisory group of pain management specialists and acupuncture providers familiar with the current science on evidence-based use of acupuncture to treat or manage chronic pain;

(2) specific patient eligibility requirements regarding the specific cause or site of chronic pain for which the evidence indicates acupuncture may be an appropriate treatment; and

(3) input and involvement from the Department of Health to promote consistency with other State policy initiatives designed to reduce the reliance on opioid medications in treating or managing chronic pain.

(b) On or before January 15, 2017, the Department of Vermont Health Access, in consultation with the Department of Health, shall provide a progress report on the pilot project to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare that includes an implementation plan for the pilot project described in this section. In addition, the Departments shall consider any appropriate role for acupuncture in treating substance use disorder, including consulting with health care providers using acupuncture in this manner, and shall make recommendations in the progress report regarding the use of acupuncture in treating Medicaid beneficiaries with substance use disorder.

\* \* \* Health Department Position \* \* \*

#### Sec. 16. HEALTH DEPARTMENT; POSITION

One new permanent classified position—a substance abuse program manager—is authorized in the Department of Health in order to coordinate a secure prescription drug collection and disposal program as part of the unused prescription drug disposal program established pursuant to Sec. 14a of this act. The position shall be transferred and converted from an existing vacant position in the Executive Branch of State government.

\* \* \* Appropriations \* \* \*

#### Sec. 17. APPROPRIATIONS

(a) The sum of \$250,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of funding the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, including evidence-based information about safe prescribing of controlled substances and alternatives to opioids for treating pain.

(b) The sum of \$625,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of funding statewide unused prescription drug disposal initiatives, of which \$100,000.00 shall be used for a secure prescription drug collection and disposal program and the program manager established by Sec.



16 of this act, \$50,000.00 shall be used for unused medication envelopes for a mail-back program, \$225,000.00 shall be used for a public information campaign on the safe disposal of controlled substances, and \$250,000.00 shall be used for a public information campaign on the responsible use of prescription drugs.

(c) The sum of \$150,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of purchasing and distributing opioid antagonist rescue kits.

(d) The sum of \$250,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of establishing a hospital antimicrobial program to reduce hospital-acquired infections.

(e) The sum of \$32,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of purchasing and distributing naloxone to emergency medical services personnel throughout the State.

(f) The sum of \$200,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Vermont Health Access in fiscal year 2017 for the purpose of exploring nonpharmacological approaches to pain management by implementing the pilot project established in Sec. 15a of this act to evaluate the use of acupuncture in treating chronic pain in Medicaid beneficiaries.

#### Sec. 18. REPEAL

2013 Acts and Resolves No. 75, Sec. 14, as amended by 2014 Acts and Resolves No. 199, Sec. 60 (Unified Pain Management System Advisory Council), is repealed.

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

#### Sec. 19. EFFECTIVE DATES

(a) Secs. 1–2 (VPMS), 3 (opioid addiction treatment care coordination), 4 (telemedicine), 13 (use of Evidence-Based Education and Advertising Fund), 14 (Controlled Substances and Pain Management Advisory Council), 16 (Health Department position), 17 (appropriations), and 18 (repeal) shall take effect on July 1, 2016, except that in Sec. 2, 18 V.S.A. § 4289(f)(2) (dispenser reporting to VPMS) shall take effect 30 days following notice and a determination by the Commissioner of Health that daily reporting is practicable.

(b) Secs. 2a (rulemaking), 5–7 (clinical pharmacy), 8 (role of pharmacies; report), 10 (medical education), 11 (regional partnerships), 14a (unused drug disposal program), 15–15a (acupuncture studies), and this section shall take effect on passage.

(c) Sec. 9 (continuing education) shall take effect on July 1, 2016 and shall apply beginning with licensing periods beginning on or after that date.

(d) Notwithstanding 1 V.S.A. § 214, Sec. 12 (manufacturer fee) shall take effect on passage and shall apply retroactive to January 1, 2016.

**Rep. Till of Jericho**, for the committee on Ways and Means, recommended that the bill ought to pass in concurrence with proposal of amendment as recommended by the committee on Human Services, and when further amended as follows:

First: In Sec. 9, continuing education, in subsection (a), following “medication tapering”, by inserting before the semicolon “and cessation of the use of controlled substances”

Second: In Sec. 10, medical education core competencies; prevention and management of prescription drug misuse, by striking out “medical education programs”, and inserting in lieu thereof “undergraduate and graduate medical education and dental and pharmacy residency programs”

**Rep. Keenan of St. Albans City**, for the committee on Appropriations, recommended that the bill ought to pass in concurrence with proposal of amendment as recommended by the committees on Human Services and Ways and Means and when further amended as follows:

First: In Sec. 12, 33 V.S.A. § 2004, by striking out the first sentence of subsection (d) in its entirety

Second: In Sec. 15a, acupuncture; Medicaid pilot project, by striking out the second sentence of subsection (a) in its entirety and inserting in lieu thereof the following: “The project shall offer acupuncture services for a defined period of time as an alternative or adjunctive to prescribing opioids and shall assess the benefits of acupuncture treatment in returning individuals to social, occupational, and psychological function.”

Third: In Sec. 19, effective dates, in subsection (a), by striking out “18 V.S.A. § 4289(f)(2)” and inserting in lieu thereof “18 V.S.A. § 4289(d)(3)”

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, and the report of the committees Ways and Means and Appropriations were agreed to.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Human Services, as amended? **Rep. McCullough of Williston** moved to further amend the report of the committee on Human Services, as amended, as follows:

In Sec. 15, insurance coverage for acupuncture; report, by striking out the title of the section, “insurance coverage for acupuncture; report”, and inserting in lieu thereof “complementary and alternative medicine”, by designating the existing language to be subsection (a), and by adding a subsection (b) to read as follows:

(b) The Green Mountain Care Board shall consider the use of nonpharmacological approaches to treating chronic pain and substance use disorder, including the use of complementary and alternative medicine, in lieu of or as a complement to a lower dose of a prescription drug. In its consideration, the Board shall review relevant studies published in peer-reviewed scientific journals and other evidence-based materials and may consult with interested stakeholders and others knowledgeable about the use of complementary and alternative medicine and its application in treating chronic pain or substance use disorder, or both.

Thereupon, **Rep. McCullough of Williston** asked and granted leave of the House to withdraw his amendment.

Thereupon, the recommendation of proposal of amendment offered by the committee on Human Services, as amended, was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Krowinski of Burlington** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 146. Nays, 0.

Those who voted in the affirmative are:

Ancel of Calais	Briglin of Thetford	Condon of Colchester
Bancroft of Westford	Browning of Arlington	Connor of Fairfield
Bartholomew of Hartland	Burditt of West Rutland	Conquest of Newbury
Baser of Bristol	Burke of Brattleboro	Copeland-Hanzas of
Batchelor of Derby	Buxton of Tunbridge	Bradford
Beck of St. Johnsbury	Canfield of Fair Haven	Corcoran of Bennington
Berry of Manchester	Carr of Brandon	Cupoli of Rutland City
Beyor of Highgate	Chesnut-Tangerman of	Dakin of Chester
Bissonnette of Winooski	Middletown Springs	Dakin of Colchester
Botzow of Pownal	Christie of Hartford	Dame of Essex
Branagan of Georgia	Clarkson of Woodstock	Davis of Washington
Brennan of Colchester	Cole of Burlington	Deen of Westminster

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Devereux of Mount Holly	Krowinski of Burlington	Pugh of South Burlington
Dickinson of St. Albans Town	LaClair of Barre Town	Purvis of Colchester
Donahue of Northfield	Lalonde of South Burlington	Rachelson of Burlington
Donovan of Burlington	Lanpher of Vergennes	Ram of Burlington
Eastman of Orwell	Lawrence of Lyndon	Russell of Rutland City *
Emmons of Springfield	Lefebvre of Newark	Ryerson of Randolph
Evans of Essex	Lenes of Shelburne	Savage of Swanton
Fagan of Rutland City	Lewis of Berlin	Scheuermann of Stowe
Feltus of Lyndon	Lippert of Hinesburg	Sharpe of Bristol
Fields of Bennington	Long of Newfane	Shaw of Pittsford
Fiske of Enosburgh	Lucke of Hartford	Sheldon of Middlebury
Forguites of Springfield	Macaig of Williston	Sibilia of Dover
Frank of Underhill	Manwaring of Wilmington	Smith of New Haven
French of Randolph	Marcotte of Coventry	Stevens of Waterbury
Gage of Rutland City	Martel of Waterford	Strong of Albany
Gamache of Swanton	Martin of Wolcott	Stuart of Brattleboro
Gonzalez of Winooski	Masland of Thetford	Sullivan of Burlington
Grad of Moretown	McCormack of Burlington	Sweaney of Windsor
Graham of Williamstown	McCoy of Poultney	Tate of Mendon
Greshin of Warren	McCullough of Williston	Terenzini of Rutland Town
Haas of Rochester	McFaun of Barre Town	Till of Jericho
Head of South Burlington	Miller of Shaftsbury	Toleno of Brattleboro
Hebert of Vernon	Morris of Bennington	Toll of Danville
Helm of Fair Haven	Morrissey of Bennington	Townsend of South Burlington
Higley of Lowell	Mrowicki of Putney	Trieber of Rockingham
Hooper of Montpelier	Murphy of Fairfax	Troiano of Stannard
Hubert of Milton	Myers of Essex	Van Wyck of Ferrisburgh
Huntley of Cavendish	Nuovo of Middlebury	Viens of Newport City
Jerman of Essex	O'Brien of Richmond	Walz of Barre City
Jewett of Ripton	Olsen of Londonderry	Webb of Shelburne
Johnson of South Hero	O'Sullivan of Burlington	Willhoit of St. Johnsbury
Juskiewicz of Cambridge	Parent of St. Albans Town	Wood of Waterbury
Keenan of St. Albans City	Partridge of Windham	Woodward of Johnson
Kitzmiller of Montpelier	Patt of Worcester	Wright of Burlington
Klein of East Montpelier	Pearce of Richford	Yantachka of Charlotte
Komline of Dorset	Pearson of Burlington	Young of Glover
Krebs of South Hero	Poirier of Barre City	Zagar of Barnard
	Potter of Clarendon	

Those who voted in the negative are: none

Those members absent with leave of the House and not voting are:

Quimby of Concord

Shaw of Derby

Turner of Milton

**Rep. Russell of Rutland City** explained his vote as follows:

“Mr. Speaker:

I thank the committee on their work of vital importance to my city of Rutland and other cities and town across Vermont. I vote yes!”

On motion of **Rep. Savage of Swanton**, the rules were suspended and the bill placed on all remaining stages of passage in concurrence with proposal of amendment. The bill was read the third time and passed in concurrence with proposal of amendment and, on motion of **Rep. Savage of Swanton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

**Message from the Senate No. 54**

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Mr. Speaker:

I am directed to inform the House that:

The Senate has considered a bill originating in the House of the following title:

**H. 863.** An act relating to making miscellaneous amendments to Vermont’s retirement laws.

And has passed the same in concurrence.

The Senate has considered bills originating in the House of the following titles:

**H. 518.** An act relating to the membership of the Clean Water Fund Board.

**H. 571.** An act relating to driver’s license suspensions, driving with a suspended license, and DUI penalties.

**H. 620.** An act relating to health insurance and Medicaid coverage for contraceptives.

**H. 859.** An act relating to special education.

**H. 868.** An act relating to miscellaneous economic development provisions.

**H. 877.** An act relating to transportation funding.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bills of the following titles:

**H. 761.** An act relating to cataloguing and aligning health care performance measures.

**H. 845.** An act relating to legislative review of certain report requirements.  
And has concurred therein.

**Third Reading; Bill Passed in Concurrence  
With Proposal of Amendment**

**S. 183**

Senate bill, entitled

An act relating to permanency for children in the child welfare system

Was taken up and pending third reading of the bill **Rep. Donahue of Northfield** moved to amend the House proposal of amendment as follows:

In Sec. 2, 14 V.S.A. § 2664, in subsection (d), after the first sentence, by inserting the following:

“Prior to issuing an order naming a successor permanent guardian, the Court shall find by clear and convincing evidence that named successor permanent guardian meets the criteria in subdivision (a)(4) of this section.”

Which was agreed to.

Pending third reading of the bill, **Rep. Donahue of Northfield** moved to amend the House proposal of amendment as follows:

In Sec. 4, 14 V.S.A. § 2666(b), after the third sentence by inserting the following:

“Until the child has resided with the successor permanent guardian for six months, the Court may, upon its own motion and independent of its regular review process, hold a hearing to determine whether the successor permanent guardian meets the requirements under subdivision 2664(a)(4) of this title.”

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

**Proposal of Amendment Agreed to; Third Reading Ordered**

**S. 155**

**Rep. Grad of Moretown**, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to privacy protection

Reported in favor of its passage in concurrence with proposal of amendment as follows:

that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Protected Health Information \* \* \*

Sec. 1. 18 V.S.A. chapter 42B is added to read:

CHAPTER 42B. HEALTH CARE PRIVACY

§ 1881. DISCLOSURE OF PROTECTED HEALTH INFORMATION PROHIBITED

(a) As used in this section:

(1) “Covered entity” shall have the same meaning as in 45 C.F.R. § 160.103.

(2) “Protected health information” shall have the same meaning as in 45 C.F.R. § 160.103.

(b) A covered entity shall not disclose protected health information unless the disclosure is permitted under the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

\* \* \* Drones \* \* \*

Sec. 2. 20 V.S.A. part 11 is added to read:

PART 11. DRONES

CHAPTER 205. DRONES

§ 4621. DEFINITIONS

As used in this chapter:

(1) “Drone” means a powered aerial vehicle that does not carry a human operator and is able to fly autonomously or to be piloted remotely.

(2) “Law enforcement agency” means:

(A) the Vermont State Police;

(B) a municipal police department;

(C) a sheriff’s department;

(D) the Office of the Attorney General;

(E) a State's Attorney's office;

(F) the Capitol Police Department;

(G) the Department of Liquor Control;

(H) the Department of Fish and Wildlife;

(I) the Department of Motor Vehicles;

(J) a State investigator; or

(K) a person or entity acting on behalf of an agency listed in this subdivision (2).

#### § 4622. LAW ENFORCEMENT USE OF DRONES

(a) Except as provided in subsection (c) of this section, a law enforcement agency shall not use a drone or information acquired through the use of a drone for the purpose of investigating, detecting, or prosecuting crime.

(b)(1) A law enforcement agency shall not use a drone to gather or retain data on private citizens peacefully exercising their constitutional rights of free speech and assembly.

(2) This subsection shall not be construed to prohibit a law enforcement agency from using a drone:

(A) for observational, public safety purposes that do not involve gathering or retaining data; or

(B) pursuant to a warrant obtained under Rule 41 of the Vermont Rules of Criminal Procedure.

(c) A law enforcement agency may use a drone and may disclose or receive information acquired through the operation of a drone if the drone is operated:

(1) for a purpose other than the investigation, detection, or prosecution of crime, including search and rescue operations and aerial photography for the assessment of accidents, forest fires and other fire scenes, flood stages, and storm damage; or

(2) pursuant to:

(A) a warrant obtained under Rule 41 of the Vermont Rules of Criminal Procedure; or

(B) a judicially recognized exception to the warrant requirement.

(d)(1) When a drone is used pursuant to subsection (c) of this section, the drone shall be operated in a manner intended to collect data only on the target



of the surveillance and to avoid data collection on any other person, home, or area.

(2) Facial recognition or any other biometric matching technology shall not be used on any data that a drone collects on any person, home, or area other than the target of the surveillance.

(e) Information or evidence gathered in violation of this section shall be inadmissible in any judicial or administrative proceeding.

§ 4623. USE OF DRONES; FEDERAL AVIATION ADMINISTRATION  
REQUIREMENTS

(a) Any use of drones by any person, including a law enforcement agency, shall comply with all applicable Federal Aviation Administration requirements and guidelines.

(b) It is the intent of the General Assembly that any person who uses a model aircraft as defined in the Federal Aviation Administration Modernization and Reform Act of 2012 shall operate the aircraft according to the guidelines of community-based organizations such as the Academy of Model Aeronautics National Model Aircraft Safety Code.

§ 4624. REPORTS

(a) On or before September 1 of each year, any law enforcement agency that has used a drone within the previous 12 months shall report the following information to the Department of Public Safety:

(1) The number of times the agency used a drone within the previous 12 months. For each use of a drone, the agency shall report the type of incident involved, the nature of the information collected, and the rationale for deployment of the drone.

(2) The number of criminal investigations aided and arrests made through use of information gained by the use of drones within the previous 12 months, including a description of how the drone aided each investigation or arrest.

(3) The number of times a drone collected data on any person, home, or area other than the target of the surveillance within the previous 12 months and the type of data collected in each instance.

(4) The cost of the agency's drone program and the program's source of funding.

(b) On or before December 1 of each year that information is collected under subsection (a) of this section, the Department of Public Safety shall report the information to the House and Senate Committees on Judiciary and on Government Operations.

Sec. 3. 13 V.S.A. § 4018 is added to read:

§ 4018. DRONES

(a) No person shall equip a drone with a dangerous or deadly weapon or fire a projectile from a drone. A person who violates this section shall be imprisoned not more than one year or fined not more than \$1,000.00, or both.

(b) As used in this section:

(1) "Drone" shall have the same meaning as in 20 V.S.A. § 4621.

(2) "Dangerous or deadly weapon" shall have the same meaning as in section 4016 of this title.

Sec. 4. REPORT; AGENCY OF TRANSPORTATION AVIATION  
PROGRAM

On or before December 15, 2016, the Aviation Program within the Agency of Transportation shall report to the Senate and House Committees on Judiciary any recommendations or proposals it determines are necessary for the regulation of drones pursuant to 20 V.S.A. § 4623.

\* \* \* Vermont Electronic Communication Privacy Act \* \* \*

Sec. 5. 13 V.S.A. chapter 232 is added to read:

CHAPTER 232. VERMONT ELECTRONIC COMMUNICATION  
PRIVACY ACT

§ 8101. DEFINITIONS

As used in this chapter:

(1) "Electronic communication" means the transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, a radio, electromagnetic, photoelectric, or photo-optical system.

(2) "Electronic communication service" means a service that provides to its subscribers or users the ability to send or receive electronic communications, including a service that acts as an intermediary in the transmission of electronic communications, or stores protected user information.

(3) “Electronic device” means a device that stores, generates, or transmits information in electronic form.

(4) “Government entity” means a department or agency of the State or a political subdivision thereof, or an individual acting for or on behalf of the State or a political subdivision thereof.

(5) “Law enforcement officer” means:

(A) a law enforcement officer certified at Level II or Level III pursuant to 20 V.S.A. § 2358;

(B) the Attorney General;

(C) an assistant attorney general;

(D) a State’s Attorney; or

(E) a deputy State’s attorney

(6) “Lawful user” means a person or entity who lawfully subscribes to or uses an electronic communication service, whether or not a fee is charged.

(7) “Protected user information” means electronic communication content, including the subject line of e-mails, cellular tower-based location data, GPS or GPS-derived location data, the contents of files entrusted by a user to an electronic communication service pursuant to a contractual relationship for the storage of the files whether or not a fee is charged, data memorializing the content of information accessed or viewed by a user, and any other data for which a reasonable expectation of privacy exists.

(8) “Service provider” means a person or entity offering an electronic communication service.

(9) “Specific consent” means consent provided directly to the government entity seeking information, including when the government entity is the addressee or intended recipient or a member of the intended audience of an electronic communication. Specific consent does not require that the originator of a communication have actual knowledge that an addressee, intended recipient, or member of the specific audience is a government entity.

(10) “Subscriber information” means the name, names of additional account users, account number, billing address, physical address, e-mail address, telephone number, payment method, record of services used, and record of duration of service provided or kept by a service provider regarding a user or account.

§ 8102. LIMITATIONS ON COMPELLED PRODUCTION OF  
ELECTRONIC INFORMATION

(a) Except as provided in this section, a law enforcement officer shall not compel the production of or access to protected user information from a service provider.

(b) A law enforcement officer may compel the production of or access to protected user information from a service provider:

(1) pursuant to a warrant;

(2) pursuant to a judicially recognized exception to the warrant requirement;

(3) with the specific consent of a lawful user of the electronic communication service;

(4) if a law enforcement officer, in good faith, believes that an emergency involving danger of death or serious bodily injury to any person requires access to the electronic device information without delay; or

(5) except where prohibited by State or federal law, if the device is seized from an inmate's possession or found in an area of a correctional facility, jail, or lock-up under the jurisdiction of the Department of Corrections, a sheriff, or a court to which inmates have access and the device is not in the possession of an individual and the device is not known or believed to be in the possession of an authorized visitor.

(c) A law enforcement officer may compel the production of or access to information kept by a service provider other than protected user information:

(1) pursuant to a subpoena issued by a judicial officer, who shall issue the subpoena upon a finding that:

(A) there is reasonable cause to believe that an offense has been committed; and

(B) the information sought is relevant to the offense or appears reasonably calculated to lead to discovery of evidence of the alleged offense;

(2) pursuant to a subpoena issued by a grand jury;

(3) pursuant to a court order issued by a judicial officer upon a finding that the information sought is reasonably related to a pending investigation or pending case; or

(4) for any of the reasons listed in subdivisions (b)(1)–(3) of this section.

(d) A warrant issued for protected user information shall comply with the following requirements:

(1) The warrant shall describe with particularity the information to be seized by specifying the time periods covered and, as appropriate and reasonable, the target individuals or accounts, the applications or services covered, and the types of information sought.

(2)(A) The warrant shall require that any information obtained through execution of the warrant that is unrelated to the warrant's objective not be subject to further review, use, or disclosure without a court order.

(B) A court shall issue an order for review, use, or disclosure of information obtained pursuant to subdivision (A) of this subdivision (2) if it finds there is probable cause to believe that:

(i) the information is relevant to an active investigation;

(ii) the information constitutes evidence of a criminal offense; or

(iii) review, use, or disclosure of the information is required by State or federal law.

(e) A warrant or subpoena directed to a service provider shall be accompanied by an order requiring the service provider to verify the authenticity of electronic information that it produces by providing an affidavit that complies with the requirements of Rule 902(11) or 902(12) of the Vermont Rules of Evidence.

(f) A service provider may voluntarily disclose information other than protected user information when that disclosure is not otherwise prohibited by State or federal law.

(g) If a law enforcement officer receives information voluntarily provided pursuant to subsection (f) of this section, the officer shall destroy the information within 90 days unless any of the following circumstances apply:

(1) A law enforcement officer has or obtains the specific consent of the sender or recipient of the electronic communications about which information was disclosed.

(2) A law enforcement officer obtains a court order authorizing the retention of the information. A court shall issue a retention order upon a finding that the conditions justifying the initial voluntary disclosure persist. The order shall authorize the retention of the information only for as long as:

(A) the conditions justifying the initial voluntary disclosure persist; or

(B) there is probable cause to believe that the information constitutes evidence of the commission of a crime.

(3) A law enforcement officer reasonably believes that the information relates to an investigation into child exploitation and the information is retained as part of a multiagency database used in the investigation of similar offenses and related crimes.

(h) If a law enforcement officer obtains electronic information without a warrant under subdivision (b)(4) of this section because of an emergency involving danger of death or serious bodily injury to a person that requires access to the electronic information without delay, the officer shall, within five days after obtaining the information, apply for a warrant or order authorizing obtaining the electronic information or a motion seeking approval of the emergency disclosures. The application or motion shall set forth the facts giving rise to the emergency and shall, if applicable, include a request supported by a sworn affidavit for an order delaying notification under subdivision 8103(b)(1) of this section. The court shall promptly rule on the application or motion. If the court finds that the facts did not give rise to an emergency or denies the motion or application on any other ground, the court shall order the immediate destruction of all information obtained, and immediate notification pursuant to subsection 8103(a) if this title if it has not already been provided.

(i) This section does not limit the existing authority of a law enforcement officer to use legal process to do any of the following:

(1) require an originator, addressee, or intended recipient of an electronic communication to disclose any protected user information associated with that communication;

(2) require an entity that provides electronic communications services to its officers, directors, employees, or agents for the purpose of carrying out their duties to disclose protected user information associated with an electronic communication to or from an officer, director, employee, or agent of the entity; or

(3) require a service provider to provide subscriber information.

(j) A service provider shall not be subject to civil or criminal liability for producing or providing access to information in good faith reliance on the provisions of this section. This subsection shall not apply to gross negligence, recklessness, or intentional misconduct by the service provider.

#### § 8103. RETURNS AND SERVICE

(a) Returns.

(1) If a warrant issued pursuant to section 8102 of this title is executed or electronic information is obtained in an emergency under subdivision 8102(b)(4) of this title, a return shall be made within 90 days. Upon certification by a law enforcement officer, an attorney for the State, or any other person authorized by law that an investigation related to the warrant or the emergency is ongoing, a judicial officer may extend the 90-day period for making the return for an additional period that the judicial officer deems reasonable.

(2) A return made pursuant to this subsection shall identify:

(A) the date the response was received from the service provider;

(B) the quantity of information or data provided; and

(C) the type of information or data provided.

(b) Service.

(1) At the time the return is made, the law enforcement officer who executed the warrant under section 8102 of this section or obtained electronic information under subdivision 8102(b)(4) of this section shall serve a copy of the warrant on the subscriber to the service provider, if known. Service need not be made upon any person against whom criminal charges have been filed related to the execution of the warrant or to the obtaining of electronic information under subdivision 8102(b)(4) of this section.

(2) Upon certification by a law enforcement officer, an attorney for the State, or any other person authorized by law that an investigation related to the warrant is ongoing, a judicial officer may extend the time for serving the return for an additional period that the judicial officer deems reasonable.

(3) Service pursuant to this subsection may be accomplished by:

(A) delivering a copy to the known person;

(B) leaving a copy at the person's residence or usual place of abode with an individual of suitable age and discretion who resides at that location;

(C) delivering a copy by reliable electronic means; or

(D) mailing a copy to the person's last known address.

(c) Except as otherwise provided in this section, nothing in this chapter shall prohibit or limit a service provider or any other party from disclosing information about any request or demand for electronic information.

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§ 8104. EXCLUSIVE REMEDIES FOR A VIOLATION OF THISCHAPTER

(a) A defendant in a trial, hearing, or proceeding may move to suppress electronic information obtained or retained in violation of the U.S. Constitution, the Vermont Constitution, or this chapter.

(b) A defendant in a trial, hearing, or proceeding shall not move to suppress electronic information on the ground that Vermont lacks personal jurisdiction over a service provider, or on the ground that the constitutional or statutory privacy rights of an individual other than the defendant were violated.

(c) A service provider who receives a subpoena issued pursuant to this chapter may file a motion to quash the subpoena. The motion shall be filed in the court that issued the subpoena before the expiration of the time period for production of the information. The court shall hear and decide the motion as soon as practicable. Consent to additional time to comply with process under section 806 of this title does not extend the date by which a service provider shall seek relief under this subsection.

§ 8105. EXECUTION OF WARRANT FOR INFORMATION KEPT BYSERVICE PROVIDER

A warrant issued under this chapter may be addressed to any Vermont law enforcement officer. The officer shall serve the warrant upon the service provider, the service provider's registered agent, or, if the service provider has no registered agent in the State, upon the Office of Secretary of State in accordance with 12 V.S.A. §§ 851–858. If the service provider consents, the warrant may be served via U.S. mail, courier service, express delivery service, facsimile, electronic mail, an Internet-based portal maintained by the service provider, or other reliable electronic means. The physical presence of the law enforcement officer at the place of service or at the service provider's repository of data shall not be required.

§ 8106. SERVICE PROVIDER'S RESPONSE TO WARRANT

(a) The service provider shall produce the items listed in the warrant within 30 days unless the court orders a shorter period for good cause shown, in which case the court may order the service provider to produce the items listed in the warrant within 72 hours. The items shall be produced in a manner and format that permits them to be searched by the law enforcement officer.



(b) This section shall not be construed to limit the authority of a law enforcement officer under existing law to search personally for and locate items or data on the premises of a Vermont service provider.

(c) As used in this section, "good cause" includes an investigation into a homicide, kidnapping, unlawful restraint, custodial interference, felony punishable by life imprisonment, or offense related to child exploitation.

§ 8107. CRIMINAL PROCESS ISSUED BY VERMONT COURT:

RECIPROCITY

(a) Criminal process, including subpoenas, search warrants, and other court orders issued pursuant to this chapter, may be served and executed upon any service provider within or outside the State, provided the service provider has contact with Vermont sufficient to support personal jurisdiction over it by this State. Notwithstanding any other provision in this chapter, only a service provider may challenge legal process, or the admissibility of evidence obtained pursuant to it, on the ground that Vermont lacks personal jurisdiction over it.

(b) This section shall not be construed to limit the authority of a court to issue criminal process under any other provision of law.

(c) A service provider incorporated, domiciled, or with a principal place of business in Vermont that has been properly served with criminal process issued by a court of competent jurisdiction in another state, commonwealth, territory, or political subdivision thereof shall comply with the legal process as though it had been issued by a court of competent jurisdiction in this State.

§ 8108. REAL TIME INTERCEPTION OF INFORMATION PROHIBITED

A law enforcement officer shall not use a device which via radio or other electromagnetic wireless signal intercepts in real time from a user's device a transmission of communication content, real time cellular tower-derived location information, or real time GPS-derived location information, except for purposes of locating and apprehending a fugitive for whom an arrest warrant has been issued. This section shall not be construed to prevent a law enforcement officer from obtaining information from an electronic communication service as otherwise permitted by law.

\* \* \* Automated License Plate Recognition Systems \* \* \*

Sec. 6. EXTENSION OF SUNSET

2013 Acts and Resolves No. 69, Sec. 3, as amended by 2015 Acts and Resolves No. 32, Sec. 1, is further amended to read:

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Sec. 3. EFFECTIVE DATE AND SUNSET

\* \* \*

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, ~~2016~~ 2019.

Sec. 7. ANALYSIS OF ALPR SYSTEM-RELATED COSTS AND  
BENEFITS

(a) On or before January 15, 2017, the Department of Public Safety, in consultation with the Joint Fiscal Office, shall:

(1) Estimate the total annualized fixed and variable costs associated with all automated license plate recognition (ALPR) systems used by law enforcement officers in Vermont, including capital, operating, maintenance, personnel, training, and other costs. The estimate shall include a breakdown of costs by category.

(2) Estimate the total annualized fixed and variable costs associated with any planned increase in the number of ALPR systems used by law enforcement officers in Vermont and with any planned increase in the intensity of use of existing ALPR systems, including capital, operating, maintenance, personnel, training, and other costs. The estimate shall include a breakdown of costs by category.

(3) Conduct a cost-benefit analysis of the existing and planned use of ALPR systems in Vermont, and an analysis of how these costs and benefits compare with other enforcement tools that require investment of Department resources.

(b) On or before January 15, 2017, the Department of Public Safety shall submit a written report to the House and Senate Committees on Judiciary and on Transportation of the estimates and analysis required under subsection (a) of this section.

(c) If the Department of Motor Vehicles establishes or designates an independent server to store data captured by ALPRs before January 15, 2017, it shall conduct the analysis required under subsection (a) of this section in consultation with the Joint Fiscal Office and submit a report in accordance with subsection (b) of this section.

Sec. 8. 23 V.S.A. § 1607 is amended to read:

§ 1607. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS

(a) Definitions. As used in this section:

(1) “Active data” is distinct from historical data as defined in subdivision (3) of this subsection and means data uploaded to individual automated license plate recognition system units before operation as well as data gathered during the operation of an ALPR system. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(2) “Automated license plate recognition system” or “ALPR system” means a system of one or more mobile or fixed high-speed cameras combined with computer algorithms to convert images of registration plates into computer-readable data.

(3) “Historical data” means any data collected by an ALPR system and stored on the statewide ALPR server operated by the Vermont Justice Information Sharing System of the Department of Public Safety. Any data collected by an ALPR system in accordance with this section shall be considered collected for a legitimate law enforcement purpose.

(4) “Law enforcement officer” means a State Police officer, municipal police officer, motor vehicle inspector, Capitol Police officer, constable, sheriff, or deputy sheriff certified by the Vermont Criminal Justice Training Council as ~~having satisfactorily completed the approved training programs required to meet the minimum training standards applicable to that person a~~ level II or level III law enforcement officer under 20 V.S.A. § 2358.

(5) “Legitimate law enforcement purpose” applies to access to active or historical data and means investigation, detection, analysis, or enforcement of a crime, traffic violation, or parking violation or of a commercial motor vehicle violation or defense against the same, or operation of AMBER alerts or missing or endangered person searches.

(6) “Vermont ~~Information and Analysis Technology~~ Center Analyst” means any sworn or civilian employee who through his or her employment with the Vermont ~~Information and Analysis Technology~~ Center (~~VTIAC~~) (VTC) has access to secure databases that support law enforcement investigations.

(b) Operation. A Vermont law enforcement officer shall be certified in ALPR operation by the Vermont Criminal Justice Training Council in order to operate an ALPR system.

(c) ALPR use and data access; confidentiality.

(1)(A) Deployment of ALPR equipment by Vermont law enforcement agencies is intended to provide access to law enforcement reports of wanted or

stolen vehicles and wanted persons and to further other legitimate law enforcement purposes. Use of ALPR systems by law enforcement officers and access to active data are restricted to legitimate law enforcement purposes.

(B) Active ~~ALPR~~ data may be accessed by a law enforcement officer operating the ALPR system only if he or she has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(C)(i) Requests to ~~review~~ access active data shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, if any, and the law enforcement agency's Originating Agency Identifier (ORI) number. ~~The To be approved, the request shall describe the legitimate law enforcement purpose~~ must provide specific and articulable facts showing that there are reasonable grounds to believe that the data are relevant and material to an ongoing criminal, missing person, or commercial motor vehicle investigation or enforcement action. The written request and the outcome of the request shall be transmitted to ~~VTIAC~~ VTC and retained by ~~VTIAC~~ VTC for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. Access to active data shall be restricted to data collected within the past seven days.

(2)(A) A ~~VTIAC~~ VTC analyst shall transmit historical data only to a Vermont or out-of-state law enforcement officer or person who has a legitimate law enforcement purpose for the data. A law enforcement officer or other person to whom historical data are transmitted may use such data only for a legitimate law enforcement purpose. Entry of any data onto the statewide ALPR server other than data collected by an ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Requests for historical data, whether from Vermont or out-of-state law enforcement officers or other persons, shall be made in writing to ~~an analyst at VTIAC~~ a VTC analyst. The request shall include the name of the requester, the law enforcement agency the requester is employed by, if any, and the law enforcement agency's ORI number. ~~The To be approved, the request shall describe the legitimate law enforcement purpose~~ must provide specific and articulable facts showing that there are reasonable grounds to believe that the data are relevant and material to an ongoing criminal, missing person, or commercial motor vehicle investigation or enforcement action.

~~VTIAC~~ VTC shall retain all requests and shall record in writing the outcome of the request and any information that was provided to the requester or, if applicable, why a request was denied or not fulfilled. ~~VTIAC~~ VTC shall retain the information described in this subdivision (c)(2)(B) for no fewer than three years.

(d) Retention.

(1) Any ALPR information gathered by a Vermont law enforcement agency shall be sent to the Department of Public Safety to be retained pursuant to the requirements of subdivision (2) of this subsection. The Department of Public Safety shall maintain the ALPR storage system for Vermont law enforcement agencies.

(2) Except as provided in this subsection and section 1608 of this title, information gathered by a law enforcement officer through use of an ALPR system shall only be retained for 18 months after the date it was obtained. When the permitted 18-month period for retention of the information has expired, the Department of Public Safety and any local law enforcement agency with custody of the information shall destroy it and cause to have destroyed any copies or backups made of the original data. Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under Section 1608 of this title or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure.

(e) Oversight; rulemaking.

(1) The Department of Public Safety shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the purposes permitted by this section. The Department shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated in the State and the number of units submitting data to the statewide ALPR database;

(B) the ~~total~~ number of ALPR readings each agency submitted, and the total number of all such readings submitted, to the statewide ALPR database;

(C) the 18-month cumulative number of ALPR readings being housed on the statewide ALPR database as of the end of the calendar year;

(D) the total number of requests made to ~~VTIAC~~ VTC for ~~ALPR~~ historical data;

~~(E)~~, the average age of the data requested, and the ~~total~~ number of these requests that resulted in release of information from the statewide ALPR database;

~~(F)~~(E) the total number of out-of-state requests; ~~and~~

~~(G)~~ to VTC for historical data, the average age of the data requested, and the ~~total~~ number of out-of-state requests that resulted in release of information from the statewide ALPR database;

(F) the total number of alerts generated on ALPR systems operated by law enforcement officers in the State by a match between an ALPR reading and a plate number on an alert database and the number of these alerts that resulted in an enforcement action;

(G) the total number of criminal, missing person, and commercial motor vehicle investigations and enforcement actions to which active data contributed, and a summary of the nature of these investigations and enforcement actions;

(H) the total number of criminal, missing person, and commercial motor vehicle investigations and enforcement actions to which historical data contributed, and a summary of the nature of these investigations and enforcement actions; and

(I) the total annualized fixed and variable costs associated with all ALPR systems used by Vermont law enforcement agencies and an estimate of the total of such costs per unit.

(2) ~~The~~ Before January 1, 2018, the Department of Public Safety ~~may~~ shall adopt rules to implement this section.

Sec. 9. 23 V.S.A. § 1608 is amended to read:

§ 1608. PRESERVATION OF DATA

(a) Preservation request.

(1) A law enforcement agency or the Department of Motor Vehicles ~~or other person with a legitimate law enforcement purpose~~ may apply to the Criminal Division of the Superior Court for an extension of up to 90 days of the 18-month retention period established under subdivision 1607(d)(2) of this title if the agency or Department offers specific and articulable facts showing that there are reasonable grounds to believe that the captured plate data are relevant and material to an ongoing criminal or missing persons investigation

or to a pending court or Judicial Bureau proceeding involving enforcement of a crime or of a commercial motor vehicle violation. Requests for additional 90-day extensions or for longer periods may be made to the Superior Court subject to the same standards applicable to an initial extension request under this subdivision.

(2) A governmental entity making a preservation request under this section shall submit an affidavit stating:

(A) the particular camera or cameras for which captured plate data must be preserved or the particular license plate for which captured plate data must be preserved; and

(B) the date or dates and time frames for which captured plate data must be preserved.

(b) Captured plate data shall be destroyed on the schedule specified in section 1607 of this title if the preservation request is denied or 14 days after the denial, whichever is later.

\* \* \* Information Related to Use of Ignition Interlock Devices \* \* \*

Sec. 10. 23 V.S.A. § 1213 is amended to read:

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE;

PENALTIES

\* \* \*

(m)(1) Images and other individually identifiable information in the custody of a public agency related to the use of an ignition interlock device is exempt from public inspection and copying under the Public Records Act and shall not be disclosed except:

(A) pursuant to a warrant;

(B) if a law enforcement officer, in good faith, believes that an emergency involving danger of death or serious bodily injury to any person requires access to the information without delay; or

(C) in connection with enforcement proceedings under this section or rules adopted pursuant to this section.

(2) Images or information disclosed in violation of this subsection shall be inadmissible in any judicial or administrative proceeding.

\* \* \* Administrative Procedure Act; Code of Administrative Rules \* \* \*

Sec. 11. 3 V.S.A. § 847 is amended to read:

§ 847. AVAILABILITY OF ADOPTED RULES; RULES BY SECRETARY  
OF STATE

(a) The Secretary of State shall keep open to public inspection a permanent register of rules. The Secretary also shall publish a code of administrative rules that contains the rules adopted under this chapter. The requirement to publish a code shall be considered satisfied if a commercial publisher offers such a code in print at a competitive price and at no charge online.

(b) The Secretary of State shall publish not less than quarterly a bulletin setting forth the text of all rules filed since the immediately preceding publication and any objections filed under subsection 842(b) or 844(e) of this title. 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.

(c) The bulletin may omit any rule if either:

(1) a commercial publisher offers a comparable publication at a competitive price; or

(2) all three of the following apply:

(A) its publication would be unduly cumbersome or expensive; and

(B) the rule is made available on application to the adopting agency; and

(C) the bulletin contains a notice stating the general subject matter of the omitted rule and stating how a copy of the rule and any objection filed under subsection 842(b) or 844(e) of this title may be obtained.

(d) Bulletins shall be made available upon request to agencies and officials of this State free of charge and to other persons at prices fixed by the Secretary of State to cover mailing and publication costs.

(e) The Secretary of State shall adopt rules for the effective administration of this chapter. These rules shall be applicable to every agency and shall include ~~but not be limited to~~ uniform procedural requirements, style, appropriate forms, and a system for compiling and indexing rules.

Sec. 12. 3 V.S.A. § 848 is amended to read:

§ 848. RULES REPEAL; OPERATION OF LAW



(a) A rule shall be repealed without formal proceedings under this chapter if:

(1) the agency ~~which~~ that adopted the rule is abolished and its authority, specifically including its authority to implement its existing rules, has not been transferred to another agency; or

(2) a court of competent jurisdiction has declared the rule to be invalid; or

(3) the statutory authority for the rule, as stated by the agency under subdivision 838(b)(4) of this title, is repealed by the General Assembly or declared invalid by a court of competent jurisdiction.

(b) When a rule is repealed by operation of law under this section, the Secretary of State shall delete the rule from the published code of administrative rules.

(c)(1) On July 1, 2018, a rule shall be repealed without formal proceedings under this chapter if:

(A) as of July 1, 2016, the rule was in effect but not published in the code of administrative rules; and

(B) the rule is not published in such code before July 1, 2018.

(2) An agency seeking to publish a rule described in subdivision (1) of this subsection may submit a digital copy of the rule to the Secretary of State with proof acceptable to the Secretary that as of July 1, 2016 the rule was adopted and in effect under this chapter and the digital copy consists of the text of such rule without change.

(d) If the statutory authority for a rule, as stated by the agency under subdivision 838(b)(4), is amended by the General Assembly, the agency shall review the rule and make a determination whether such statutory amendment repeals the authority upon which the rule is based, and shall, within 60 days of the effective date of the statutory amendment, inform in writing the Secretary of State and the Legislative Committee on Administrative Rules whether repeal or revision of the rule is required by the statutory amendment.

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

### Sec. 13. EFFECTIVE DATES

(a) This section and Secs. 6–7 shall take effect on passage.

(b) Secs. 8–12 shall take effect on July 1, 2016, except that in Sec. 8, 23 V.S.A. § 1607(e)(1) (oversight, reporting) shall take effect on January 16, 2017.

(c) Secs. 1, 2, 3, 4, and 5 shall take effect on October 1, 2016.

and that after passage the title of the bill be amended to read: “An act relating to privacy protection and a code of administrative rule

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall he House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **Rep. Klein of East Montpelier** moved to ament the recommendation of proposal of amendment offered by the committee on Judiciary, as follows:

By adding a new Sec. 3a to read as follows:

Sec. 3a. DRONES; USE IN CAPITOL COMPLEX

(a) On or before August 1, 2016, the Capitol Complex Security Advisory Committee established in 2 V.S.A. § 991 shall develop a policy regulating the use of drones in the Capitol complex.

(b) As used in this section:

(1) “Capitol complex” shall have the same meaning as in 29 V.S.A. § 182.

(2) “Drone” shall have the same meaning as in 20 V.S.A. § 4621.

Thereupon, **Rep. Klein of East Montpelier** asked and was granted leave of the House to withdraw his amendment.

Pending the question, Shall the House propose to the Senate to amend the bill as recommended by the committee on Judiciary? **Rep. Christie of Hartford** moved to amend the recommendation of proposal of amendment offered by the committee on Judiciary as follows:

First: In Sec. 8, 23 V.S.A. § 1607, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) ALPR use and data access; confidentiality.

(1)(A) Deployment of ALPR equipment by Vermont law enforcement agencies is intended to provide access to law enforcement reports of wanted or stolen vehicles and wanted persons and to further other legitimate law

enforcement purposes. Use of ALPR systems by law enforcement officers and access to active data are restricted to legitimate law enforcement purposes.

(B) Active ~~ALPR~~ data may be accessed by a law enforcement officer operating the ALPR system only if he or she has a legitimate law enforcement purpose for the data. Entry of any data into the system other than data collected by the ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(C)(i) Requests to ~~review~~ access active data within seven days or less of the data's creation shall be in writing and include the name of the requester, the law enforcement agency the requester is employed by, if any, and the law enforcement agency's Originating Agency Identifier (ORI) number. The request shall describe the legitimate law enforcement purpose. The written request and the outcome of the request shall be transmitted to ~~VTIAC~~ VTC and retained by ~~VTIAC~~ VTC for not less than three years.

(ii) In each department operating an ALPR system, access to active data shall be limited to designated personnel who have been provided account access by the department to conduct authorized ALPR stored data queries. ~~Access to active data shall be restricted to data collected within the past seven days.~~

(ii) After seven days from the creation of active data, the data may only be disclosed pursuant to a warrant or if relevant to a person's defense against a criminal charge.

(2)(A) A ~~VTIAC~~ VTC analyst shall transmit historical data only to a Vermont or out-of-state law enforcement officer or person who has a legitimate law enforcement purpose for the data. A law enforcement officer or other person to whom historical data are transmitted may use such data only for a legitimate law enforcement purpose. Entry of any data onto the statewide ALPR server other than data collected by an ALPR system itself must be approved by a supervisor and shall have a legitimate law enforcement purpose.

(B) Requests for historical data, whether from Vermont or out-of-state law enforcement officers; or other persons, within seven days or less of the data's creation shall be made in writing to ~~an analyst at VTIAC~~ a VTC analyst. The request shall include the name of the requester, the law enforcement agency the requester is employed by, if any, and the law enforcement agency's ORI number. The request shall describe the legitimate law enforcement purpose. ~~VTIAC~~ VTC shall retain all requests and shall record in writing the outcome of the request and any information that was provided to the requester or, if applicable, why a request was denied or not

fulfilled. ~~VTIAC~~ VTC shall retain the information described in this subdivision (c)(2)(B) for no fewer than three years.

(C) After seven days from the creation of license plate data that become historical data, the data may only be disclosed pursuant to a warrant or if relevant to a person's defense against a criminal charge.

Second: In Sec. 8, 23 V.S.A. § 1607, in subdivision (d)(2), by striking out the third sentence in its entirety and inserting in lieu thereof the following: "Data may be retained beyond the 18-month period pursuant to a preservation request made or disclosure order issued under Section 1608 of this title or pursuant to a warrant issued under Rule 41 of the Vermont or Federal Rules of Criminal Procedure."

Third: In Sec. 8, 23 V.S.A. § 1607, by striking out subdivisions (e)(1)(D) and (E) in their entirety and inserting in lieu thereof the following:

(D) the total number of requests made to ~~VTIAC~~ VTC for ~~ALPR~~ historical data;

~~(E), the total number of these requests that resulted in release of information from the statewide ALPR database, and the total number of warrants that resulted in the release of historical data;~~

~~(F)(E) the total number of out-of-state requests; and~~

~~(G) to VTC for historical data, the total number of out-of-state requests that resulted in release of information from the statewide ALPR database, and the total number of warrants from out of state that resulted in the release of historical data;~~

Pending the question, Shall the report of the Committee on Judiciary be amended as recommended by Rep. Christie of Hartford? **Rep. Burditt of West Rutland** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the report of the Committee on Judiciary be amended as recommended by Rep. Christie of Hartford? was decided in the affirmative. Yeas, 85. Nays, 61.

Those who voted in the affirmative are:

Ancel of Calais	Burditt of West Rutland	Cole of Burlington
Bancroft of Westford	Burke of Brattleboro	Connor of Fairfield
Bartholomew of Hartland	Carr of Brandon	Dakin of Chester
Beck of St. Johnsbury	Chesnut-Tangerman of	Dame of Essex
Berry of Manchester	Middletown Springs	Davis of Washington
Branagan of Georgia	Christie of Hartford	Deen of Westminster
Briglin of Thetford	Clarkson of Woodstock	Donahue of Northfield

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Donovan of Burlington	Lefebvre of Newark	Poirier of Barre City
Eastman of Orwell	Lippert of Hinesburg	Pugh of South Burlington
Emmons of Springfield	Long of Newfane	Rachelson of Burlington
Evans of Essex	Lucke of Hartford	Ram of Burlington
Fagan of Rutland City	Macaig of Williston	Ryerson of Randolph
Feltus of Lyndon	Manwaring of Wilmington	Scheuermann of Stowe
Gonzalez of Winooski	Martin of Wolcott	Sharpe of Bristol
Grad of Moretown	Masland of Thetford	Sheldon of Middlebury
Graham of Williamstown	McCormack of Burlington	Sibilia of Dover
Haas of Rochester	McCullough of Williston	Stevens of Waterbury
Head of South Burlington	McFaun of Barre Town	Stuart of Brattleboro
Hooper of Montpelier	Miller of Shaftsbury	Sullivan of Burlington
Huntley of Cavendish	Morris of Bennington	Till of Jericho
Jerman of Essex	Mrowicki of Putney	Townsend of South
Johnson of South Hero	Murphy of Fairfax	Burlington
Juskiewicz of Cambridge	O'Brien of Richmond	Trieber of Rockingham
Keenan of St. Albans City	Olsen of Londonderry	Troiano of Stannard
Kitzmiller of Montpelier	O'Sullivan of Burlington	Willhoit of St. Johnsbury
Klein of East Montpelier	Parent of St. Albans Town	Woodward of Johnson
Krowinski of Burlington	Partridge of Windham	Yantachka of Charlotte
LaClair of Barre Town	Patt of Worcester	Young of Glover
Lawrence of Lyndon	Pearson of Burlington	Zagar of Barnard

Those who voted in the negative are:

Baser of Bristol	Frank of Underhill	Nuovo of Middlebury
Batchelor of Derby	French of Randolph	Pearce of Richford
Beyor of Highgate	Gage of Rutland City	Potter of Clarendon
Bissonnette of Winooski	Gamache of Swanton	Purvis of Colchester
Botzow of Pownal	Greshin of Warren	Russell of Rutland City
Brennan of Colchester	Hebert of Vernon	Savage of Swanton
Browning of Arlington	Helm of Fair Haven	Shaw of Pittsford
Buxton of Tunbridge	Higley of Lowell	Smith of New Haven
Canfield of Fair Haven	Hubert of Milton	Strong of Albany
Condon of Colchester	Jewett of Ripton	Sweaney of Windsor
Conquest of Newbury	Komline of Dorset	Tate of Mendon
Copeland-Hanzas of	Krebs of South Hero	Terenzini of Rutland Town
Bradford	Lalonde of South Burlington	Toleno of Brattleboro
Corcoran of Bennington	Lanpher of Vergennes	Toll of Danville
Cupoli of Rutland City	Lenes of Shelburne	Turner of Milton
Dakin of Colchester	Lewis of Berlin	Van Wyck of Ferrisburgh
Dickinson of St. Albans	Marcotte of Coventry	Viens of Newport City
Town	Martel of Waterford	Walz of Barre City
Fields of Bennington	McCoy of Poultney	Webb of Shelburne
Fiske of Enosburgh	Morrissey of Bennington	Wood of Waterbury
Forguites of Springfield	Myers of Essex	Wright of Burlington

Those members absent with leave of the House and not voting are:

Devereux of Mount Holly

Quimby of Concord

Shaw of Derby

Thereupon, the recommendation of proposal of amendment offered by the committee on Judiciary, as amended, was agreed to and third reading was ordered.

### **Bill Amended; Third Reading Ordered**

#### **H. 888**

**Rep. Townsend of South Burlington**, spoke for the committee on Government Operations.

**Rep. Feltus of Lyndon**, for the committee on Appropriations, to which had been referred House bill, entitled

An act relating to compensation for certain State employees

Reported in favor of its passage when amended as follows:

First: In Sec. 9 (Pay Act appropriations), in subsection (a) (Executive Branch), in subdivision (1) (Fiscal Year 2017), by striking out subdivision (A) in its entirety and inserting in lieu thereof the following:

(A) General Fund. The amount of \$8,319,893.00 is appropriated from the General Fund to the Secretary of Administration for distribution to departments to fund the fiscal year 2017 collective bargaining agreements and the requirements of this act. The Secretary of Administration shall find \$200,000.00 in General Fund savings by reducing overtime payments within the Executive Branch to offset the cost of this Pay Act.

Second: In Sec. 9 (Pay Act appropriations), in subsection (b) (Judicial Branch), in subdivision (2)(A) (Fiscal Year 2017), following “The amount of” by striking out “\$985,740.00” and inserting in lieu thereof “\$938,216.00”

Third: In Sec. 9 (Pay Act appropriations), in subsection (b) (Judicial Branch), in subdivision (2)(B) (Fiscal Year 2018), following “The amount of” by striking out “\$1,049,722” and inserting in lieu thereof “\$1,125,224.00”

Fourth: In Sec. 9 (Pay Act appropriations), in subsection (c) (Legislative Branch), in subdivision (1) (Fiscal Year 2017), following “The amount of” by striking out “\$217,169.00” and inserting in lieu thereof “\$239,000.00”

Fifth: In Sec. 9 (Pay Act appropriations), in subsection (c) (Legislative Branch), in subdivision (2) (Fiscal Year 2018), following “The amount of” by striking out “\$241,205.00” and inserting in lieu thereof “\$266,000.00”

Sixth: By striking out in their entirety Sec. 10 (reduction of Executive Branch workforce; report) and its accompanying reader assistance heading and inserting in lieu thereof the following:

\* \* \* Administration; Optimization of Workforce \* \* \*

Sec. 10. ADMINISTRATION; REPORT; STREAMLINING OF  
GOVERNMENT FUNCTIONS

Annually, on or before January 15, 2017 until January 15, 2021, the Secretary of Administration shall report to the House and Senate Committees on Government Operations and on Appropriations regarding the identification of programs or functions within the Executive Branch through which the use of results-based accountability analysis and process analysis techniques such as LEAN may lead to streamlining, reduction in scope, or discontinuance of those programs or functions.

Sec. 10a. ADMINISTRATION; REPORT; ELIMINATING SENIOR LEVEL  
POSITIONS; USE OF PERMANENT EMPLOYEES

Annually, on or before January 15, 2017 until January 15, 2021, the Secretary of Administration shall report to the House and Senate Committees on Government Operations and on Appropriations regarding:

(1) senior level positions in the Executive Branch, including managerial and supervisory positions, that do not have direct service responsibility and which may be eliminated as a result of the process described in Sec. 10 of this act; and

(2) any recommendations regarding State functions that should be performed using permanent State employees, rather than with temporary employees or through contracting.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Appropriations agreed to and third reading ordered.

**Senate Proposal of Amendment Concurred in with  
A Further Amendment Thereto; Rules Suspended and Bill was ordered  
Messaged to the Senate Forthwith**

**H. 876**

The Senate proposed to the House to amend House bill, entitled

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

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) \$461,136.00 in transportation funds;

(2) \$86,204.00 in TIB funds;

(3) \$2,189,360.00 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 \$547,340.00 in transportation funds or TIB funds, and by up to \$2,189,360.00 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 \* \* \*

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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, 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 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.

\* \* \*

\* \* \* Dealers \* \* \*

Sec. 42. 23 V.S.A. § 4(8)(A)(ii)(III) is amended to read:

(III) For a dealer in trailers, semi-trailers, or trailer coaches, “engaged in the business” means having sold or exchanged at least one trailer, semi-trailer, or trailer coach in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years. However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (8)(A)(ii)(III).

Sec. 43. DEALER REGULATION REVIEW

(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other states, to determine whether and how Vermont’s regulation of dealers and associated motor vehicle laws should be amended to:

(1) enable vehicle and motorboat sales to thrive while protecting consumers from fraud or other illegal activities in the market for vehicles and motorboats; and

(2) protect the State’s interest in collecting taxes, enforcing the law, and ensuring an orderly marketplace.

(b) In conducting his or her review, the Commissioner shall consult with new and used vehicle dealers or representatives of such dealers, or both, and other interested persons.

(c) The Commissioner shall review:

(1) required minimum hours and days of operation of dealers;

(2) physical location requirements of dealers;

(3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold;

(4) the permitted uses of dealer plates;

(5) whether residents of other states should be allowed to register vehicles in Vermont;

(6) the effect any proposed change will have on fees and taxes that dealers collect and consumers pay;

(7) the effect any proposed changes will have on the ability of Vermont consumers and law enforcement to obtain information from a dealer selling vehicles or motorboats in Vermont; and

(8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.

(d) On or before January 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate and House Committees on Transportation and submit proposed legislation as may be required to implement the recommendations.

\* \* \* Nondriver Identifications Cards; Data Elements \* \* \*

Sec. 44. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

\* \* \*

(b) Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a ~~\$20.00~~ \$24.00 fee. At least 30 days before an identification card will expire, the Commissioner shall mail first class to the cardholder or send the cardholder electronically an application to renew the identification card; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification.

\* \* \*

(i) An identification card issued under this subsection to an ~~individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card initial~~ or renewal applicant shall include data elements as prescribed in 6 C.F.R. § 37.19.

\* \* \*

\* \* \* Refund When Registration Plates Not Used \* \* \*

Sec. 45. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or motor boat when the owner returns the number plates, if any, ~~the validation sticker, if issued for that year,~~ and the registration certificate to the Commissioner. Upon cancellation of the registration, the Commissioner



shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

(1) For registrations ~~which are~~ cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a fee of \$5.00. ~~The validation stickers may be affixed to the plates.~~

(2) For registrations ~~which are~~ cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of \$5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle, ~~or that the current validation sticker has not been affixed to the plate or to the snowmobile or motorboat.~~

(3) For registrations ~~which are~~ cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of \$5.00. ~~The validation stickers may be affixed to the plates.~~

\* \* \* Provisions Common to Registrations and Operator's Licenses \* \* \*

Sec. 46. 23 V.S.A. § 208 is added to read:

§ 208. RECIPROCAL RECOGNITION OF NONRESIDENT  
REGISTRATIONS, LICENSES, AND PERMITS; FOREIGN  
VISITORS

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

Sec. 47. 23 V.S.A. § 411 is amended to read:

§ 411. ~~RECIPROCAL PROVISIONS~~

~~As determined by the Commissioner, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. Any exemptions provided in this section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his or her residence like exemptions and privileges are granted to operators duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this State. [Repealed.]~~

\* \* \* Operator's Licenses \* \* \*

Sec. 48. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

(a)(1) Except as otherwise provided by law, a resident shall not operate a motor vehicle on a highway in Vermont unless he or she holds a valid license issued by the State of Vermont. A new resident who has moved into the State from another jurisdiction and who holds a valid license to operate motor vehicles under section ~~411~~ 208 of this title shall procure a Vermont license within 60 days of moving to the State. Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

(2) In addition to any other requirement of law, a nonresident as defined in section 4 of this title shall not operate a motor vehicle on a Vermont highway unless:

(A) he or she holds a valid license or permit to operate a motor vehicle issued by another U.S. jurisdiction; ~~or~~

(B) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and operates for a period of not more than 30 days for vacation purposes; or

(C) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and:

(i) is 18 or more years of age, is lawfully present in the United States, and has been in the United States for less than one year;

(ii) the jurisdiction that issued the license is a party to the 1949 Convention on Road Traffic or the 1943 Convention on the Regulation of Inter-American Motor Vehicle Traffic; and

(iii) he or she possesses an international driving permit.

\* \* \*

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall mail first class to the licensee or send the licensee electronically an application for renewal of the license; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification. A person shall not operate a motor vehicle unless properly licensed.

\* \* \*

#### Sec. 49. CONFORMING CHANGES

In 23 V.S.A. §§ 614 and 615, “section 411” is hereby replaced with “section 208.”

\* \* \* Special Examinations; Conforming Changes \* \* \*

Sec. 50. 23 V.S.A. § 637 is amended to read:

#### § 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

The Commissioner may designate physicians, certified physician assistants, licensed advance practice registered nurses, ophthalmologists, oculists, and optometrists properly registered and authorized to practice in this State or in an adjoining state as examiners of operators. The Commissioner may refer any matter relative to the issuing, suspending, or reinstating of licenses ~~which concern~~ that concerns the physical or mental condition or eyesight of any applicant for or holder of a license or any petitioner for reinstatement to, and require the applicant or other person to be examined by, such examiner in the vicinity of the person's residence as he or she determines to be qualified to examine and report. Such examiner shall report to the Commissioner the true and actual result of examinations made by him or her together with his or her decision as to whether the person examined should be granted or allowed to retain an operator's license or permitted to operate a motor vehicle.

Sec. 51. 23 V.S.A. § 638 is amended to read:

§ 638. ~~DISSATISFACTION WITH PHYSICAL AND MENTAL EXAMINATION~~

~~If any person is dissatisfied with the result of an examination given by any one examiner, as provided in section 637 of this title, he or she may apply to the Commissioner for and shall be granted an examination by two physicians, ophthalmologists, oculists, or optometrists selected from a list of examiners approved by the Commissioner, and their decision shall be final. The Commissioner may designate the area of specialization from which the examiners are to be selected in each case, but in no event shall he or she limit the choice of an examiner to any one individual within the profession from which he or she is to be chosen. [Repealed.]~~

Sec. 52. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

The compensation of the examiners provided in ~~sections~~ section 637 and 638 of this title shall be paid by the person examined.

\* \* \* State Highway Restrictions and Chain Up Requirements \* \* \*

Sec. 53. 23 V.S.A. § 1006b is amended to read:

§ 1006b. ~~SMUGGLERS~~ SMUGGLERS' NOTCH; WINTER CLOSURE OF VERMONT ROUTE 108; COMMERCIAL VEHICLE OPERATION PROHIBITED

(a) The Agency of Transportation may close the Smugglers Smugglers' Notch segment of Vermont Route 108 during periods of winter weather. To enforce the winter closure, the Agency shall erect signs conforming to the standards established by section 1025 of this title.

(b)(1) As used in this subsection, "commercial vehicle" means truck-tractor-semitrailer combinations and truck-tractor-trailer combinations.

(2) Commercial vehicles are prohibited from operating on the Smugglers' Notch segment of Vermont Route 108.

(3) Either the operator of a commercial vehicle who violates this subsection, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on Vermont Route 108, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

(c) The Agency shall erect signs conforming to the standards established by section 1025 of this title to indicate the closures and restrictions authorized under this section.

Sec. 54. 23 V.S.A. § 1006c is amended to read:

§ 1006c. TRUCKS AND BUSES; CHAINS AND TIRE CHAIN  
REQUIREMENTS FOR VEHICLES WITH WEIGHT RATINGS  
OF MORE THAN 26,000 POUNDS

(a) As used in this section, “chains” means link chains, cable chains, or another device that attaches to a vehicle’s tire or wheel or to the vehicle itself and is designed to augment the traction of the vehicle under conditions of snow or ice.

(b) The ~~Traffic Committee~~ Secretary of Transportation, the Commissioner of Motor Vehicles, or the Commissioner of Public Safety, or their designees, may require the use of tire chains ~~or winter tires~~ on specified portions of State highways during periods of winter weather for ~~motor coaches, truck tractor-semitrailer combinations, and truck tractor-trailer combinations~~ vehicles with a gross vehicle weight rating (GVWR) of more than 26,000 pounds or gross combination weight rating (GCWR) of more than 26,000 pounds.

~~(b)~~(c) When tire chains ~~or winter tires~~ are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains ~~or winter tires~~ are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

~~(e)~~(d) Under 3 V.S.A. chapter 25, the Traffic Committee may adopt such rules as are necessary to administer this section and may delegate this authority to the Secretary.

(e) When signs are posted and chains required in accordance with this section, chains shall be affixed as follows on vehicles with a GVWR or a GCWR of more than 26,000 pounds:

(1) Solo vehicles. A vehicle not towing another vehicle:

(A) that has a single-drive axle shall have chains on one tire on each side of the drive axle; or

(B) that has a tandem-drive axle shall have chains on:

(i) two tires on each side of the primary drive axle; or

(ii) if both axles are powered by the drive line, on one tire on each side of each drive axle.

(2) Vehicles with semitrailers or trailers. A vehicle towing one or more semitrailers or trailers:

(A) that has a single-drive axle towing a trailer shall have chains on two tires on each side of the drive axle and one tire on the front axle and one tire on one of the rear axles of the trailer;

(B) that has a single-drive axle towing a semitrailer shall have chains on two tires on each side of the drive axle and two tires, one on each side, of any axle of the semitrailer;

(C) that has a tandem-drive axle towing a trailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on one tire of the front axle and one tire on one of the rear axles of the trailer;

(D) that has a tandem-drive axle towing a semitrailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on two tires, one on each side, of any axle of the semitrailer.

(f) Either the operator of a vehicle required to be chained under this section who fails to affix chains as required herein, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on a highway, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

Sec. 55. 23 V.S.A. § 2302 is amended to read:

§ 2302. TRAFFIC VIOLATION DEFINED

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

\* \* \*

(11) a violation of subsection 1006b(b), section 1006c, or subsections 4120(a) and (b) of this title; or

\* \* \*

## \* \* \* School Bus Operators \* \* \*

Sec. 56. 23 V.S.A. § 1282(d) is amended to read:

(d)(1) ~~A~~ No less often than every two years, and before the start of a school year, a person licensed by the Department of Motor Vehicles to assume the duty of transporting school pupils in either a Type I or Type II school bus shall ~~annually before the commencement of the school year~~ furnish ~~his or her~~ the employer, ~~where he or she is employed~~ who employs him or her as a school bus driver, the following:

(A) a certificate signed by a licensed physician, ~~or~~ a certified physician assistant, or a nurse practitioner in accordance with written protocols, certifying that ~~he or she~~ the licensee is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties, and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the Commissioner; and

(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

(2) Upon receipt of a certificate required by this subsection which indicates that the school bus driver is not mentally or physically competent or does not meet the minimum hearing or vision standards, the employer shall immediately notify the Commissioner.

(3) The certificates required under this subsection may be valid for up to two years from the examination.

## \* \* \* Overweight and Overdimension Vehicles \* \* \*

Sec. 57. 23 V.S.A. § 1391a(d) is amended to read:

(d) Fines imposed for violations of this section shall be deposited in the Transportation Fund, unless the fines are the result of enforcement actions on a town highway by an enforcement officer employed by or under contract with the municipality, in which case the fine shall be paid to the municipality, except for a ~~\$6.00~~ an administrative charge for each case in the amount specified in 13 V.S.A. § 7251, which shall be retained by the State.

Sec. 58. 23 V.S.A. § 1400(d) is amended to read:

(d) ~~The Commissioner may enter into contracts with an electronic permitting service that will allow the service to issue single trip permits to a~~

~~commercial motor vehicle operator, on behalf of the Department of Motor Vehicles. The permitting service shall be authorized to issue single trip permits for travel to and from a Vermont facility by commercial motor vehicles which are not greater than 72 feet in length on routes that have been approved by the Agency of Transportation. The permitting service may assess, collect, and retain an additional administrative fee which shall be paid by the commercial motor vehicle carrier. [Repealed.]~~

\* \* \* Motor Vehicle Titles \* \* \*

Sec. 59. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

Except when the context otherwise requires, as used in this chapter:

\* \* \*

(13) “Salvaged motor vehicle” means a motor vehicle which has been purchased or otherwise acquired as salvage; scrapped, dismantled, or destroyed; or declared a total loss by an insurance company.

\* \* \*

(17) “Salvage certificate of title” means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both.~~

\* \* \*

Sec. 60. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

The certificate of title shall be mailed or personally delivered, upon proper identification of the individual, to the first lienholder named in it or, if none, to the owner. However, a person is entitled to a personal delivery of only one title in a single day and of no more than three titles in a calendar month.

Sec. 61. 23 V.S.A. § 2091 is amended to read:

§ 2091. ~~DISMANTLING OR DESTRUCTION OF VEHICLE~~  
SALVAGE CERTIFICATES OF TITLE; FORWARDING OF  
PLATES AND TITLES OF CRUSHED VEHICLES

(a) Except for vehicles for which no certificate of title is required pursuant to section 2012 of this title and for vehicles which are more than 15 years old, any person who purchases or in any manner acquires a vehicle as salvage; any



person who scraps, dismantles, or destroys a motor vehicle; or any insurance company or representative thereof who declares a motor vehicle to be a total loss, shall ~~make application~~ apply to the Commissioner for a salvage certificate of title within 15 days of the time the vehicle is purchased or otherwise acquired as salvage; is scrapped, dismantled, or destroyed; or is declared a total loss. However, an insurance company or representative thereof proceeding under subsection (c) of this section may apply outside this 15-day window to the extent necessary to comply with the requirements of that subsection.

(b) The Except as provided in subsection (c) of this section, the application shall be accompanied by:

(1) any certificate of title; and

(2) any other information or documents that the Commissioner may reasonably require to establish ownership of the vehicle and the existence or nonexistence of any security interest in the vehicle.

(c)(1) An insurer required to obtain a salvage certificate of title under this section for a vehicle declared a total loss, or a representative of the insurer, may obtain the title without satisfying the requirements of subsection (b) of this section if the application for the salvage certificate of title is accompanied by:

(A) the required fee;

(B) evidence that the insurer has made payment for the total loss of the vehicle, and evidence that the payment was made to any lienholder identified in the records of certificates of title of the Department and to the vehicle owner, if applicable; and

(C) a copy of the insurer's written request for the certificate of title sent at least 30 days prior to the application to the vehicle owner and to any lienholder identified in the records of certificates of title of the Department, proof that the request was sent by certified mail or was delivered by a courier service that provides proof of delivery, and copies of any responses from the vehicle owner or lienholder.

(2) If the Commissioner issues a salvage certificate of title to an eligible person under this subsection, the title shall be issued free and clear of all liens.

~~(b)(d)~~ When Except for vehicles for which no certificate of title is required under this chapter, when a vehicle is destroyed by crushing for scrap, the person causing the destruction shall immediately mail or deliver to the Commissioner the certificate of title, if any, endorsed "crushed" and signed by

the person, accompanied by the original plate showing the original vehicle identification number. The plate shall not be removed until such time as the vehicle is crushed.

~~(e)~~(e) This section shall not apply to, and salvage certificates of title shall not be required for, unrecovered stolen vehicles or vehicles stolen and recovered in an undamaged condition, provided that the original vehicle identification number plate has not been removed, altered, or destroyed and the number thereon is identical with that on the original title certificate.

\* \* \* Abandoned Motor Vehicles \* \* \*

Sec. 62. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

§ 2151. ~~ABANDONED MOTOR VEHICLES; DEFINED~~ DEFINITIONS

~~(a)(1) For the purposes of~~ As used in this subchapter, an “abandoned motor vehicle” means:

(1)(A) “Abandoned motor vehicle” means:

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the owner or person in control of the property ~~for more than 48 hours~~, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

~~(B)~~(ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.

(B) “Abandoned motor vehicle” does not include a vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic.

(2) “Landowner” means a person who owns or leases or otherwise has authority to control use of real property.

(3) For purposes of this subsection, “public “Public vehicle identification number” means the public vehicle identification number which is usually visible through the windshield and attached to the driver’s side of the dashboard, instrument panel, or windshield pillar post or on the doorjamb on the driver’s side of the vehicle.

~~(b) Construction equipment. A vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be an abandoned motor vehicle.~~

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

(a) Public property. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property, and may contact a towing service for its removal ~~of such motor vehicle~~, based upon personal observation by the officer that the vehicle is an abandoned motor vehicle.

(b) Private property.

(1) A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property, and may contact a towing service for its removal ~~from private property of such vehicle~~, based upon ~~complaint of the owner or agent of the property~~ the request of the landowner on which whose property the vehicle is located that the and information indicating that the vehicle is an abandoned motor vehicle.

(2) ~~An owner or agent of an owner~~ A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may contact a towing service for its removal ~~from that property of an abandoned vehicle~~. ~~If an owner or agent of an owner~~ A landowner who removes or causes removal of an abandoned motor vehicle, ~~the owner or agent~~ shall immediately notify the police agency in the jurisdiction from which the vehicle is removed. ~~Notification shall include identification of~~ and provide the registration plate number, the public vehicle identification number, if available, and the make, model, and color of the vehicle. ~~The owner or agent of an owner of property upon which a motor vehicle is abandoned~~ landowner may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service under the provisions of this subsection, without incurring any civil liability to the owner of the abandoned vehicle.

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

(a) ~~Within 30 days of removal of the vehicle, a towing service which has removed an abandoned motor vehicle~~ A landowner on whose property an abandoned motor vehicle is located shall apply to the Department for an

abandoned motor vehicle certification on forms supplied by the Department of ~~Motor Vehicles~~ within 30 days of the date the vehicle was discovered on or brought to the property unless the vehicle has been removed from the property. An abandoned motor vehicle certification form shall indicate the date of ~~removal~~, that the abandoned motor vehicle was discovered or brought to the property; the make, color, model, and location found, and of the vehicle; the name, address, and phone telephone number of the towing service, landowner; and a certification of the public vehicle identification number, if any, to be recorded by a law enforcement officer. This subsection shall not be construed as creating a private right of action against the landowner.

(b) Upon receipt of an abandoned motor vehicle certification form, the Commissioner of ~~Motor Vehicles~~ shall attempt to identify and notify the owner of the vehicle as required by section 2154 of this title. If no owner can be determined by the Commissioner within the time period allowed by section 2154 of this title, the Commissioner shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title, or both, and the vehicle may be disposed of in the manner set forth in section 2156 of this title.

#### § 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

(a) The Department of ~~Motor Vehicles~~ shall make a reasonable attempt to locate an owner of an abandoned motor vehicle.

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days of the date of receipt of the abandoned motor vehicle certification form, the Commissioner of ~~Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

(2) If the abandoned motor vehicle is identifiable by its registration plates or public vehicle identification number, the Department of ~~Motor Vehicles~~ shall, within three business days of receipt of the form for certification of abandoned motor vehicle, send notice to the last known registered owner and lienholder of the vehicle. The notice shall be sent by certified mail, return receipt requested, and shall advise the last known registered owner of the motor vehicle's location and a telephone number where additional information about the motor vehicle may be obtained. If the receipt is not returned to the Department within seven business days, the Commissioner shall, by first class mail, send a second notice. Within 21 days of sending the second notice, the last known registered owner or lienholder may reclaim and retrieve the motor vehicle by presenting to the Department of ~~Motor Vehicles~~ satisfactory evidence of ownership, and paying or arranging to

pay any fees or charges authorized by section 2155 of this title. If the last known registered owner or lienholder fails or refuses to reclaim the motor vehicle within 21 days of the second mailing, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title.

(b) An owner or lienholder may reclaim an abandoned motor vehicle by presenting to the Department ~~of Motor Vehicles~~ satisfactory evidence of ownership, and paying or reimbursing, or making arrangements to pay or reimburse, the towing agency, the Department ~~of Motor Vehicles~~, or the ~~owner or agent of private property~~ landowner, as the case may be, any towing fee or storage charges permitted under section 2155 of this title.

#### § 2155. FEES AND CHARGES

(a) Towing fees. For towing an abandoned motor vehicle from private property, a towing service may charge a reasonable fee to be paid by the vehicle owner or agent of the owner landowner of the private property.

(b) Storage charges. In addition to any towing fee, an owner or lienholder reclaiming an abandoned motor vehicle may be charged and shall pay a fee for the costs of storage of the vehicle, except that no fee may be charged for storage for any period preceding the date upon which the form for abandoned motor vehicle certification is sent ~~by the towing service~~ to the Department ~~of Motor Vehicles~~.

\* \* \*

\* \* \* Repeals and Conforming Changes \* \* \*

#### Sec. 63. REPEALS

The following sections are repealed:

(1) 23 V.S.A. § 366 (log-haulers; registration).

(2) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).

(3) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 64. 23 V.S.A. § 369 is amended to read:

#### § 369. TRACTORS OTHER THAN FARM TRACTORS

The annual fee for registration of a tractor, except ~~log-haulers on snow roads and~~ farm tractors as otherwise provided in this chapter, shall be based on the actual weight of such tractor at the same rate as that provided for trucks of

like weight under the provisions of this chapter. The minimum fee for registering any tractor shall be \$20.00.

Sec. 65. 23 V.S.A. § 603(a)(2) is amended to read:

(2) The Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license, under the provisions of this subsection ~~or section 605 of this title~~, shall be entitled to hearing as provided in sections 105–107 of this title.

\* \* \* Chemicals of High Concern to Children; Vehicle Exemptions \* \* \*

Sec. 66. 18 V.S.A. § 1772 is amended to read:

#### § 1772. DEFINITIONS

As used in this chapter:

\* \* \*

(8) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes. “Consumer product” shall not mean:

\* \* \*

(G) an aircraft, motor vehicle, wheelchair, or vessel;

\* \* \*

(13) “Motor vehicle” means ~~every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products~~ all vehicles propelled or drawn by power other than muscular power, including snowmobiles, motorcycles, all-terrain vehicles, farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, or tracked vehicles or electric personal assistive mobility devices.

\* \* \*

\* \* \* Study of DUI Drug Offense Enforcement Challenges \* \* \*

#### Sec. 67. STUDY OF DUI DRUG OFFENSE ENFORCEMENT CHALLENGES

The Executive Director of the Department of State's Attorneys and Sheriffs or designee, in consultation with the Commissioner of Public Safety or designee, the Impaired Driving Project Manager of the Governor's Highway Safety Program, and attorneys representing DUI defendants, shall study challenges in the enforcement of DUI drug offenses, including the lack of a rapid roadside screening tool to detect drugs other than alcohol, and identify recommended improvements in the processes used to detect, arrest, and process drug-impaired drivers and to the laws that govern these processes. On or before November 1, 2016, the Executive Director shall report his or her findings and recommendations to the Joint Legislative Justice Oversight Committee, the House and Senate Committees on Judiciary, and the House and Senate Committees on Transportation.

\* \* \* Effective Dates and Applicability \* \* \*

#### Sec. 68. 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), Sec. 36a (spending authority and transfer to the Ignition Interlock Device Special Fund), Sec. 66 (chemicals of high concern to children; exempt vehicles), and Sec. 67 (study of DUI drug offense enforcement challenges) 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.

Pending the question, Shall the House concur in the Senate proposal of amendment? **Reps. Brennan of Colchester and Corcoran of Bennington** moved to concur in the Senate proposal of amendment with a further amendment thereto, as follows:

By striking 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.

\* \* \* Program Development Program \* \* \*

**Sec. 2. 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) \$1,461,136.00 in transportation funds;

(2) \$86,204.00 in TIB funds;

(3) \$6,189,360.00 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 \$1,547,340.00 in Transportation Funds or TIB funds, and by up to \$6,189,360 in matching federal funds.

\* \* \* FY17 Town Highway Aid Program \* \* \*

### Sec. 3. TOWN HIGHWAY AID PROGRAM

Spending authority for the fiscal year 2017 Town Highway Aid Program is amended as follows:

<u>FY17</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Grants	25,982,744	26,982,744	1,000,000
Total	25,982,744	26,982,744	1,000,000
<u>Sources of funds</u>			
State	25,982,744	26,982,744	1,000,000
Federal	0	0	0
Total	25,982,744	26,982,744	1,000,000

\* \* \* Appropriation of Transportation Funds \* \* \*

Sec. 4. 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) \$20,000,000.00 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.

\* \* \* Future TH Aid Program Appropriations \* \* \*

Sec. 5. PERMANENT INCREASE TO TOWN HIGHWAY AID  
PROGRAM; LEGISLATIVE INTENT

The General Assembly intends that at least \$1,000,000.00 of the \$1,550,000.00 reduction in the amount of transportation funds appropriated to the Department of Public Safety scheduled to occur under 19 V.S.A. § 11a in fiscal year 2018 be allocated to fund a permanent increase of at least \$1,000,000.00 in transportation funds appropriated to the Town Highway Aid Program. This allocation shall be in addition to the \$25,982,744.00 in transportation funds allocated to the Town Highway Aid Program between fiscal years 2013 and 2016.

Sec. 6. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General State aid to town highways. An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall ~~increase or decrease over the previous year's appropriation by the same percentage as any increase or decrease in the Transportation Agency's total appropriations funded by Transportation Fund revenues, excluding the town highway appropriations for that year~~ not be less than \$26,982,744.00. The funds appropriated shall be distributed to towns as follows:

(1) Six percent of the State's annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town's percentage of class 1 town highways of the total class 1 town highway mileage in the State.

(2) Forty-four percent of the State's annual town highway appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the State.

(3) Fifty percent of the State's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the State.

(4) Monies apportioned under subdivisions (1), (2), and (3) of this subsection shall be distributed to each town in quarterly payments beginning July 15 in each year.

(5) Each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the State, in a civil action brought by the Attorney General, for making any unauthorized expenditures from money apportioned to the town under this section.

\* \* \*

Sec. 7. 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. 8. 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. 9. 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.

\* \* \* Municipal Mitigation Grant Program \* \* \*

#### Sec. 10. 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. 11. 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. 12. 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. 13. 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).

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\* \* \* Sale of State-Owned Railroad Property \* \* \*Sec. 14. 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. 15. 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. 16. 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. 17. 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. 18. 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. 19. 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. 20. 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. 21. 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.

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\* \* \* Joint Transportation Oversight Committee \* \* \*

Sec. 22. 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. 23. 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. 24. 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. 25. 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.

Sec. 26. [Reserved.]

\* \* \* Water Quality \* \* \*

Sec. 27. FINDINGS; AGENCY OF TRANSPORTATION; STORMWATER CREDIT

For the purposes of this section and Secs. 28–33 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. 28. 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. 29. 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 30 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 29a. 24 V.S.A. § 3615(c) is amended to read:

(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 ~~30~~ 35 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 29b. 24 V.S.A. § 3615(c) is amended to read:

(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~~ 40 percent credit on the charge. The Agency of Transportation shall receive no other credit on the charge from the municipal corporation.

Sec. 30. 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 30 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 30a. 24 V.S.A. § 3507(b) is amended to read:

(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 ~~30~~ 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 30b. 24 V.S.A. § 3507(b) is amended to read:

(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~~ 40 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the municipal corporation.

Sec. 31. 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 30 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 31a. 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 ~~30~~ 35 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 31b. 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~~ 40 percent credit on the rate. The Agency of Transportation shall receive no other credit on the rate from the consolidated sewer district.

Sec. 32. 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. 33. 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. 34. 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. 35. 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. 36–37 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. 36. 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. 37. 19 V.S.A. § 44 is added to read:

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§ 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. 38. QUECHEE GORGE BRIDGE SAFETY ISSUES

(a) On or before July 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.

\* \* \* Vulnerable Users \* \* \*

Sec. 39. 23 V.S.A. § 1033 is amended to read:

§ 1033. PASSING MOTOR VEHICLES AND VULNERABLE USERS

(a) Passing motor vehicles. Motor vehicles proceeding in the same direction may be overtaken and passed only as follows:

(1) The driver of a motor vehicle overtaking another motor vehicle proceeding in the same direction may pass to its left at a safe distance, and when so doing shall exercise due care, shall not pass to the left of the center of the highway ~~unless the way ahead is clear of approaching traffic~~ except as authorized in section 1035 of this title, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken motor vehicle shall give way to the right in favor of the overtaking motor vehicle ~~on audible signal~~ and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(b) Passing vulnerable users. The operator of a motor vehicle approaching or passing a vulnerable user as defined in subdivision 4(81) of this title shall exercise due care, which includes increasing clearance to at least four feet, to pass the vulnerable user safely, and shall cross the center of the highway only as provided in ~~subdivision (a)(1) of this section~~ 1035 of this title. A person who violates this subsection shall be subject to a civil penalty of not less than \$200.00.

Sec. 40. 23 V.S.A. § 1035 is amended to read:

§ 1035. LIMITATIONS

(a) ~~No~~ A vehicle shall not be driven to the left side of the center of the roadway in overtaking and passing another vehicle or a vulnerable user proceeding in the same direction unless authorized by the provisions of this chapter and unless the left side is clearly visible and free of oncoming traffic and vulnerable users for a sufficient distance ahead to permit overtaking and passing to be completed without interfering with the operation of any vehicle or with any vulnerable user approaching from the opposite direction or with the operation of any vehicle or with any vulnerable user overtaken. In every event, the overtaking vehicle shall return to an authorized lane of travel as soon

as practicable and, if the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle or a vulnerable user.

(b) A vehicle shall not pass another from the rear under any of the following conditions:

(1) when approaching or upon the crest of a grade or upon a curve in the highway where the driver's view is in any way obstructed;

(2) when approaching within 100 feet of, or traversing, any intersection or railroad grade crossing unless otherwise indicated by official traffic control devices; or

(3) when the view is obstructed upon approaching within 100 feet of any bridge, viaduct, or tunnel.

(c) The foregoing limitations do not apply upon a one-way roadway, or when subdivision 1031(a)(2) of this title applies, or where a vehicle is turning left into an alley, private road, or driveway.

Sec. 41. 23 V.S.A. § 1049 is amended to read:

§ 1049. VEHICLE ENTERING FROM PRIVATE ROAD

The driver of a vehicle about to enter or cross a highway from an alley, building, private road, or driveway shall yield the right of way to all vehicles and vulnerable users approaching on the highway.

Sec. 42. 23 V.S.A. § 1049a is added to read:

§ 1049a. OBLIGATIONS TO VULNERABLE USERS WHEN  
TURNING

Notwithstanding any provision of this title to the contrary, a person operating a vehicle shall not turn right or left unless the turn can be made at a safe distance from a vulnerable user. A person who violates this section shall be subject to a civil penalty of not less than \$200.00.

Sec. 43. 23 V.S.A. § 1064 is amended to read:

§ 1064. SIGNALS REQUIRED; GENERAL OBLIGATION TO TURN AND  
MOVE SAFELY

(a) Before changing direction or materially slackening speed, a driver shall give warning of his or her intention with the hand signals as provided in section 1065 of this title, or with a mechanical or lighting device approved by

the Commissioner of Motor Vehicles. A bicyclist shall give such hand signals unless he or she cannot do so safely.

(b) ~~No person may~~ A person shall not turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required in section 1061 of this title, or turn a vehicle to enter an alley, private road, or driveway, or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless such movement can be made with reasonable safety.

(c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.

(d) A signal of intention to turn right or left when required shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning. A bicyclist shall comply with this subsection unless he or she cannot do so safely.

(e) The signals provided for in section 1065 of this title shall be used to indicate an intention to turn, change lanes, or start from a parked position and may not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear.

Sec. 44. 23 V.S.A. chapter 13, subchapter 12 is amended to read:

Subchapter 12. Operation of Bicycles, Electric Personal Assistive Mobility Devices, and Play Vehicles

§ 1136. APPLICATION OF SUBCHAPTER; RIGHTS AND

OBLIGATIONS OF BICYCLISTS UNDER OTHER LAWS

(a) The parent of any child and the guardian of any ward may not authorize or knowingly permit any such child or ward to violate any of the provisions of this subchapter.

(b) This subchapter applies whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(c) Every person riding a bicycle is granted all of the rights and is subject to all of the duties applicable to operators of vehicles, except as to those provisions ~~which~~ that:

(1) are inconsistent with provisions that specifically address the rights and duties of vulnerable users generally or bicyclists specifically; or

(2) by their very nature can have no application.

(d) Except as otherwise may be required under subdivision 1139(a)(1) of this chapter, and notwithstanding any provision of this title to the contrary, a bicyclist riding consistent with the obligations of subsection 1139(a) of this chapter may keep to the right when passing a motor vehicle, regardless of whether the passing movement results from the motor vehicle's slowing down, the bicyclist's continuing forward, or other circumstances that result in the passing.

\* \* \*

#### § 1139. RIDING ON ROADWAYS AND BICYCLE PATHS

(a) A person operating a bicycle upon a roadway shall exercise due care when passing a standing vehicle or one proceeding in the same direction ~~and~~. Bicyclists generally shall ride as near to the right side of the roadway as practicable, but shall ride to the left or in a left lane improved area of the highway right-of-way as is safe, except that a bicyclist:

(1) Shall ride to the left or in a left lane when:

~~(1)(A)~~ (A) preparing for a left turn at an intersection or into a private roadway or driveway;

~~(2)(B)~~ (B) approaching an intersection with a right-turn lane if not turning right at the intersection; or

~~(3)(C)~~ (C) overtaking another ~~highway~~ vulnerable user; ~~or~~.

~~(4)(2)~~ (2) May ride to the left or in a left lane when taking reasonably necessary precautions to avoid hazards or road conditions. Examples include objects on the road, parked or moving vehicles, pedestrians, animals, surface conditions that may impair the bicyclist's stability, or safety hazards caused by a narrow road or steep embankment, road geometry, or unfavorable atmospheric conditions.

\* \* \*

\* \* \* Ignition Interlock Devices \* \* \*

Sec. 45. 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. 46. 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. 47. 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.

Sec. 48. [Reserved.]

Sec. 49. 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. 50. 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. 51. 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, 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.

(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. 52. 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, 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 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. 53. 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.

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\* \* \*

\* \* \* Dealers \* \* \*

Sec. 54. 23 V.S.A. § 4(8)(A)(ii)(III) is amended to read:

(III) For a dealer in trailers, semi-trailers, or trailer coaches, “engaged in the business” means having sold or exchanged at least one trailer, semi-trailer, or trailer coach in the immediately preceding year or a combination of two such vehicles in the two immediately preceding years. However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (8)(A)(ii)(III).

Sec. 55. DEALER REGULATION REVIEW

(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other states, to determine whether and how Vermont’s regulation of dealers and associated motor vehicle laws should be amended to:

(1) enable vehicle and motorboat sales to thrive while protecting consumers from fraud or other illegal activities in the market for vehicles and motorboats; and

(2) protect the State’s interest in collecting taxes, enforcing the law, and ensuring an orderly marketplace.

(b) In conducting his or her review, the Commissioner shall consult with new and used vehicle dealers or representatives of such dealers, or both, and other interested persons.

(c) The Commissioner shall review:

(1) required minimum hours and days of operation of dealers;

(2) physical location requirements of dealers;

(3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold;

(4) the permitted uses of dealer plates;

(5) whether residents of other states should be allowed to register vehicles in Vermont;

(6) the effect any proposed change will have on fees and taxes that dealers collect and consumers pay;

(7) the effect any proposed changes will have on the ability of Vermont consumers and law enforcement to obtain information from a dealer selling vehicles or motorboats in Vermont; and

(8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.

(d) On or before January 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate and House Committees on Transportation and submit proposed legislation as may be required to implement the recommendations.

\* \* \* Motor-Assisted Bicycles \* \* \*

Sec. 56. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

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

\* \* \*

(45)(A) “Motor-driven cycle” means any vehicle equipped with two or three wheels, a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, motor-driven cycles shall be subject to the purchase and use tax imposed under 32 V.S.A. chapter 219 rather than to a general sales tax. ~~At~~ Neither an electric personal assistive mobility device nor a motor-assisted bicycle is ~~not~~ a motor-driven cycle.

(B)(i) “Motor-assisted bicycle” means any bicycle or tricycle with fully operable pedals and equipped with a motor that:

(I) has a power output of not more than 1,000 watts or 1.3 horsepower; and

(II) in itself is capable of producing a top speed of no more than 20 miles per hour on a paved level surface when ridden by an operator who weighs 170 pounds.

(ii) Motor-assisted bicycles shall be regulated in accordance with section 1136 of this title.

\* \* \*

Sec. 57. 23 V.S.A. § 1136(d) is added to read:

(d)(1) Except as provided in this subsection, motor-assisted bicycles shall be governed as bicycles under Vermont law, and operators of motor-assisted bicycles shall be subject to all of the rights and duties applicable to bicyclists under Vermont law. Motor-assisted bicycles and their operators shall be exempt from motor vehicle registration and inspection and operator's license requirements. A person shall not operate a motor-assisted bicycle on a sidewalk in Vermont.

(2) A person under 16 years of age shall not operate a motor-assisted bicycle on a highway in Vermont.

(3) Nothing in this subsection shall interfere with the right of municipalities to regulate the operation and use of motor-assisted bicycles pursuant to 24 V.S.A. § 2291(1) and (4), as long as the regulations do not conflict with this subsection.

\* \* \* Nondriver Identifications Cards; Data Elements \* \* \*

Sec. 58. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

\* \* \*

(b) Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a ~~\$20.00~~ \$24.00 fee. At least 30 days before an identification card will expire, the Commissioner shall mail first class to the cardholder or send the cardholder electronically an application to renew the identification card; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification.

\* \* \*

(i) An identification card issued under this subsection to an ~~individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card~~ initial or renewal applicant shall include data elements as prescribed in 6 C.F.R. § 37.19.

\* \* \*

\* \* \* Refund When Registration Plates Not Used \* \* \*

Sec. 59. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or motor boat when the owner returns the number plates, if any, ~~the validation sticker, if issued for that year,~~ and the registration certificate to the Commissioner. Upon cancellation of the registration, the Commissioner shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

(1) For registrations ~~which are~~ cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a fee of \$5.00. ~~The validation stickers may be affixed to the plates.~~

(2) For registrations ~~which are~~ cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of \$5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle, ~~or that the current validation sticker has not been affixed to the plate or to the snowmobile or motorboat.~~

(3) For registrations ~~which are~~ cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of \$5.00. ~~The validation stickers may be affixed to the plates.~~

\* \* \* Exhibition Vehicles; Year of Manufacture Plates \* \* \*

Sec. 60. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

(a) The annual fee for the registration of a motor vehicle which is maintained solely for use in exhibitions, club activities, parades, and other functions of public interest and which is not used for the transportation of passengers or property on any highway, except to attend such functions, shall be ~~\$15.00~~ \$21.00, in lieu of fees otherwise provided by law.

(b) Pursuant to the provisions of section 304 of this title, one registration plate shall be issued to those vehicles registered under subsection (a) of this section.

(c) ~~The Vermont registration plates of any motor vehicle~~ issued prior to ~~1939~~ 1968 may be displayed on a motor vehicle registered under this section

instead of the ~~plates~~ plate issued under this section, if the ~~current plates are~~ issued plate is maintained within the vehicle and produced upon request of any enforcement officer as defined in subdivision 4(11) of this title.

\* \* \* Provisions Common to Registrations and Operator's Licenses \* \* \*

Sec. 61. 23 V.S.A. § 208 is added to read:

§ 208. RECIPROCAL RECOGNITION OF NONRESIDENT

REGISTRATIONS, LICENSES, AND PERMITS; FOREIGN VISITORS

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

Sec. 62. 23 V.S.A. § 411 is amended to read:

§ 411. RECIPROCAL PROVISIONS

~~As determined by the Commissioner, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. Any exemptions provided in this section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his or her residence like exemptions and privileges are granted to operators duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period~~



~~of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this State. [Repealed.]~~

\* \* \* Operator's Licenses \* \* \*

Sec. 63. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

(a)(1) Except as otherwise provided by law, a resident shall not operate a motor vehicle on a highway in Vermont unless he or she holds a valid license issued by the State of Vermont. A new resident who has moved into the State from another jurisdiction and who holds a valid license to operate motor vehicles under section ~~44~~ 208 of this title shall procure a Vermont license within 60 days of moving to the State. Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

(2) In addition to any other requirement of law, a nonresident as defined in section 4 of this title shall not operate a motor vehicle on a Vermont highway unless:

(A) he or she holds a valid license or permit to operate a motor vehicle issued by another U.S. jurisdiction; ~~or~~

(B) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and operates for a period of not more than 30 days for vacation purposes; or

(C) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and:

(i) is 18 or more years of age, is lawfully present in the United States, and has been in the United States for less than one year;

(ii) the jurisdiction that issued the license is a party to the 1949 Convention on Road Traffic or the 1943 Convention on the Regulation of Inter-American Motor Vehicle Traffic; and

(iii) he or she possesses an international driving permit.

\* \* \*

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall mail first class to the licensee or send the licensee electronically an application for renewal of the license; a cardholder shall be sent the renewal notice by mail unless the cardholder opts in to receive electronic notification. A person shall not operate a motor vehicle unless properly licensed.

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\* \* \*

## Sec. 64. CONFORMING CHANGES

In 23 V.S.A. §§ 614 and 615, “section 411” is hereby replaced with “section 208.”

\* \* \* Special Examinations; Conforming Changes \* \* \*

Sec. 65. 23 V.S.A. § 637 is amended to read:

## § 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

The Commissioner may designate physicians, certified physician assistants, licensed advance practice registered nurses, ophthalmologists, oculists, and optometrists properly registered and authorized to practice in this State or in an adjoining state as examiners of operators. The Commissioner may refer any matter relative to the issuing, suspending, or reinstating of licenses ~~which concern~~ that concerns the physical or mental condition or eyesight of any applicant for or holder of a license or any petitioner for reinstatement to, and require the applicant or other person to be examined by, such examiner in the vicinity of the person's residence as he or she determines to be qualified to examine and report. Such examiner shall report to the Commissioner the true and actual result of examinations made by him or her together with his or her decision as to whether the person examined should be granted or allowed to retain an operator's license or permitted to operate a motor vehicle.

Sec. 66. 23 V.S.A. § 638 is amended to read:

§ 638. ~~DISSATISFACTION WITH PHYSICAL AND MENTAL~~  
~~EXAMINATION~~

~~If any person is dissatisfied with the result of an examination given by any one examiner, as provided in section 637 of this title, he or she may apply to the Commissioner for and shall be granted an examination by two physicians, ophthalmologists, oculists, or optometrists selected from a list of examiners approved by the Commissioner, and their decision shall be final. The Commissioner may designate the area of specialization from which the examiners are to be selected in each case, but in no event shall he or she limit the choice of an examiner to any one individual within the profession from which he or she is to be chosen. [Repealed.]~~

Sec. 67. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

The compensation of the examiners provided in ~~sections~~ section 637 ~~and 638~~ of this title shall be paid by the person examined.

\* \* \* State Highway Restrictions and Chain Up Requirements \* \* \*

Sec. 68. 23 V.S.A. § 1006b is amended to read:

§ 1006b. ~~SMUGGLERS~~ SMUGGLERS' NOTCH; WINTER CLOSURE OF VERMONT ROUTE 108; COMMERCIAL VEHICLE OPERATION PROHIBITED

(a) The Agency of Transportation may close the ~~Smugglers~~ Smugglers' Notch segment of Vermont Route 108 during periods of winter weather. ~~To enforce the winter closure, the Agency shall erect signs conforming to the standards established by section 1025 of this title.~~

(b)(1) As used in this subsection, "commercial vehicle" means truck-tractor-semitrailer combinations and truck-tractor-trailer combinations.

(2) Commercial vehicles are prohibited from operating on the Smugglers' Notch segment of Vermont Route 108.

(3) Either the operator of a commercial vehicle who violates this subsection, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on Vermont Route 108, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

(c) The Agency shall erect signs conforming to the standards established by section 1025 of this title to indicate the closures and restrictions authorized under this section.

Sec. 69. 23 V.S.A. § 1006c is amended to read:

§ 1006c. ~~TRUCKS AND BUSES; CHAINS AND TIRE CHAIN~~ REQUIREMENTS FOR VEHICLES WITH WEIGHT RATINGS OF MORE THAN 26,000 POUNDS

(a) As used in this section, "chains" means link chains, cable chains, or another device that attaches to a vehicle's tire or wheel or to the vehicle itself and is designed to augment the traction of the vehicle under conditions of snow or ice.

(b) The ~~Traffic Committee~~ Secretary of Transportation, the Commissioner of Motor Vehicles, or the Commissioner of Public Safety, or their designees, may require the use of tire chains ~~or winter tires~~ on specified portions of State highways during periods of winter weather for ~~motor coaches, truck tractor-semitrailer combinations, and truck tractor-trailer combinations~~ vehicles with a gross vehicle weight rating (GVWR) of more than 26,000 pounds or gross combination weight rating (GCWR) of more than 26,000 pounds.

~~(b)~~(c) When tire chains ~~or winter tires~~ are required, advance notice shall be given to the traveling public through signage and, whenever possible, through public service announcements. In areas where tire chains ~~or winter tires~~ are required, there shall be an adequate area for vehicles to pull off the traveled way to affix any chains that might be required.

~~(e)~~(d) Under 3 V.S.A. chapter 25, the Traffic Committee may adopt such rules as are necessary to administer this section and may delegate this authority to the Secretary.

(e) When signs are posted and chains required in accordance with this section, chains shall be affixed as follows on vehicles with a GVWR or a GCWR of more than 26,000 pounds:

(1) Solo vehicles. A vehicle not towing another vehicle:

(A) that has a single-drive axle shall have chains on one tire on each side of the drive axle; or

(B) that has a tandem-drive axle shall have chains on:

(i) two tires on each side of the primary drive axle; or

(ii) if both axles are powered by the drive line, on one tire on each side of each drive axle.

(2) Vehicles with semitrailers or trailers. A vehicle towing one or more semitrailers or trailers:

(A) that has a single-drive axle towing a trailer shall have chains on two tires on each side of the drive axle and one tire on the front axle and one tire on one of the rear axles of the trailer;

(B) that has a single-drive axle towing a semitrailer shall have chains on two tires on each side of the drive axle and two tires, one on each side, of any axle of the semitrailer;

(C) that has a tandem-drive axle towing a trailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on one tire of the front axle and one tire on one of the rear axles of the trailer;

(D) that has a tandem-drive axle towing a semitrailer shall have:

(i) chains on two tires on each side of the primary drive axle, or if both axles of the vehicle are powered by the drive line, one tire on each side of each drive axle; and

(ii) chains on two tires, one on each side, of any axle of the semitrailer.

(f) Either the operator of a vehicle required to be chained under this section who fails to affix chains as required herein, or the operator's employer, shall be subject to a civil penalty of \$1,000.00. If the violation results in substantially impeding the flow of traffic on a highway, the penalty shall be \$2,000.00. For a second or subsequent conviction within a three-year period, the penalty shall be doubled.

Sec. 70. 23 V.S.A. § 2302 is amended to read:

§ 2302. TRAFFIC VIOLATION DEFINED

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

\* \* \*

(11) a violation of subsection 1006b(b), section 1006c, or subsections 4120(a) and (b) of this title; or

\* \* \*

\* \* \* School Bus Operators \* \* \*

Sec. 71. 23 V.S.A. § 1282(d) is amended to read:

(d)(1) A No less often than every two years, and before the start of a school year, a person licensed by the Department of Motor Vehicles to assume the duty of transporting school pupils in either a Type I or Type II school bus shall annually before the commencement of the school year furnish his or her the employer, where he or she is employed who employs him or her as a school bus driver; the following:

(A) a certificate signed by a licensed physician, ~~or~~ a certified physician assistant, or a nurse practitioner in accordance with written

protocols, certifying that ~~he or she~~ the licensee is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties; and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the Commissioner; and

(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

(2) Upon receipt of a certificate required by this subsection which indicates that the school bus driver is not mentally or physically competent or does not meet the minimum hearing or vision standards, the employer shall immediately notify the Commissioner.

(3) The certificates required under this subsection may be valid for up to two years from the examination.

\* \* \* Overweight and Overdimension Vehicles \* \* \*

Sec. 72. 23 V.S.A. § 1391a(d) is amended to read:

(d) Fines imposed for violations of this section shall be deposited in the Transportation Fund, unless the fines are the result of enforcement actions on a town highway by an enforcement officer employed by or under contract with the municipality, in which case the fine shall be paid to the municipality, except for a ~~\$6.00~~ an administrative charge for each case in the amount specified in 13 V.S.A. § 7251, which shall be retained by the State.

Sec. 73. 23 V.S.A. § 1400(d) is amended to read:

~~(d) The Commissioner may enter into contracts with an electronic permitting service that will allow the service to issue single trip permits to a commercial motor vehicle operator, on behalf of the Department of Motor Vehicles. The permitting service shall be authorized to issue single trip permits for travel to and from a Vermont facility by commercial motor vehicles which are not greater than 72 feet in length on routes that have been approved by the Agency of Transportation. The permitting service may assess, collect, and retain an additional administrative fee which shall be paid by the commercial motor vehicle carrier. [Repealed.]~~

## \* \* \* Motor Vehicle Titles \* \* \*

Sec. 74. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

Except when the context otherwise requires, as used in this chapter:

\* \* \*

(13) “Salvaged motor vehicle” means a motor vehicle which has been purchased or otherwise acquired as salvage; scrapped, dismantled, or destroyed;<sub>2</sub> or declared a total loss by an insurance company.

\* \* \*

(17) “Salvage certificate of title” means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both.~~

\* \* \*

Sec. 75. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

The certificate of title shall be mailed or personally delivered, upon proper identification of the individual, to the first lienholder named in it or, if none, to the owner. However, a person is entitled to a personal delivery of only one title in a single day and of no more than three titles in a calendar month.

Sec. 76. 23 V.S.A. § 2091 is amended to read:

§ 2091. ~~DISMANTLING OR DESTRUCTION OF VEHICLE~~  
SALVAGE CERTIFICATES OF TITLE; FORWARDING OF  
PLATES AND TITLES OF CRUSHED VEHICLES

(a) Except for vehicles for which no certificate of title is required pursuant to section 2012 of this title and for vehicles which are more than 15 years old, any person who purchases or in any manner acquires a vehicle as salvage; any person who scraps, dismantles, or destroys a motor vehicle;<sub>2</sub> or any insurance company or representative thereof who declares a motor vehicle to be a total loss, shall ~~make application~~ apply to the Commissioner for a salvage certificate of title within 15 days of the time the vehicle is purchased or otherwise acquired as salvage;<sub>2</sub> is scrapped, dismantled, or destroyed;<sub>2</sub> or is declared a total loss. However, an insurance company or representative thereof proceeding under subsection (c) of this section may apply outside this 15-day

window to the extent necessary to comply with the requirements of that subsection.

(b) The Except as provided in subsection (c) of this section, the application shall be accompanied by:

(1) any certificate of title; and

(2) any other information or documents that the Commissioner may reasonably require to establish ownership of the vehicle and the existence or nonexistence of any security interest in the vehicle.

(c)(1) An insurer required to obtain a salvage certificate of title under this section for a vehicle declared a total loss, or a representative of the insurer, may obtain the title without satisfying the requirements of subsection (b) of this section if the application for the salvage certificate of title is accompanied by:

(A) the required fee;

(B) evidence that the insurer has made payment for the total loss of the vehicle, and evidence that the payment was made to any lienholder identified in the records of certificates of title of the Department and to the vehicle owner, if applicable; and

(C) a copy of the insurer's written request for the certificate of title sent at least 30 days prior to the application to the vehicle owner and to any lienholder identified in the records of certificates of title of the Department, proof that the request was sent by certified mail or was delivered by a courier service that provides proof of delivery, and copies of any responses from the vehicle owner or lienholder.

(2) If the Commissioner issues a salvage certificate of title to an eligible person under this subsection, the title shall be issued free and clear of all liens.

(b)(d) ~~When~~ Except for vehicles for which no certificate of title is required under this chapter, when a vehicle is destroyed by crushing for scrap, the person causing the destruction shall immediately mail or deliver to the Commissioner the certificate of title, ~~if any,~~ endorsed "crushed" and signed by the person, accompanied by the original plate showing the original vehicle identification number. The plate shall not be removed until such time as the vehicle is crushed.

(e)(e) This section shall not apply to, and salvage certificates of title shall not be required for, unrecovered stolen vehicles or vehicles stolen and recovered in an undamaged condition, provided that the original vehicle



identification number plate has not been removed, altered, or destroyed and the number thereon is identical with that on the original title certificate.

\* \* \* Abandoned Motor Vehicles \* \* \*

Sec. 77. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

§ 2151. ~~ABANDONED MOTOR VEHICLES; DEFINED~~ DEFINITIONS

~~(a)(1) For the purposes of~~ As used in this subchapter, an “abandoned motor vehicle” means:

(1)(A) “Abandoned motor vehicle” means:

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the owner or person in control of the property ~~for more than 48 hours~~, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

~~(B)~~(ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.

(B) “Abandoned motor vehicle” does not include a vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic.

(2) “Landowner” means a person who owns or leases or otherwise has authority to control use of real property.

~~(3) For purposes of this subsection, “public~~ “Public vehicle identification number” means the public vehicle identification number which is usually visible through the windshield and attached to the driver’s side of the dashboard, instrument panel, or windshield pillar post or on the doorjamb on the driver’s side of the vehicle.

~~(b) Construction equipment. A vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be an abandoned motor vehicle.~~

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§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

(a) Public property. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property, and may contact a towing service for its removal ~~of such motor vehicle~~, based upon personal observation by the officer that the vehicle is an abandoned motor vehicle.

(b) Private property.

(1) A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property, and may contact a towing service for its removal ~~from private property of such vehicle~~, based upon ~~complaint of the owner or agent of the property~~ the request of the landowner on which whose property the vehicle is located that the and information indicating that the vehicle is an abandoned motor vehicle.

(2) ~~An owner or agent of an owner~~ A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may contact a towing service for its removal ~~from that property of an abandoned vehicle~~. ~~If an owner or agent of an owner~~ A landowner who removes or causes removal of an abandoned motor vehicle, ~~the owner or agent~~ shall immediately notify the police agency in the jurisdiction from which the vehicle is removed. ~~Notification shall include identification of~~ and provide the registration plate number, the public vehicle identification number, if available, and the make, model, and color of the vehicle. ~~The owner or agent of an owner of property upon which a motor vehicle is abandoned~~ landowner may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service under the provisions of this subsection, without incurring any civil liability to the owner of the abandoned vehicle.

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

(a) ~~Within 30 days of removal of the vehicle, a towing service which has removed an abandoned motor vehicle~~ A landowner on whose property an abandoned motor vehicle is located shall apply to the Department for an abandoned motor vehicle certification on forms supplied by the Department ~~of Motor Vehicles~~ within 30 days of the date the vehicle was discovered on or brought to the property unless the vehicle has been removed from the property. An abandoned motor vehicle certification form shall indicate the date ~~of removal, that the abandoned motor vehicle was discovered or brought to the~~

property; the make, color, model, and location found, and of the vehicle; the name, address, and ~~phone~~ telephone number of the ~~towing service~~, landowner; and a certification of the public vehicle identification number, if any, to be recorded by a law enforcement officer. This subsection shall not be construed as creating a private right of action against the landowner.

(b) Upon receipt of an abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall attempt to identify and notify the owner of the vehicle as required by section 2154 of this title. If no owner can be determined by the Commissioner within the time period allowed by section 2154 ~~of this title~~, the Commissioner shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title, or both, and the vehicle may be disposed of in the manner set forth in section 2156 of this title.

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

(a) The Department ~~of Motor Vehicles~~ shall make a reasonable attempt to locate an owner of an abandoned motor vehicle.

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days of the date of receipt of the abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

(2) If the abandoned motor vehicle is identifiable by its registration plates or public vehicle identification number, the Department ~~of Motor Vehicles~~ shall, within three business days of receipt of the form for certification of abandoned motor vehicle, send notice to the last known registered owner and lienholder of the vehicle. The notice shall be sent by certified mail, return receipt requested, and shall advise the last known registered owner of the motor vehicle's location and a telephone number where additional information about the motor vehicle may be obtained. If the receipt is not returned to the Department within seven business days, the Commissioner shall, by first class mail, send a second notice. Within 21 days of sending the second notice, the last known registered owner or lienholder may reclaim and retrieve the motor vehicle by presenting to the Department ~~of Motor Vehicles~~ satisfactory evidence of ownership, and paying or arranging to pay any fees or charges authorized by section 2155 of this title. If the last known registered owner or lienholder fails or refuses to reclaim the motor vehicle within 21 days of the second mailing, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title.

(b) An owner or lienholder may reclaim an abandoned motor vehicle by presenting to the Department of ~~Motor Vehicles~~ satisfactory evidence of ownership, and paying or reimbursing, or making arrangements to pay or reimburse, the towing agency, the Department of ~~Motor Vehicles~~, or the ~~owner or agent of private property~~ landowner, as the case may be, any towing fee or storage charges permitted under section 2155 of this title.

#### § 2155. FEES AND CHARGES

(a) Towing fees. For towing an abandoned motor vehicle from private property, a towing service may charge a reasonable fee to be paid by the vehicle owner or agent of the owner the landowner of the private property.

(b) Storage charges. In addition to any towing fee, an owner or lienholder reclaiming an abandoned motor vehicle may be charged and shall pay a fee for the costs of storage of the vehicle, except that no fee may be charged for storage for any period preceding the date upon which the form for abandoned motor vehicle certification is sent ~~by the towing service~~ to the Department of ~~Motor Vehicles~~.

\* \* \*

\* \* \* Repeals and Conforming Change \* \* \*

#### Sec. 78. REPEALS

The following sections are repealed:

(1) 23 V.S.A. § 366 (log-haulers; registration).

(2) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).

(3) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 79. 23 V.S.A. § 369 is amended to read:

#### § 369. TRACTORS OTHER THAN FARM TRACTORS

The annual fee for registration of a tractor, except ~~log-haulers on snow roads and~~ farm tractors as otherwise provided in this chapter, shall be based on the actual weight of such tractor at the same rate as that provided for trucks of like weight under the provisions of this chapter. The minimum fee for registering any tractor shall be \$20.00.

Sec. 80. 23 V.S.A. § 603(a)(2) is amended to read:

(2) The Commissioner may, however, in his or her discretion, refuse to issue a license to any person whenever he or she is satisfied from information

given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license, under the provisions of this subsection ~~or section 605 of this title~~, shall be entitled to hearing as provided in sections 105–107 of this title.

\* \* \* Chemicals of High Concern to Children; Vehicle Exemptions \* \* \*

Sec. 81. 18 V.S.A. § 1772 is amended to read:

§ 1772. DEFINITIONS

As used in this chapter:

\* \* \*

(8) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes. “Consumer product” shall not mean:

\* \* \*

(G) an aircraft, motor vehicle, wheelchair, or vessel;

\* \* \*

(13) “Motor vehicle” means ~~every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products~~ all vehicles propelled or drawn by power other than muscular power, including snowmobiles, motorcycles, all-terrain vehicles, farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, or tracked vehicles or electric personal assistive mobility devices.

\* \* \*

\* \* \* Signage on State Property Regarding Unlawful Idling \* \* \*

Sec. 82. INSTALLATION OF SIGNAGE REGARDING UNLAWFUL  
IDLING OF MOTOR VEHICLE ENGINES

(a) Before July 1, 2017, the Department of Buildings and General Services (Department), in consultation with the Agency of Transportation, shall oversee completion of a project to install signs on property owned or controlled by the State where parking is permitted indicating that idling of motor vehicle engines in violation of 23 V.S.A. § 1110 is prohibited. At a minimum, the Department

shall install at least one such sign at each rest area, information center, park and ride facility, parking structure, and building owned or controlled by the State with a parking capacity of 25 pleasure cars or more. In its discretion, the Department may install additional signs at each such facility or at other State-owned or -controlled facilities where parking is permitted.

(b) On or before January 15, 2017, the Commissioner of Buildings and General Services, after consulting with the Secretary of Transportation, shall submit an interim written report to the House and Senate Committees on Transportation on the Department's activities and plans to complete the project required under subsection (a) of this section.

\* \* \* Driving Under the Influence; Saliva Testing \* \* \*

Sec. 83. 23 V.S.A. § 1200 is amended to read:

§ 1200. DEFINITIONS

As used in this subchapter:

\* \* \*

(3) "Evidentiary test" means a breath, saliva, or blood test which indicates the person's alcohol concentration or the presence of other drug and which is intended to be introduced as evidence.

\* \* \*

Sec. 84. 23 V.S.A. § 1201 is amended to read:

§ 1201. OPERATING VEHICLE UNDER THE INFLUENCE OF

INTOXICATING LIQUOR OR OTHER SUBSTANCE; CRIMINAL  
REFUSAL; ENHANCED PENALTY FOR BAC OF 0.16 OR MORE

(a) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway:

(1) when the person's alcohol concentration is:

(A) 0.08 or more; or

(B) 0.02 or more if the person is operating a school bus as defined in subdivision 4(34) of this title; or

(C) 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title; or

(D) 0.05 or more and the person has 1.5 nanograms per milliliter of delta-9 tetrahydrocannabinol in the person's blood; or

(2) when the person is under the influence of intoxicating liquor; or

(3) when the person is under the influence of any other drug or under the combined influence of alcohol and any other drug; ~~or~~

~~(4) when the person's alcohol concentration is 0.04 or more if the person is operating a commercial motor vehicle as defined in subdivision 4103(4) of this title.~~

(b) A person who has previously been convicted of a violation of this section shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer had reasonable grounds to believe the person was in violation of subsection (a) of this section.

(c) A person shall not operate, attempt to operate, or be in actual physical control of any vehicle on a highway and be involved in an accident or collision resulting in serious bodily injury or death to another and refuse a law enforcement officer's reasonable request under the circumstances for an evidentiary test where the officer has reasonable grounds to believe the person has any amount of alcohol or drugs in the system.

\* \* \*

Sec. 85. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD ALCOHOL CONTENT OR DRUG IMPAIRMENT

(a)~~(1)~~ Implied consent.

(1) Breath test. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2)~~(A)~~ Blood test. If A person is deemed to have given consent to the taking of an evidentiary sample of blood if:

(i) breath testing equipment is not reasonably available; ~~or if~~

(ii) the law enforcement officer has ~~reason~~ reasonable grounds to believe that the person;

~~(I) is unable to give a sufficient sample of breath for testing; or if the law enforcement officer has reasonable grounds to believe that the person~~

~~(II) is under the influence of a drug other than alcohol; or~~

~~(III) the person is deemed to have given consent to the taking of an evidentiary sample of blood~~ is under the influence of alcohol and a drug.

(B) If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken.

(3) Saliva test. If the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of saliva. Any saliva test administered under this section shall be used only for the limited purpose of detecting the presence of a drug in the person's body, and shall not be used to extract DNA information.

~~(3)(4)~~ Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has 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.

~~(4)(5)~~ Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

\* \* \*

Sec. 86. 23 V.S.A. § 1203 is amended to read:

§ 1203. ADMINISTRATION OF TESTS; RETENTION OF TEST AND  
VIDEOTAPE

(a) A breath test shall be administered only by a person who has been certified by the Vermont Criminal Justice Training Council to operate the breath testing equipment being employed. In any proceeding under this subchapter, a person's testimony that he or she is certified to operate the breath testing equipment employed shall be prima facie evidence of that fact.

(b) Only a physician, licensed nurse, medical technician, physician assistant, medical technologist, or laboratory assistant acting at the request of a



law enforcement officer may withdraw blood for the purpose of determining the presence of alcohol or other drug. This limitation does not apply to the taking of a breath or saliva sample.

(c) When a breath test which is intended to be introduced in evidence is taken with a crimper device, or when blood is withdrawn at an officer's request, a sufficient amount of breath, or blood, as the case may be, shall be taken to enable the person to have made an independent analysis of the sample, and shall be held for at least 45 days from the date the sample was taken. At any time during that period, the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety shall adopt rules providing for the security of the sample. At no time shall the defendant or any agent of the defendant have access to the sample. A preserved sample of breath shall not be required when an infrared breath-testing instrument is used. A person tested with an infrared breath-testing instrument shall have the option of having a second infrared test administered immediately after receiving the results of the first test.

(d) In the case of a breath test administered using an infrared ~~breath-testing~~ breath-testing instrument, the test shall be analyzed in compliance with rules adopted by the Department of Public Safety. The analyses shall be retained by the State. A sample is adequate if the infrared ~~breath-testing~~ breath-testing instrument analyzes the sample and does not indicate the sample is deficient. Analysis of the person's breath, saliva, or blood which is available to that person for independent analysis shall be considered valid when performed according to methods approved by the Department of Public Safety. The analysis performed by the State shall be considered valid when performed according to a method or methods selected by the Department of Public Safety. The Department of Public Safety shall use ~~rule-making~~ rulemaking procedures to select its method or methods. Failure of a person to provide an adequate breath or saliva sample constitutes a refusal.

(e) [Repealed.]

(f) When a law enforcement officer has reason to believe that a person may be violating or has violated section 1201 of this title, the officer may request the person to provide a sample of breath or saliva for a preliminary screening test using a device approved by the Commissioner of Public Safety for this purpose. The person shall not have the right to consult an attorney prior to submitting to this preliminary ~~breath-alcohol~~ screening test. The results of this preliminary screening test may be used for the purpose of deciding whether an arrest should be made and whether to request an evidentiary test and shall not be used in any court proceeding except on those issues. Following the

screening ~~test~~, additional tests may be required of the operator pursuant to the provisions of section 1202 of this title.

(g) The Office of the Chief Medical Examiner shall report in writing to the Department of Motor Vehicles the death of any person as the result of an accident involving a vehicle and the circumstances of ~~such~~ the accident within five days of ~~such~~ the death.

(h) A Vermont law enforcement officer shall have a right to request a breath, saliva, or blood sample in an adjoining state or country under this section unless prohibited by the law of the other state or country. If the law in an adjoining state or country does not prohibit an officer acting under this section from taking a breath, saliva, or blood sample in its jurisdiction, evidence of such sample shall not be excluded in the courts of this State solely on the basis that the test was taken outside the State.

(i) The Commissioner of Public Safety shall adopt emergency rules relating to the operation, maintenance, and use of preliminary drug or alcohol screening devices for use by law enforcement officers in enforcing the provisions of this title. The ~~commissioner~~ Commissioner shall consider relevant standards of the National Highway Traffic Safety Administration in adopting such rules. Any preliminary alcohol screening device authorized for use under this title shall be on the qualified products list of the National Highway Traffic Safety Administration.

\* \* \*

Sec. 87. 23 V.S.A. § 1203a is amended to read:

§ 1203a. INDEPENDENT CHEMICAL TEST; BLOOD TESTS

(a) A person tested has the right at the person's own expense to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of the law enforcement officer under section 1203 of this title. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of an enforcement officer unless the additional test was prevented or denied by the enforcement officer.

(b) Arrangements for a blood test shall be made by the person submitting to the evidentiary breath or saliva test, by the person's attorney, or by some other person acting on the person's behalf unless the person is detained in custody after administration of the evidentiary test and upon completion of processing, in which case the law enforcement officer having custody of the person shall

make arrangements for administration of the blood test upon demand but at the person's own expense.

\* \* \*

Sec. 88. 23 V.S.A. § 1204 is amended to read:

§ 1204. PERMISSIVE INFERENCES

(a) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by a person while operating, attempting to operate, or in actual physical control of a vehicle on a highway, the person's alcohol concentration or alcohol concentration and evidence of delta-9 tetrahydrocannabinol shall give rise to the following permissive inferences:

(1) If the person's alcohol concentration at that time was less than 0.08, such fact shall not give rise to any presumption or permissive inference that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor.

(2) If the person's alcohol concentration at that time was 0.08 or more, it shall be a permissive inference that the person was under the influence of intoxicating liquor in violation of subdivision 1201(a)(2) or (3) of this title.

(3) If the person's alcohol concentration at that time was 0.05 or more and the person had 1.5 nanograms per milliliter of delta-9 tetrahydrocannabinol in the person's blood, it shall be a permissive inference that the person was under the combined influence of alcohol and any other drug in violation of subdivision 1201(a)(3) of this title.

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

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

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\* \* \* Colored Lights on Fire Department and EMS Vehicles \* \* \*

Sec. 89. 23 V.S.A. § 1252 is amended to read:

§ 1252. ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS,  
OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens or colored signal lamps in the following manner:

(1)(A) Sirens or blue or blue and white signal lamps, or a combination of these, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(B) One blue signal lamp may be authorized for use on a vehicle owned or leased by a fire department or on an emergency medical service (EMS) vehicle, provided that the Commissioner shall require the lamp to be mounted so as to be visible primarily from the rear of the vehicle.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances and other EMS vehicles, ~~fire apparatus~~ department vehicles, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities.

~~(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection. [Repealed.]~~

(4) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or

enforcement vehicles used for exhibition purposes. Sirens and lamps authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

\* \* \*

Sec. 90. 23 V.S.A. § 1255 is amended to read:

§ 1255. EXCEPTIONS

~~(1)(a)~~ The provisions of section 1251 of this title shall not apply to directional signal lamps of a type approved by the Commissioner of Motor Vehicles.

~~(2)(b)~~ All persons with motor vehicles equipped as provided in ~~subdivision~~ subdivisions 1252(a)(1) and (2) of this title, shall use the sirens or colored signal lamps, or both, only in the direct performance of their official duties. When any person other than a law enforcement officer, firefighter, or emergency medical service (EMS) responder is operating a motor vehicle equipped as provided in subdivision 1252(a)(1) of this title, the colored signal lamp shall be either removed, covered, or hooded. When any person, other than an authorized ~~ambulance~~ EMS vehicle operator, firefighter, or authorized operator of vehicles used in a rescue operation, is operating a motor vehicle equipped as provided in subdivision 1252(a)(2) of this title, the colored signal lamps shall be either removed, covered, or hooded unless the operator holds a senior operator license.

\* \* \* Effective Dates and Transition Provision \* \* \*

Sec. 91. EFFECTIVE DATES; CONTINGENT EFFECTIVE DATES;

APPLICABILITY TO DUI MATTERS

(a) This section and Secs. 12 (positions); 13 (Rail Program); 14 (sale of State-owned rail property); Secs. 26, 27, 28, 29, 30, 31, 32, and 33 (stormwater utilities; rates; incentives); 35 (statewide property parcel data layer; findings); 38 (Quechee Gorge Bridge safety issues); Sec. 81 (chemicals of high concern to children); and 82 (prohibited idling of motor vehicles; signs) shall take effect on passage.

(b) Secs. 29a, 30a, and 31a shall take effect if and when two stormwater utilities, as defined in 10 V.S.A. § 1251(18), are adopted by municipalities after the effective date of Secs. 29, 30, and 31 of this act.

(c) Sec. 29b, 30b, and 31b shall take effect if and when three stormwater utilities, as defined in 10 V.S.A. § 1251(18), are adopted by municipalities after the effective date of Secs. 29, 30, and 31 of this act.

(d) 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. 46, 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.

Which was agreed to.

Thereupon, on motion of **Rep. Turner of Milton**, the rules were suspended and the bill was ordered messaged to the Senate forthwith.

### **Committee of Conference Appointed**

#### **S. 216**

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to prescription drug formularies

The Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Lippert of Hinesburg**  
**Rep. Pearson of Burlington**  
**Rep. Bancroft of Westford**

#### **Recess**

At five o'clock and fifty-seven minutes in the afternoon, the Speaker declared a recess until the fall of the gavel.

At seven o'clock and twenty-nine minutes in the evening, the Speaker called the House to order.

### **Favorable Report; Third Reading Ordered**

#### **S. 198**

**Rep. Evans of Essex**, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to the Government Accountability Committee and the annual report on the State's population-level outcomes

Reported in favor of its passage. The bill, having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

**House Resolution Adopted****H.R. 23**

House resolution, entitled

House resolution requesting Congress to amend existing federal law to grant states and municipalities broader jurisdiction over the location, construction, and operation of railroad facilities

Was taken up and adopted on the part of the House.

**Bill Amended; Third Reading Ordered****J.R.H. 27**

**Rep. Manwaring of Wilmington**, for the committee on Education, to which had been referred Joint resolution, entitled

Joint resolution requesting federal action to alleviate the national student loan debt crisis

Reported in favor of its passage when amended by striking all after title and inserting in lieu thereof the following:

Whereas, a *Wall Street Journal* article, updated on August 21, 2015, reported that as of July 2015 nearly seven million Americans were in default on their federal student loans, meaning they had not made a payment in at least 360 days, and

Whereas, this number equals approximately 17 percent of all federal student loan borrowers, and the number rose six percent, or 400,000 more borrowers, than the year previously, and

Whereas, the Federal Reserve Bank of New York's Consumer Credit Panel has reported that in the decade from 2005 to 2015 total student loan debt tripled and rose to \$1.19 trillion, and

Whereas, those in default are often individuals who attended for-profit colleges, are members of a minority group, and never graduated, and

Whereas, overall, one informed estimate is that 27 million borrowers are either in default or some other form of loan repayment delinquency, and

Whereas, Congress enacted the Bipartisan Student Loan Certainty Act of 2013 (Pub.L 113-28), establishing a fixed interest rate for federal student loan programs with caps ranging from 8.25–10.5 percent depending on the specific program, but the rates are challenging for the student borrowers, and

Whereas, although the rates for 2015–2016 are slightly lower than for the prior academic year, they still remain high at 4.29 percent for direct subsidized and unsubsidized undergraduate student loans, and the graduate and professional federal student loan interest rates in the Direct PLUS Loans program are nearly seven percent, and

Whereas, although experts differ on the extent, there is a general consensus that in some years the federal government has made a profit on federal student loans even as numerous borrowers have struggled to make repayments, and

Whereas, while the Obama administration has established popular plans that cap repayments at 10–15 percent of discretionary income, these programs tend to attract graduates of professional or graduate schools and not those who earned only a bachelor's degree or never finished college, and

Whereas, unlike many other forms of consumer debt, 11 U.S.C. § 523(a)(8) of the federal bankruptcy code, with limited exceptions, prohibits using bankruptcy as a method for student loan debt relief, and

Whereas, proposals for free or reduced tuition at public colleges and restructuring the system of higher education financing may be useful for future students, but they do not solve the problems of those millions of Americans struggling to repay their existing student loans, especially those for whom a college education did not secure a sound economic future, and

Whereas, when a federal student loan borrower completes all of the requirements of an income-based student loan repayment program, and as a consequence of meeting these requirements, the remaining balance of his or her student loan is forgiven, the forgiven amount is treated as taxable income with often severe consequences to the borrower, and

Whereas, the current federal student loan program has inadequate loan counseling services available for borrowers at critical times, including when they are trying to determine which loans to choose, how much to borrow, how to repay when leaving school, and how to repay when encountering financial hardships, now therefore be it

Resolved by the Senate and House of Representatives:

That the General Assembly requests that Congress amend the federal bankruptcy code to eliminate the prohibition on relief from federal or private student loan debt through the federal bankruptcy system and to eliminate the unfair income tax consequences for borrowers who complete loan forgiveness programs, and be it further



Resolved: That the U.S. Department of Education is requested to devise new loan counseling programs to provide students with debt literacy information and loan repayment options prior to borrowing, upon graduation or otherwise leaving college, and throughout the duration of their loans, and new debt relief programs that effectively address the problems that individuals with low income are encountering in repaying their student loans, and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to U.S. Secretary of Education John King and to the Vermont Congressional Delegation.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, report of the committee on Education agreed to and third reading ordered.

### **Senate Proposal of Amendment Concurred in**

#### **H. 570**

The Senate proposed to the House to amend House bill, entitled

An act relating to hunting, fishing, and trapping

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	<u>no more than \$2,000.00</u> <u>and no less than \$200.00</u> <u>for the first offense and no</u> <u>less than \$500.00</u> <u>each for a second or</u> <u>subsequent offense</u>
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Fourth: In Sec. 13, 10 V.S.A. § 4745, and in the second sentence, after “deerbig 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:

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§ 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.
- (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.

(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.

~~(e)~~(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) ~~To~~ to 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) ~~To~~ to 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

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interested persons who request notice of permit applications, permit decisions, and proposed general permits or proposed amendments to general permits.

(l) 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 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.

(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.

Which proposal of amendment was considered and concurred in.

#### **Bill Referred to Committee on Ways and Means**

#### **H. 867**

House bill, entitled

An act relating to classification of employees and independent contractors

Appearing on the Calendar, was taken up and pending second reading of the bill, **Rep. Pearson of Burlington** raised a Point of Order in that the bill should

be referred to the committee on Ways and Means because the bill affects the revenue of the state. Which Point of Order the Speaker ruled well taken.

Thereupon, the bill was referred to the committee on Ways and Means.

**Proposal of Amendment Agreed to; Third Reading Ordered**

**S. 14**

**Rep. Pugh of South Burlington**, for the committee on Human Services, to which had been referred Senate bill, entitled

An act relating to single dose, child-resistant packaging and labeling of marijuana-infused edible or potable products sold by a registered dispensary

Reported in favor of its passage in concurrence with proposal of amendment as follows:

First: In Sec. 1, 18 V.S.A. § 4472, after “§ 4472. DEFINITIONS” and before the “\* \* \*” by adding the following:

As used in this subchapter:

(1)(A) “Bona fide health care professional-patient relationship” means a treating or consulting relationship of not less than ~~six~~ three months’ duration, in the course of which a health care professional has completed a full assessment of the registered patient’s medical history and current medical condition, including a personal physical examination.

(B) The ~~six-month~~ three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

~~(A)(I)~~ a terminal illness;

~~(B)(II)~~ cancer ~~with distant metastases~~; or

~~(C)(III)~~ acquired immune deficiency syndrome; or

(IV) is currently under hospice care.

(ii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and the new health care professional has completed a full assessment of the patient’s medical history and current medical condition, including a personal physical examination.

(iii) a patient who is already on the registry changes health care professionals three months or less prior to the annual renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination.

\* \* \*

(4) "Debilitating medical condition," provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision (4), reasonable medical efforts have been made over a reasonable amount of time ~~without success~~ to relieve the symptoms, means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces ~~severe, persistent, and~~ one or more of the following intractable symptoms: cachexia or wasting syndrome; ~~severe~~ chronic pain; severe nausea; or seizures.

Second: In Sec. 1, 18 V.S.A. § 4472, after subdivision (11), by inserting the following:

\* \* \*

Third: In Sec. 4, 18 V.S.A. § 4474e, by adding a subdivision (a)(4) to read as follows:

(4) With approval from the Department and in accordance with patient delivery protocols set forth in rule, transport and transfer marijuana to a Vermont postsecondary academic institution for the purpose of research.

Fourth: By striking Sec. 7 and inserting in lieu thereof the following

Sec. 7. EFFECTIVE DATE

(a) This section and Sec. 1 shall take effect on passage.

(b) All remaining sections shall take effect on July 1, 2016.

The bill, having appeared on the Calendar one day for notice, was taken up and read the second time and the recommendation of proposal of amendment agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Krowinski of Burlington** demanded the Yeas and Nays, which demand was sustained by the

Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be read a third time? was decided in the affirmative. Yeas, 133. Nays, 13.

Those who voted in the affirmative are:

Ancel of Calais	Fiske of Enosburgh	Miller of Shaftsbury
Bancroft of Westford	Forguites of Springfield	Morris of Bennington
Bartholomew of Hartland	Frank of Underhill	Morrissey of Bennington
Baser of Bristol	French of Randolph	Mrowicki of Putney
Batchelor of Derby	Gage of Rutland City	Murphy of Fairfax
Beck of St. Johnsbury	Gamache of Swanton	Myers of Essex
Berry of Manchester	Gonzalez of Winooski	O'Brien of Richmond
Bissonnette of Winooski	Grad of Moretown	Olsen of Londonderry
Botzow of Pownal	Graham of Williamstown	O'Sullivan of Burlington
Branagan of Georgia	Greshin of Warren	Parent of St. Albans Town
Briglin of Thetford	Haas of Rochester	Partridge of Windham
Browning of Arlington	Head of South Burlington	Patt of Worcester
Burditt of West Rutland	Higley of Lowell	Pearce of Richford
Burke of Brattleboro	Hooper of Montpelier	Pearson of Burlington
Canfield of Fair Haven	Huntley of Cavendish	Poirier of Barre City
Carr of Brandon	Jerman of Essex	Potter of Clarendon
Chesnut-Tangerman of	Jewett of Ripton	Pugh of South Burlington
Middletown Springs	Johnson of South Hero	Purvis of Colchester
Christie of Hartford	Juskiewicz of Cambridge	Rachelson of Burlington
Clarkson of Woodstock	Keenan of St. Albans City	Ram of Burlington
Cole of Burlington	Kitzmiller of Montpelier	Russell of Rutland City
Condon of Colchester	Klein of East Montpelier	Savage of Swanton
Connor of Fairfield	Komline of Dorset	Scheuermann of Stowe
Conquest of Newbury	Krebs of South Hero	Sharpe of Bristol
Copeland-Hanzas of	Krowinski of Burlington	Shaw of Pittsford
Bradford	LaClair of Barre Town	Sheldon of Middlebury
Corcoran of Bennington	Lalonde of South Burlington	Sibilia of Dover
Dakin of Chester	Lawrence of Lyndon	Smith of New Haven
Dakin of Colchester	Lefebvre of Newark	Stevens of Waterbury
Dame of Essex	Lenes of Shelburne	Strong of Albany
Davis of Washington	Lewis of Berlin	Stuart of Brattleboro
Deen of Westminster	Lippert of Hinesburg	Sullivan of Burlington
Devereux of Mount Holly	Long of Newfane	Sweaney of Windsor
Dickinson of St. Albans	Lucke of Hartford	Tate of Mendon
Town	Macaig of Williston	Till of Jericho
Donahue of Northfield	Manwaring of Wilmington	Toleno of Brattleboro
Donovan of Burlington	Marcotte of Coventry	Toll of Danville
Eastman of Orwell	Martin of Wolcott	Townsend of South
Emmons of Springfield	Masland of Thetford	Burlington
Evans of Essex	McCormack of Burlington	Trieber of Rockingham
Fagan of Rutland City	McCoy of Poultney	Troiano of Stannard
Feltus of Lyndon	McCullough of Williston	Turner of Milton
Fields of Bennington	McFaun of Barre Town	Van Wyck of Ferrisburgh

Walz of Barre City  
Webb of Shelburne  
Willhoit of St. Johnsbury

Wood of Waterbury  
Woodward of Johnson  
Wright of Burlington

Yantachka of Charlotte  
Young of Glover  
Zagar of Barnard

Those who voted in the negative are:

Beyor of Highgate  
Brennan of Colchester  
Buxton of Tunbridge  
Cupoli of Rutland City

Hebert of Vernon  
Helm of Fair Haven  
Hubert of Milton  
Lanpher of Vergennes

Martel of Waterford  
Nuovo of Middlebury  
Terenzini of Rutland Town  
Viens of Newport City

Those members absent with leave of the House and not voting are:

Quimby of Concord

Ryerson of Randolph

Shaw of Derby

### **Action on Bill Postponed**

#### **H. 858**

House bill, entitled

An act relating to miscellaneous criminal procedure amendments

Was taken up and on motion of **Rep. Grad of Moretown**, action on the bill was postponed until the next legislative day.

### **Rules Suspended; Senate Proposal of Amendment Not Concurred in; Committee of Conference Requested and Appointed**

#### **H. 859**

Pending entrance of the bill on the Calendar for notice, on motion of **Rep. Turner of Milton**, the rules were suspended and House bill, entitled

An act relating to special education

Was taken up for immediate consideration.

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

\* \* \* Payment of Special Education Funding to Supervisory Unions \* \* \*

Sec. 1. 16 V.S.A. chapter 101 is amended to read:

#### **CHAPTER 101. SPECIAL EDUCATION**

##### **Subchapter 1. General Provisions**

\* \* \*

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§ 2948. STATE AID

(a) For the payment of general State aid, children with disabilities shall be counted in the same manner as children who do not have disabilities.

(b) [Repealed.]

(c) Each ~~school district~~ supervisory union shall receive an essential early education grant each school year. Grants shall be distributed according to the estimated number of children from three through five years of age. The State Board by rule shall encourage coordination of services and may set other terms of the grant. Each ~~district~~ supervisory union shall be responsible for the remainder of the costs of providing necessary services under section 2956 of this title. Annually, for each following fiscal year, the essential early education grant shall be increased by the most recent cumulative price index, as of November 15, for State and local government purchases of goods and services from fiscal year 2002 through that following fiscal year, as provided through the State's participation in the New England Economic Project.

(d), (e) [Repealed.]

(f) If a student is being provided education or special education or both in a school operated by the Department of Corrections, the Department of Corrections shall serve the student as if the Department were the school district of residence of the student.

(g) Notwithstanding any law to the contrary, a child with a disability who is residing in a State school, hospital, or community residential facility or in a State-approved private residential facility shall be provided special education in accordance with this chapter by the ~~school district~~ supervisory union in which the facility is located; provided, however, that this special education may be directly provided by the facility in which the child resides when the child's individualized education program and treatment plans indicate that the facility is the most appropriate educational placement for the child. Programs of special education provided by a facility described in this subsection shall be subject to the approval of the Secretary.

(h)-(j) [Repealed.]

(k) For the costs of students in the custody of the Department of Corrections, the Secretary of Education shall pay for the costs of special education in accordance with the provisions of 28 V.S.A. § 120.

(l) [Repealed.]

(m) All other State aid to ~~school districts and~~ supervisory unions shall be set forth in subchapter 2 of this chapter.

(n) If a student is being provided education or special education, or both in a school operated by the Department for Children and Families, the funding and provision of services shall be the responsibility of the Department for Children and Families and special education procedural responsibility shall be the responsibility of the supervisory union for the school district of residence of the student's parent, parents, or guardian.

#### § 2949. RECIPROCAL AGREEMENTS WITH OTHER STATES

\* \* \*

#### § 2950. STATE-PLACED STUDENTS

(a) ~~School district~~ Supervisory Union reimbursement. The supervisory union in which there is a school district responsible for educating a State-placed student under section 1075 of this title may claim and the Secretary shall reimburse 100 percent of all special education costs for the student, including costs for mainstream services. As a condition of receiving this reimbursement, the ~~district~~ supervisory union shall provide documentation in support of its claim, sufficient to enable the Secretary to determine whether to recommend appropriate cost-saving alternatives. The Secretary may approve any costs incurred in educating a State-placed student who is not eligible for special education that are incurred due to the special needs of the student, and, if approved, the Secretary shall pay those costs. When a State agency places and registers a student in a new district, the district and the supervisory union of which it is a member may request and the Agency of Education, or the agency that placed the student, or both, shall provide prompt consultative and technical assistance to the receiving district and the supervisory union.

\* \* \*

#### § 2957. SPECIAL EDUCATION ADMINISTRATIVE AND JUDICIAL APPEALS; LIMITATIONS

\* \* \*

(e) Except as provided in 20 U.S.C. § 1412(a)(10)(C) or unless a court or hearing officer determines otherwise, where a unilateral placement has been made without offering the supervisory union for the school district of residence ~~being offered~~ a reasonable opportunity to evaluate the child and to develop an individualized education program, reimbursement may not be sought for any

costs incurred before the ~~school district~~ supervisory union is offered such an opportunity.

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

(a) A school district shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

(b) The Secretary may establish from within the Agency a Residential Placement Review Team. At the discretion of the Secretary, other persons not employed by the Agency may be appointed to serve on the Team. The Team shall make every effort to assist ~~school districts~~ supervisory unions and parents in understanding the range of educational options available as early as possible in the planning process for the child. The Team shall:

(1) advise ~~school districts~~ supervisory unions on alternatives to residential placement;

(2) review each individualized education program calling for residential placement of a student to consider whether the student can be educated in a less restrictive environment;

(3) assist ~~school districts~~ supervisory unions in locating cost-effective and appropriate residential facilities where necessary;

(4) request a new individualized education program where it believes that appropriate alternatives to residential placement are available; and

(5) offer mediation as a means of resolving disputes relating to the need for residential placement or the particular residential facility recommended for a child with a disability.

(c) The State Board shall by rule establish policies and procedures for the operations of the Residential Placement Review Team. The rules shall be consistent with federal law and, at minimum, shall include the following:

(1) provision for the Secretary to initiate a due process proceeding to challenge the need for residential placement where the team believes that a less restrictive educational placement is both available and appropriate for the child with a disability, and to reimburse the ~~school district~~ supervisory union and the parents or guardian of the child for reasonable costs and attorney's fees in the event the Secretary does not prevail;

(2) provision for technical assistance, a plan for correction, or withholding of funds under this section where a ~~school district~~ supervisory



union places a child in a residential facility more expensive than an available and appropriate alternative residential facility; however, such withholding of funds shall not exceed the difference between the cost of the two facilities and the rule shall provide an opportunity for appeal of the withholding; and

(3) procedures and timelines to ensure that residential placement of a child with disabilities is not delayed or disrupted so as to adversely affect the child.

(d) Whenever a residential placement is determined to be necessary and appropriate for a child with a disability, the Residential Placement Review Team shall include in the child's individualized education program goals and objectives designed to reintegrate the child into a local school district.

(e) Costs for residential placement shall be reimbursed under subchapter 2 of this chapter only if the residential facility is approved by the State Board for the purposes of providing special education and related services to children with disabilities.

#### § 2959. RULEMAKING; MEDIATION

(a) The State Board shall adopt rules governing the determination of a child's eligibility for special education, accounting and financial reporting standards, program requirements, procedural requirements, and the identification of the ~~district~~ supervisory union or agency responsible for each child with a disability.

(b) Subject to rules established by the State Board, the Secretary shall offer mediation to parents, children with disabilities, and districts, supervisory unions, and agencies involved in special education disputes.

#### § 2959a. EDUCATION MEDICAID RECEIPTS

(a) It is the intent of the General Assembly that the State of Vermont shall maximize its receipt of federal Medicaid dollars available for reimbursement of medically related services provided to students who are Medicaid eligible. It is further the intent that:

(1) each supervisory union identify special education and other students eligible for Medicaid reimbursement and, to the extent possible, submit Medicaid bills for services reimbursement;

(2) the Agencies of Education and of Human Services work with local school districts to maximize reimbursements, including services to non-IEP students.

(b) A Medicaid Reimbursement Special Fund is established within the Agency of Education. Funds received by the State under this section shall be transferred to the Medicaid Reimbursement Special Fund. The Fund receipts shall be allocated in accordance with this section.

(c) At least annually, the Secretary of Education shall pay to each supervisory union submitting Medicaid bills under this section, 50 percent of the reimbursed funds generated by the supervisory union's bill, excluding claims generated by State-placed students. Unless the supervisory union has agreed to use the funds to operate a supervisory unionwide program or to distribute the funds in a different manner, upon receipt, the supervisory union shall distribute the funds to its member school districts based on how the funds were generated. The Secretary may withhold payment due a ~~school district~~ supervisory union pursuant to section 2950 of this title for a Medicaid-eligible State-placed student if the ~~school district~~ supervisory union has not submitted a Medicaid claim for reimbursable services for that student.

(d) If the amount of Medicaid reimbursement funds received for services provided in the prior State fiscal year exceeds \$25,000,000.00, in addition to the 50 percent of the funds paid to supervisory unions submitting Medicaid bills, 25 percent of the amounts in excess of the \$25,000,000.00 shall be paid into an incentive fund created in the Agency of Education. These funds shall be used for an incentive payment to supervisory unions with student participation rates of over 80 percent in accordance with a formula to be developed by the Agency, in consultation with the Vermont Superintendents Association. For any incentive payments made subsequent to fiscal year 2007, the \$25,000,000.00 threshold of this subsection shall be increased by the percentage increase of the most recent New England Economic Project Cumulative Price Index, as of November 15, for state and local government purchases of goods and services from fiscal year 2005 through the fiscal year for which the payment is being determined, plus an additional one-tenth of one percent.

(e) ~~School districts~~ Supervisory unions shall use funds received under this section to pay for reasonable costs of administering the Medicaid claims process, and school districts or supervisory unions shall use funds received under this section for prevention and intervention programs in prekindergarten through grade 12. The programs shall be designed to facilitate early identification of and intervention with children with disabilities and to ensure all students achieve rigorous and challenging standards approved and adopted by the State Board or locally adopted standards. A ~~school district~~ supervisory union shall provide annual written justification to the Secretary of Education of

~~the use of~~ how it or its member districts used the funds. Such annual submission shall show how the funds' use is expressly linked to those provisions of the ~~school district's~~ supervisory union's action plan that directly relate to improving student performance. A ~~school district~~ supervisory union shall include in its annual report the amount of the prior year's Medicaid reimbursement revenues and the use of Medicaid funds consistent with the purposes set forth in this subsection.

(f) Up to 30 percent of Medicaid reimbursements received under this section shall be available for administrative costs of the Agencies of Education and of Human Services related to the collection, processing, and reporting of education Medicaid reimbursements and statewide programs. The Secretaries of Education and of Human Services shall expend monies from the Fund only as appropriated by the General Assembly.

(g) Remaining reimbursed funds shall be deposited into the Education Fund.

\* \* \*

## Subchapter 2. Aid for Special Education and Support Services

### § 2961. STANDARD MAINSTREAM BLOCK GRANTS

(a) Each ~~town school district, city school district, union school district, unified union school district, incorporated school district, and the member school districts of an interstate school district~~ supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union's mainstream salary standard multiplied by 60 percent.

(b) The ~~district,~~ supervisory union shall expend all such assistance for special education services or for remedial or compensatory services in accordance with its service plan as required under section 2964 of this title. It shall likewise expend, from local funds, an amount not less than 40 percent of its mainstream salary standard for special education.

(c) As used in this section:

(1) "Mainstream salary standard" means:

(A) the ~~district's~~ supervisory union's full-time equivalent staffing for special education for the preceding year multiplied by the average special education teacher salary in the State for the preceding year; plus

(B) ~~its share, prorated according to average daily membership among the member districts of the supervisory union,~~ of an amount equal to the

average special education administrator salary in the State for the preceding year, plus, for any supervisory union ~~or supervisory district~~ with member districts which have in the aggregate more than 1,500 average daily membership, ~~the school district's prorated share of~~ a fraction of an additional full-time equivalent salary for a special education administrator, the numerator of which is the aggregate average daily membership ~~in~~ of the supervisory ~~union or supervisory district~~ union's member districts minus 1,500, and the denominator of which is the aggregate average daily membership of member districts in the largest supervisory union ~~or supervisory district~~ in the State minus 1,500.

(2) "Full-time equivalent staffing" means 9.75 special education teaching positions per 1,000 average daily membership.

(d) If in any fiscal year, a ~~district that maintains a school~~ supervisory union in which a school is maintained does not expend an amount equal to its mainstream salary standard on special education expenditures, the ~~district~~ supervisory union may expend the balance, including the matching funds, to provide support and remedial services pursuant to section 2902 or 2903 of this title. A ~~district~~ supervisory union choosing to expend funds in this way shall submit a report describing the services provided and their costs with the final financial report submitted under section 2968 of this title.

#### § 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable based on where the related cost is incurred, to ~~each~~ a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or to a supervisory union.

(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to 90 percent of its extraordinary special education expenditures.

(c) As used in this subchapter, "extraordinary special education expenditures" means a school district's or supervisory union's allowable expenditures that for any one child exceed \$50,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.

(d) [Repealed.]

§ 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

(a) ~~Each~~ Based on where the related cost is incurred, each town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or supervisory union shall receive a special education expenditures reimbursement grant each school year.

(b) The amount of a school district's or supervisory union's special education expenditures reimbursement shall be equal to the total of its special education expenditures multiplied by the reimbursement rate for that year.

\* \* \*

§ 2963a. EXCEPTIONAL CIRCUMSTANCES

(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a school district or supervisory union for 80 percent of the ~~following expenditures:~~(1) ~~Costs~~ costs not eligible for reimbursement under section 2962 of this title for each student causing the school district or supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a school district or supervisory union to be eligible for reimbursement under this section, the total costs of the school district or supervisory union eligible for extraordinary services reimbursement must equal or exceed 15 percent of the total costs eligible for ~~state~~ State assistance under sections 2961, 2962, and 2963 of this title.

~~(2) The costs incurred by the school district in placing and maintaining a student in a program operated by the Vermont Center for the Deaf and Hard of Hearing.~~

(b) An eligible school district or supervisory union may apply to the Secretary to receive reimbursement under this section. The Secretary shall award reimbursement to a school district or supervisory union under this section if the Secretary makes a determination that school district or supervisory union considered all the cost-effective and appropriate available alternatives for placement and programs for students before incurring these costs. A decision of the Secretary shall be final.

§ 2964. SERVICE PLAN

(a) As a condition of receiving assistance under this subchapter, a supervisory union shall file a service plan with the Secretary annually on or before October 15. The service plan shall contain the anticipated special

education expenditures for the following school year for the supervisory union and its member districts. The plan shall be in a form prescribed by the Secretary and shall include information on services planned and anticipated expenditures.

(b) If a supervisory union fails to file a service plan by October 15, the Secretary may withhold any funds due the supervisory ~~district or school districts~~ union and its member districts under this title until a service plan is filed and accepted by the Secretary as properly completed.

#### § 2965. WITHHOLDING OF AID

If a ~~district~~ supervisory union, school district, or agency fails to meet its legally established obligations toward a child with a disability or the child's parent, and as a result the Agency of Education incurs costs to meet these obligations beyond those otherwise incurred under this chapter, the Secretary shall withhold the amount of funds incurred from any grants due the ~~district~~ supervisory union, school district, or agency under this subchapter.

#### § 2967. AID PROJECTION; STATE SHARE

(a) On or before December 15, the Secretary shall publish an estimate, by ~~town school district, city school district, union school district, unified union school district, incorporated school district, and the member school districts of an interstate school district~~ supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in the ensuing school year. 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.

\* \* \*

#### § 2968. REPORTS

(a) On or before November 15, March 15, and August 1 of each school year, each supervisory union ~~and school district~~ and its member districts to the extent they incur reimbursable expenditures under this chapter shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total expenditures for special education actually incurred during the preceding period, and shall describe revenues derived from different funding sources, including federal assistance, State assistance under this ~~section~~ chapter, and local effort.

(b) If a supervisory union ~~or school district fails~~ or its member districts that have incurred reimbursable expenditures under this chapter fail to file a

complete report by August 1, until the properly completed August 1 report is filed and accepted by the Secretary, the Secretary may withhold any funds due the supervisory union or school district under this title and shall subtract \$100.00 per business day from funds due to the supervisory union or school district under this title for that fiscal year. The Secretary may waive the \$100.00 penalty required under this subsection upon appeal by the supervisory union or school district. The Secretary shall establish procedures for administration of this subsection.

(c) The Secretary shall review and monitor the reports received pursuant to subsection (a) of this section as well as the service plans received pursuant to section 2964 of this title, and shall assist supervisory unions and school districts to complete and submit these documents in a timely and accurate fashion.

(d) Special education receipts and expenditures shall be included within the audits required of ~~supervisory unions and school districts~~ a supervisory union and its member districts that have incurred reimbursable expenditures under this chapter pursuant to sections section 323 and 563(17) of this title.

#### § 2969. PAYMENTS

(a) On or before August 15, December 15, and April 15 of each school year, the State Treasurer shall withdraw from the Education Fund, based on warrant of the Commissioner of Finance and Management, and shall forward to each ~~school district~~ supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, the amount of State assistance estimated in accordance with State Board rules to be necessary to fund sections 2961 through 2963a of this title in the current fiscal period. The State Board shall by rule ensure that the amount of such assistance shall be adjusted to compensate for any overpayments or underpayments determined, after review and acceptance of the reports submitted under section 2968 of this title, to have been made in previous periods. Notwithstanding this subsection, failure to submit the reports within the timelines established by subsection 2968(a) of this title shall result in the withholding of any payments until the report is filed.

(b) ~~{Deleted.}~~ [Repealed.]

(c) For the purpose of meeting the needs of students with emotional behavioral problems, each fiscal year the Secretary shall use for training, program development, and building school and regional capacity, up to one percent of the State funds appropriated under this subchapter.

(d) For the training of teachers, administrators, and other personnel in the identification and evaluation of, and provision of education services to children who require educational supports, each fiscal year the Secretary shall use up to 0.75 percent of the State funds appropriated under this subchapter. In order to set priorities for the use of these funds, the Secretary shall identify effective practices and areas of critical need. The Secretary may expend up to five percent of these funds for statewide training and shall distribute the remaining funds to school districts or supervisory unions.

(e) School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in their school systems and give assurances that at least 50 percent of the costs of training, including in-kind costs, will be assumed by the applicant. The Secretary shall establish written procedures and criteria for the award of such funds. In addition, the Secretary may identify schools most in need of training assistance and may pay for 100 percent of the assistance ~~provided to the~~ supervisory union or school district for these schools to fund the provision of training assistance for these schools.

§§ 2970, 2971. [RESERVED FOR FUTURE USE.].

\* \* \*

#### § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

(a) Annually, the Secretary shall report to the State Board regarding:

(1) special education expenditures by ~~school districts~~ supervisory unions;

(2) the rate of growth or decrease in special education costs, including the identity of ~~high high- and low spending districts~~ low-spending supervisory unions;

(3) results for special education students;

(4) the availability of special education staff;

(5) the consistency of special education program implementation statewide;

(6) the status of the education support systems in ~~school districts~~ supervisory unions; and

(7) a statewide summary of the special education student count, including:



(A) the percentage of the total average daily membership represented by special education students statewide and by ~~school-district~~ supervisory union;

(B) the percentage of special education students by disability category; and

(C) the percentage of special education students ~~by in-district placement~~, served by public schools within the supervisory union, by day placement, and by residential placement.

(b) The Secretary's report shall include the following data for both ~~high high-~~ and ~~low-spending districts~~ low-spending supervisory unions:

(1) each ~~district's~~ supervisory union's special education staff-to-child count ratios as compared to the State average, including a breakdown of ratios by staffing categories;

(2) each ~~district's~~ supervisory union's percentage of students in day programs and residential placements as compared to the State average of students in those placements and information about the categories of disabilities for the students in such placements;

(3) whether the ~~district~~ supervisory union was in compliance with section 2901 of this title;

(4) any unusual community characteristics in each ~~district~~ supervisory union relevant to special education placements;

(5) a review of ~~high high-~~ and ~~low-spending districts'~~ low-spending supervisory unions' special education student count patterns over time;

(6) a review of the ~~district's~~ supervisory union's compliance with federal and State requirements to provide a free, appropriate public education to eligible students; and

(7) any other factors affecting its spending.

(c) The Secretary shall review ~~low-spending districts~~ low-spending supervisory unions to determine the reasons for their spending patterns and whether those ~~districts~~ supervisory unions used cost-effective strategies appropriate to replicate in other ~~districts~~ supervisory unions.

(d) For the purposes of this section, a "~~high-spending district~~ high-spending supervisory union" is a ~~school-district~~ supervisory union that, in the previous school year, spent at least 20 percent more than the statewide average of special education eligible costs per average daily membership. Also for the purposes of this section, a "~~low-spending district~~ low-spending supervisory

union” is a ~~school district~~ supervisory union that, in the previous school year, spent no more than 80 percent of the statewide average of special education eligible costs per average daily membership.

(e) The Secretary and Agency staff shall assist the ~~high-spending districts~~ high-spending supervisory unions, that have been identified in subsection (a) of this section and have not presented an explanation for their spending that is satisfactory to the Secretary, to identify reasonable alternatives and to develop a remediation plan. Development of the remediation plan shall include an on-site review. The ~~district~~ supervisory union shall have two years to make progress on the remediation plan. At the conclusion of the two years or earlier, the ~~district~~ supervisory union shall report its progress on the remediation plan.

(f) Within 30 days of receipt of the ~~district’s~~ supervisory union’s report of progress, the Secretary shall notify the ~~district~~ supervisory union that its progress is either satisfactory or not satisfactory.

(1) If the ~~district~~ supervisory union fails to make satisfactory progress, the Secretary shall notify the ~~district~~ supervisory union that, in the ensuing school year, the Secretary shall withhold 10 percent of the ~~district’s~~ supervisory union’s special education expenditures reimbursement pending satisfactory compliance with the plan.

(2) If the district fails to make satisfactory progress after the first year of withholding, 10 percent shall be withheld in each subsequent year pending satisfactory compliance with the plan; provided, however, before funds are withheld in any year under this subdivision (f)(2), the ~~district~~ supervisory union shall explain to the State Board either the reasons the ~~district~~ supervisory union believes it made satisfactory progress on the remediation plan or the reasons it failed to do so. The State Board’s decision whether to withhold funds under this subdivision shall be final.

(3) If the ~~district~~ supervisory union makes satisfactory progress under any subdivision of this subsection, the Secretary shall release to the ~~district~~ supervisory union any special education expenditures reimbursement withheld for the prior fiscal year only.

(g) Within 10 days after receiving the Secretary’s notice under subdivision (f)(1) of this section, the ~~district~~ supervisory union may challenge the Secretary’s decision by filing a written objection to the State Board outlining the reasons the ~~district~~ supervisory union believes it made satisfactory progress on the remediation plan. The Secretary may file a written response within 10 days after the ~~district’s~~ supervisory union’s objection is filed. The State Board may give the ~~district~~ supervisory union and the Secretary an opportunity to be

heard. The State Board's decision shall be final. The State shall withhold no portion of the ~~district's~~ supervisory union's reimbursement before the State Board issues its decision under this subsection.

(h) Nothing in this section shall prevent a ~~school-district~~ supervisory union from seeking and receiving the technical assistance of Agency staff to reduce its special education spending.

#### § 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

The Secretary may use up to two percent of the funds appropriated for special education expenditures, as that term is defined in subsection 2967(b) of this title, to directly assist ~~school-districts~~ supervisory unions with special education expenditures of an unusual or unexpected nature. These funds shall not be used for exceptional circumstances that are funded under section 2963a of this title. The Secretary's decision regarding a ~~district's~~ supervisory union's eligibility for and amount of assistance shall be final.

Sec. 2. 16 V.S.A. § 4002 is amended to read:

#### § 4002. PAYMENT; ALLOCATION

(a) State and federal funds appropriated for services delivered by the supervisory union and payable through the Agency shall be paid to the order of the supervisory union and administered in accordance with the plan adopted under subdivision 261a(4) of this title. Funding for special education services under section 2969 of this title shall be paid to the districts and supervisory unions in accordance with that section.

\* \* \*

\* \* \* Study of Funding for Special Education \* \* \*

#### Sec. 3. STUDY OF FUNDING FOR SPECIAL EDUCATION

(a) Study. The Agency of Education shall contract for a study of special education funding and practice. The study shall evaluate the feasibility of implementing various models of funding for special education in Vermont, including a census block model of funding and variations of this model, as the contractor deems appropriate, including the advantages, disadvantages, and policy considerations. The study shall develop a special education funding model recommendation for Vermont, which shall be designed to provide incentives for desirable practices and stimulate innovation in the delivery of services and shall take into account any factors the contractor determines relevant. The contractor shall conduct its evaluation and develop its

recommendation in collaboration with the Agency of Education and, as directed by the Agency of Education, with interested superintendents, special education administrators, school business and administrative staff, and special education staff from the institutions of higher education and other stakeholders, including parents and family-based organizations. The contractor shall present its findings and recommendations to the General Assembly and the Agency of Education by December 15, 2017.

(b) Funding. The Agency of Education shall allocate out of its fiscal year 2017 budget a sum of up to \$90,000.00 to provide funding for the purposes set forth in this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this section.

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

#### Sec. 4. EFFECTIVE DATES

Sec. 3 and this section shall take effect on July 1, 2016. Secs. 1 and 2 shall take effect on July 1, 2017.

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Sharpe of Bristol** moved that the House refuse to concur and ask for a Committee of Conference, which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

**Rep. Long of Newfane**

**Rep. Juskiewicz of Cambridge**

**Rep. Jerman of Essex**

#### **Action on Bill Postponed**

#### **H. 878**

House bill, entitled

An act relating to capital construction and State bonding budget adjustment

Was taken up and on motion of **Rep. Emmons of Springfield**, action on the bill was postponed until the next legislative day.

#### **Report of Committee of Conference Adopted**

#### **S. 174**

The Speaker placed before the House the following Committee of Conference report:

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate bill, entitled

An act relating to a model State policy for use of body cameras by law enforcement officers

Respectfully reported that it has met and considered the same and recommended that the Senate accede to the House proposal of amendment.

COMMITTEE ON THE PART OF  
THE SENATE

SEN. ALICE W. NITKA  
SEN. JEANETTE K. WHITE  
SEN. JOSEPH C. BENNING

COMMITTEE ON THE PART OF  
THE HOUSE

REP. RONALD E. HUBERT  
REP. DEBBIE G. EVANS  
REP. PATTI J. LEWIS

Which was considered and adopted on the part of the House.

#### **Bill Recommitted**

#### **H. 866**

House bill, entitled

An act relating to prescription drug manufacturer cost transparency

Appearing on the Calendar for action, was taken up and pending the reading of the report of the committee on Health Care, on motion of **Rep. Pearson of Burlington**, the bill was recommitted to the committee on Health Care.

#### **Adjournment**

At eight o'clock and forty-one minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at nine o'clock and thirty minutes in the forenoon.