

Journal of the Senate

WEDNESDAY, MAY 4, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 67

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 871. An act relating to approval of amendments to the charter of the City of Montpelier.

In the passage of which the concurrence of the Senate is requested.

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

S. 55. 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. An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation.

S. 183. An act relating to permanency for children in the child welfare system.

S. 212. An act relating to court-approved absences from home detention and home confinement furlough.

S. 250. An act relating to alcoholic beverages.

S. 257. An act relating to residential rental agreements.

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

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 174. An act relating to a model State policy for use of body cameras by law enforcement officers.

And has adopted the same on its part.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

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

The Speaker has appointed as members of such committee on the part of the House:

Rep. Lippert of Hinesburg
Rep. Pearson of Burlington
Rep. Bancroft of Westford

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

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

The Speaker has appointed as members of such committee on the part of the House:

Rep. Kitzmiller of Montpelier
Rep. Baser of Bristol
Rep. Carr of Brandon

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on House bill of the following title:

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

The Speaker has appointed as members of such committee on the part of the House:

Rep. Bartholomew of Hartland
Rep. Lawrence of Lyndon
Rep. Eastman of Orwell

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

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

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

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

Rep. Conquest of Newbury
Rep. Jewett of Ripton
Rep. Canfield of Fair Haven

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

H. 859. An act relating to special education.

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

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

Rep. Long of Newfane
Rep. Juskiewicz of Cambridge
Rep. Jerman of Essex

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

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

And has severally concurred therein.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 577.

An act relating to voter approval of electricity purchases by municipalities and electric cooperatives.

Bill Referred

House a bill of the following title was read the first time:

H. 871. An act relating to approval of amendments to the charter of the City of Montpelier.

And pursuant to Temporary Rule 44A was referred to the Committee on Rules.

House Proposal of Amendment Concurred In with Amendment**S. 230.**

House proposal of amendment to Senate bill entitled:

An act relating to improving the siting of energy projects.

Was taken up.

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

* * * Designation * * *

Sec. 1. DESIGNATION OF ACT

This act shall be referred to as the Energy Development Improvement Act.

* * * Integration of Energy and Land Use Planning * * *

Sec. 2. 24 V.S.A. § 4302(c)(7) is amended to read:

(7) To ~~encourage the~~ make efficient use of energy ~~and, provide for~~ the development of renewable energy resources, and reduce emissions of greenhouse gases.

(A) General strategies for achieving these goals include increasing the energy efficiency of new and existing buildings; identifying areas suitable for renewable energy generation; encouraging the use and development of renewable or lower emission energy sources for electricity, heat, and transportation; and reducing transportation energy demand and single occupancy vehicle use.

(B) Specific strategies and recommendations for achieving these goals are identified in the State energy plans prepared under 30 V.S.A. §§ 202 and 202b.

Sec. 3. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(6) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, ~~the conservation of energy and the development of~~

~~renewable energy resources~~, State capital investment plans, and wetland protection.

* * *

Sec. 4. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(14) With respect to proceedings under 30 V.S.A. § 248:

(A) have the right to appear and participate; and

(B) ~~Appear~~ appear before the Public Service Board to aid ~~the Board~~ in making determinations under 30 V.S.A. § 248 that statute when requested by the Board.

* * *

(19) Undertake studies and make recommendations on the conservation of energy and the development of renewable energy resources.

Sec. 5. 24 V.S.A. § 4348a(a)(3) is amended to read:

(3) An energy element, which may include an analysis of energy resources, needs, scarcities, costs, and problems within the region; across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy and the development and siting of renewable energy resources; and; a statement of policy on patterns and densities of land use and control devices likely to result in conservation of energy; and an identification of potential areas for the development and siting of renewable energy resources and areas that are unsuitable for siting those resources or particular categories or sizes of those resources.

Sec. 6. 24 V.S.A. § 4352 is added to read:

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE; ENHANCED ENERGY PLANNING

(a) Regional plan. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a determination of energy compliance. The Commissioner shall issue such a determination in writing on finding that the regional plan meets the requirements of subsection (c) of this section and allows for the siting in the region of all types of renewable generation technologies.

(b) Municipal plan. If the Commissioner of Public Service has issued a determination of energy compliance for a regional plan that is in effect, a municipal legislative body within the region may submit its adopted municipal plan to the regional planning commission for issuance of a determination of energy compliance. The regional planning commission shall issue such a determination in writing, signed by the chair of the regional planning commission, on finding that the municipal plan meets the requirements of subsection (c) of this section and is consistent with the regional plan.

(c) Enhanced energy planning; requirements. To obtain a determination of energy compliance under this section, a plan must:

(1) in the case of a regional plan, include the energy element as described in subdivision 4348a(a)(3) of this title;

(2) in the case of a municipal plan, include an energy element that has the same components as described in subdivision 4348a(a)(3) of this title for a regional plan and be confirmed under section 4350 of this title;

(3) be consistent with the following, with consistency determined in the manner described under subdivision 4302(f)(1) of this title:

(A) Vermont's greenhouse gas reduction goals under 10 V.S.A. § 578(a);

(B) Vermont's 25 by 25 goal for renewable energy under 10 V.S.A. § 580;

(C) Vermont's building efficiency goals under 10 V.S.A. § 581;

(D) State energy policy under 30 V.S.A. § 202a and the recommendations for regional and municipal energy planning pertaining to the efficient use of energy and the siting and development of renewable energy resources contained in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b (State energy plans); and

(E) the distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005; and

(4) meet the standards for issuing a determination of energy compliance included in the State energy plans.

(d) State energy plans; recommendations; standards.

(1) The State energy plans shall include the recommendations for regional and municipal energy planning and the standards for issuing a determination of energy compliance described in subdivision (c)(3) of this section.

(2) The recommendations shall provide strategies and options for regional planning commissions and municipalities to employ in meeting the goals and policies contained in statutes listed in subdivision (c)(3) of this section.

(3) The standards shall consist of a list of criteria for issuing a determination of energy compliance that ensure consistency with the goals and policies contained in the statutes listed in subdivision (c)(3) of this section and the recommendations developed pursuant to this subsection.

(4) In developing standards and recommendations under this subsection, the Commissioner of Public Service shall consult with all persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation; and other affected persons.

(5) The Commissioner of Public Service shall provide the Commissioner of Housing and Community Development with a copy of the recommendations and standards developed under this subsection for inclusion in the planning and land use manual prepared pursuant to section 4304 of this title.

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination within two months of the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

(f) Appeal. A regional planning commission aggrieved by an act or decision of the Commissioner of Public Service under this section may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within 30 days of the act or decision. The Board shall conduct a de novo hearing on the act or decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The Board shall issue a final decision within 90 days of the filing of the appeal.

(g) Municipality; determination from DPS; time-limited option. Until July 1, 2018, a municipality whose plan has been confirmed under section

4350 of this title may seek issuance of a determination of energy compliance from the Commissioner of Public Service if it is a member of a regional planning commission whose regional plan has not received such a determination.

(1) The Commissioner shall issue a determination of energy compliance for the municipal plan on finding that the plan meets the requirements of subsection (c) of this section. The Commissioner's review of the municipal plan shall be for the purpose only of determining whether a determination of energy compliance should be issued because those requirements are met.

(2) A municipality aggrieved by an act or decision of the Commissioner under this subsection may appeal in accordance with the procedures of subsection (f) of this section.

(h) Determination; time period. An affirmative determination of energy compliance issued pursuant to this section shall remain in effect until the end of the period for expiration or re adoption of the plan to which it applies.

(i) Commissioner; consultation. In the discharge of the duties assigned under this section, the Commissioner shall consult with and solicit the recommendations of the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation.

Sec. 7. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

* * *

(b) The Department, through the Director, shall prepare an electrical energy plan for the State. The Plan shall be for a 20-year period and shall serve as a basis for State electrical energy policy. The Electric Energy Plan shall be based on the principles of "least cost integrated planning" set out in and developed under section 218c of this title. The Plan shall include at a minimum:

* * *

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; ~~and~~

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate six-year period, for the next succeeding six-year period, and long-term sustainable strategies for achieving

and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont; and

(6) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

(c) In developing the Plan, the Department shall take into account the protection of public health and safety; preservation of environmental quality; the relevant goals of 24 V.S.A. § 4302; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the Director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities and planning commissions;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

(F) environmental and residential consumer advocacy groups active in electricity issues;

(G) industrial customer representatives;

(H) commercial customer representatives;

(I) the Public Service Board;

(J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;

(K) other interested State agencies; ~~and~~

(L) other energy providers; and

(M) the regional planning commissions.

* * *

(e) The Department shall conduct public hearings on the final draft and shall consider the evidence presented at such hearings in preparing the final

Plan. The Plan shall be adopted no later than January 1, 2016 and readopted in accordance with this section by every sixth January + 15 thereafter, and shall be submitted to the General Assembly each time the plan is adopted or readopted. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to the submission to be made under this subsection.

* * *

(h) The Plans adopted under this section shall become the electrical energy portion of the State Energy Plan.

* * *

(j) For the purpose of assisting in the development of municipal and regional plans under 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and regional planning commissions with publicly available information detailing the location of electric transmission and distribution infrastructure in the relevant municipality or region and the capacity of that infrastructure to accept additional electric generation facilities without modification. In providing this information, the Director shall be entitled to the assistance of the electric utilities that own electric transmission or distribution systems, or both, located in Vermont, including the ability to obtain from those utilities such publicly available data as the Director considers necessary to discharge his or her duties under this subsection.

Sec. 8. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The Department of Public Service, in conjunction with other State agencies designated by the Governor, shall prepare a State Comprehensive Energy Plan covering at least a 20-year period. The Plan shall seek to implement the State energy policy set forth in section 202a of this title and shall be consistent with the relevant goals of 24 V.S.A. § 4302. The Plan shall include:

(1) a comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont; ~~and~~

(2) recommendations for State implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan; and

(3) recommendations for regional and municipal energy planning and standards for issuing a determination of energy compliance pursuant to 24 V.S.A. § 4352.

* * *

(c) The Department shall adopt a State Energy Plan on or before January 1, 2016 and shall readopt the Plan by every sixth January + 15 thereafter. On adoption or readoption, the Plan shall be submitted to the General Assembly. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to such submission.

* * *

Sec. 9. INITIAL IMPLEMENTATION; RECOMMENDATIONS; STANDARDS

(a) On or before November 1, 2016, the Department of Public Service shall publish recommendations and standards in accordance with 24 V.S.A. § 4352 as enacted by Sec. 6 of this act. Prior to issuing these recommendations and standards, the Department shall perform each of the following:

(1) Consult with all persons identified under 30 V.S.A. § 202(d)(1); the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation; and other affected persons.

(2) Post on its website a draft set of initial recommendations and standards.

(3) Provide notice and an opportunity to comment and request a public hearing to all persons listed in 30 V.S.A. § 202(d)(1). The Commissioner may elect to hold one or more public hearings on the Commissioner's own initiative.

(b) In addition to the requirements of Sec. 6 of this act, the standards developed under this section shall address the following elements in a manner consistent with the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b:

(1) analysis of total current energy use across transportation, heating, and electric sectors;

(2) identification and mapping of existing electric generation and renewable resources;

(3) establishment of 2025, 2035, and 2050 targets for energy conservation, efficiency, fuel-switching, and use of renewable energy for transportation, heating, and electricity;

(4) analysis of amount of thermal-sector conservation, efficiency, and conversion to alternative heating fuels needed to achieve these targets;

(5) analysis of transportation system changes and land use strategies needed to achieve these targets;

(6) analysis of electric-sector conservation and efficiency needed to achieve these targets;

(7) pathways and recommended actions to achieve these targets, informed by this analysis;

(8) identification of potential areas for the development and siting of renewable energy resources and of the potential electric generation from such resources in the identified areas, taking into account factors including resource availability, environmental constraints, and the location and capacity of electric grid infrastructure; and

(9) identification of areas, if any, that are unsuitable for siting those resources or particular categories or sizes of those resources.

(c) On publication under subsection (a) of this section, the specific recommendations and standards shall be considered an appendix to the currently adopted plans under 30 V.S.A. §§ 202 and 202b. After this publication, the Department may revise these recommendations and standards in accordance with the procedures for adopting and revising plans under those statutes.

Sec. 10. TRAINING

Following publication of the recommendations and standards under Sec. 9(a) of this act, the Department of Public Service shall conduct a series of training sessions in locations across the State for municipal and regional planning commissions to assist them in the development of municipal and regional plans that are eligible to receive a determination of energy compliance under Sec. 6 of this act, 24 V.S.A. § 4352. The Department shall develop and present these sessions in collaboration with the Vermont League of Cities and Towns and the Vermont Association of Planning and Development Agencies. The Department shall ensure that all municipal and regional planning commissions receive prior notice of the sessions.

* * * Siting Process; Criteria; Conditions * * *

Sec. 11. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

* * *

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities and for hydroelectric generation facilities subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the Public Service Board first finds that the same will promote the general good of the State and issues a certificate to that effect.

* * *

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

* * *

(C) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

* * *

(E) The Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(F) The Agency of Agriculture, Food and Markets shall have the right to appear as a party in proceedings held under this subsection.

(G) The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection. The regional planning commission of an adjacent region shall have the same right if the distance of the facility's nearest component to the boundary of that planning commission is 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(H) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection. The legislative body and planning commission of an adjacent municipality shall have the same right if the distance of the facility's nearest component to the boundary of that adjacent municipality is 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(I) When a person has the right to appear as a party in a proceeding before the Board under this chapter, the person may exercise this right by filing a letter with the Board stating that the person appears through the person's duly authorized representative, signed by that representative.

(J) This subdivision (J) applies to an application for an electric generation facility with a capacity that is greater than 50 kilowatts, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity. In addition to any other information required by the Board, the application for such a facility shall include information that delineates:

(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the facility and the amount of those soils to be disturbed;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.

(5) The Board shall adopt rules regarding standard conditions on postconstruction inspection and maintenance of aesthetic mitigation and on decommissioning to be included in certificates of public good for in-state

facilities approved under this section. The purpose of these standard conditions shall be to ensure that all required aesthetic mitigation is performed and maintained and that facilities are removed once they are no longer in service.

(6) The Board shall require any in-state wind electric generation facility receiving a certificate of public good to install radar-controlled obstruction lights on all wind turbines for which the Federal Aviation Administration (FAA) requires obstruction lights, if the facility includes four or more wind turbines and the FAA allows the use of radar-controlled lighting technology.

(A) Nothing in this subdivision shall allow the Board to approve obstruction lights that do not meet FAA standards.

(B) The purpose of this subdivision is to reduce the visual impact of wind turbine obstruction lights on the environment and nearby properties. The General Assembly finds that wind turbine obstruction lights that remain illuminated through the night create light pollution. Radar-controlled obstruction lights are only illuminated when aircraft are detected in the area, and therefore the use of these lights will reduce the negative environmental impacts of obstruction lights.

(7) When a certificate of public good under this section or amendment to such a certificate is issued for an in-state electric generation facility, the certificate holder within 45 days shall record a notice of the certificate or amended certificate, on a form prescribed by the Board, in the land records of each municipality in which a facility subject to the certificate is located and shall submit proof of this recording to the Board. The recording under this subsection shall be indexed as though the certificate holder were the grantor of a deed. The prescribed form shall not exceed one page and shall require identification of the land on which the facility is to be located by reference to the conveyance to the current landowner, the number of the certificate, and the name of each person to which the certificate was issued, and shall include information on how to contact the Board to view the certificate and supporting documents.

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

(A) ~~with~~ With respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located; ~~and~~.

(B) ~~with~~ With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Board finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

* * *

(5) With respect to an in-state facility, will not have an undue adverse effect on ~~esthetics~~ aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary agricultural soils as defined in 10 V.S.A. § 6001, and greenhouse gas impacts.

* * *

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions shall make recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * *

(t) Notwithstanding any contrary provision of the law, primary agricultural soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric generation facility approved under this section shall remain classified as such soils, and the review of any change in use of the site subsequent to the construction of the facility shall treat the soils as if the facility had never been constructed. Each certificate of public good issued by the Board for a ground-mounted solar generation facility shall state the contents of this subsection.

* * * Sound Standards; Wind Generation Facilities * * *

Sec. 12. SOUND STANDARDS; WIND GENERATION

(a) On or before September 15, 2017, the Public Service Board (the Board) finally shall adopt rules under 3 V.S.A. chapter 25 regarding sound from wind generation facilities approved under 30 V.S.A. § 248. In developing these rules, the Board shall consider:

(1) standards that apply to all wind generation facilities;

(2) a methodology for determining sound levels and measurement locations for each such facility on a case-by-case basis; or

(3) standards that apply to one or more categories of wind generation facilities, with a methodology for determining sound levels and measurement locations for other such facilities on a case-by-case basis.

(b) Notwithstanding any contrary provision of 1 V.S.A. § 213 or 214 or 3 V.S.A. § 845, rules adopted under this section shall apply to an application for a certificate of public good under 30 V.S.A. § 248 filed on or after April 15, 2016, regardless of whether such a certificate is issued prior to the effective date of the rules.

Sec. 13. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(c) In accordance with this section, the Board shall adopt and implement rules that govern the installation and operation of net metering systems.

* * *

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures, ~~the rules~~:

(A) The rules may waive the requirements of section 248 of this title that are not applicable to net metering systems, including criteria that are generally applicable to public service companies as defined in this title;

(B) The rules may modify notice and hearing requirements of this title as the Board considers appropriate;

(C) The rules shall seek to simplify the application and review process as appropriate; ~~and, including simplifying the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system.~~

(D) ~~with~~ With respect to net metering systems that exceed 150 kW in plant capacity, shall apply the so-called “Quechee” test for aesthetic impact as described by the Vermont Supreme Court in the case of *In re Halnon*, 174 Vt. 515 (2002) (mem.). The rules and application form shall state the components of this test.

(E) The rules shall not waive or include provisions that are less stringent than the requirements of subdivision 248(a)(4)(J) (required information) of this title.

(F) This subdivision (F) applies to an application for a net metering system with a capacity that is greater than 15 kilowatts, unless the system is located on a new or existing structure the primary purpose of which is not the generation of electricity. With respect to such a system, the rules shall not waive or include provisions that are less stringent than each of the following:

(i) the requirement of subdivision 248(a)(4)(C) of this title to provide a copy of the application to the Agencies of Agriculture, Food and Markets and of Natural Resources; the Department of Public Service; the

Division for Historic Preservation; the municipal legislative body; and the municipal and regional planning commissions; and

(ii) the requirements of subsection 248(f) (preapplication submittal) of this title.

* * *

(e) If a hydroelectric generation plant seeking approval as a net metering system is subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1, the Board shall require the plant to obtain such approval through means other than by application for a certificate of public good under section 248 of this title.

* * * Municipal Electric Utilities; Hydro Facilities;
Renewable Energy Standard * * *

Sec. 14. 30 V.S.A. § 8005(a)(1) is amended to read:

(1) Total renewable energy.

(A) Purpose; establishment. To encourage the economic and environmental benefits of renewable energy, this subdivision establishes, for the RES, minimum total amounts of renewable energy within the supply portfolio of each retail electricity provider. To satisfy this requirement, a provider may use renewable energy with environmental attributes attached or any class of tradeable renewable energy credits generated by any renewable energy plant whose energy is capable of delivery in New England.

(B) Required amounts. The amounts of total renewable energy required by this subsection shall be 55 percent of each retail electricity provider's annual retail electric sales during the year beginning on January 1, 2017, increasing by an additional four percent each third January 1 thereafter, until reaching 75 percent on and after January 1, 2032.

* * *

(D) Municipal providers; petition. On petition by a provider that is a municipal electric utility serving not more than 6,000 customers, the Board may reduce the provider's required amount under this subdivision (1) for a period of up to three years. The Board may approve one such period only for a municipal provider. The Board may reduce this required amount if it finds that:

(i) the terms or conditions of an environmental permit or certification necessitate a reduction in the electrical energy generated by an in-state hydroelectric facility that the provider owns and that this reduction will require the provider to purchase other renewable energy with environmental

attributes attached or tradeable renewable energy credits in order to meet this required amount; and

(ii) this purchase will:

(I) cause the provider to increase significantly its retail rates; or

(II) materially impair the provider's ability to meet the public's need for energy services after safety concerns are addressed, in the manner set forth in subdivision 218c(a)(1)(least cost integrated planning) of this title;

* * * Access to Public Service Board Process * * *

Sec. 15. ACCESS TO PUBLIC SERVICE BOARD WORKING GROUP:
REPORT

(a) Creation. There is created an Access to Public Service Board Working Group (the Working Group) to be composed of the following five members:

(1) One member of the Public Service Board (PSB), appointed by the Chair of the PSB.

(2) The Commissioner of Public Service or designee.

(3) A judicial officer of the State, appointed by the Chief Justice of the Supreme Court.

(4) A House member of the Joint Energy Committee established under 2 V.S.A. chapter 17, appointed by the Speaker of the House; and

(5) A Senate member of the Joint Energy Committee established under 2 V.S.A. chapter 17, appointed by the Committee on Committees.

(b) Powers and duties; term.

(1) The Working Group shall review the current processes for citizen participation in PSB proceedings and shall make recommendations to promote increased ease of citizen participation in those proceedings.

(2) On or before December 15, 2016, the Working Group shall submit its written recommendations to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the Joint Energy Committee.

(3) The Working Group shall have the administrative, technical, and legal assistance of the staff of the PSB.

(4) The appointed member of the PSB shall call the first meeting of the Working Group to occur on or before July 1, 2016. At the first meeting, the Working Group shall elect a chair from among its members.

(5) The Working Group shall cease to exist on February 1, 2017.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

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

(1) This section and Secs. 9 (initial implementation; recommendations; standards), 11 (30 V.S.A. § 248), 12 (sound standards; wind generation) and 15 (Access to Public Service Board Working Group) shall take effect on passage. Sec. 6 (optional determination of energy compliance) shall apply on passage to the activities of the Department of Public Service under Sec. 9.

(2) Sec. 13 (net metering) shall take effect on January 2, 2017, and shall amend 30 V.S.A. § 8010 as amended by 2015 Acts and Resolves No. 56, Sec. 12.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Bray, Champion, MacDonald, Riehle, and Rodgers moved that the Senate concur in the House proposal of amendment with a further proposal of amendment as follows:

First: In Sec. 6, 24 V.S.A. § 4352, by striking out subsections (a) (regional plan) and (b) (municipal plan) and inserting in lieu thereof new subsections (a) and (b) to read:

(a) Regional plan. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a determination of energy compliance. The Commissioner shall issue an affirmative determination on finding that the regional plan meets the requirements of subsection (c) of this section and allows for the siting in the region of all types of renewable generation technologies.

(b) Municipal plan. If the Commissioner of Public Service has issued an affirmative determination of energy compliance for a regional plan that is in effect, a municipal legislative body within the region may submit its adopted municipal plan to the regional planning commission for issuance of a determination of energy compliance. The regional planning commission shall issue an affirmative determination, signed by the chair of the regional planning commission, on finding that the municipal plan meets the requirements of subsection (c) of this section and is consistent with the regional plan.

Second: In Sec. 6, 24 V.S.A. § 4352, in subsection (c) (enhanced energy planning; requirements), in the first full sentence after the subheading and before the colon, by striking out “a determination” and inserting in lieu thereof an affirmative determination

Third: In Sec. 6, 24 V.S.A. § 4352, in subsection (e) (process for issuing determinations of energy compliance), by striking out the second sentence after the subheading and inserting in lieu thereof the following:

The Commissioner or regional planning commission shall issue the determination in writing within two months of the receipt of a request for a determination.

Fourth: In Sec. 6, 24 V.S.A. § 4352, in subsection (f) (appeal), after the first sentence, by inserting The provisions of 10 V.S.A. § 6024 regarding assistance to the Board from other departments and agencies of the State shall apply to this subsection.

Fifth: In Sec. 6, 24 V.S.A. § 4352, in subsection (g) (municipality; determination from DPS; time-limited option), in subdivision (1), by striking out the first sentence and inserting in lieu thereof The Commissioner shall issue an affirmative determination of energy compliance for the municipal plan on finding that the plan meets the requirements of subsection (c) of this section.

Sixth: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec. 10 to read:

Sec. 10. TRAINING

Following publication of the recommendations and standards under Sec. 9(a) of this act, the Department of Public Service, the Vermont League of Cities and Towns, and the Vermont Association of Planning and Development Agencies shall collaborate on the development and presentation of training sessions for municipal and regional planning commissions to assist them in the development of municipal and regional plans that are eligible to receive a determination of energy compliance under Sec. 6 of this act, 24 V.S.A. § 4352, with at least one such session to be held in the area of each regional planning commission after notice of the session to the regional planning commission and its member municipalities.

Seventh: After Sec. 10, by inserting Sec. 10a to read:

Sec. 10a. PLANNING SUPPORT; ALLOCATION OF COSTS

(a) During fiscal year 2017, the Commissioner of Public Service, in consultation with the Commissioner of Housing and Community Development, shall award the amount of \$300,000.00 to regional planning commissions established under 24 V.S.A. chapter 117 and to municipalities for the purpose of providing training under Sec. 10 (training) of this act or assisting municipalities in the implementation of this act.

(b) In awarding funds under this section, the Commissioners shall consider the need and size of a municipality or region and the availability, if any, of other assistance, expertise, or funds to a municipality or region to implement this act.

(c) The Commissioner of Public Service shall allocate costs under subsection (a) of this section to the electric distribution utilities subject to its supervision under Title 30 of the Vermont Statutes Annotated based on their pro rata share of total Vermont retail kilowatt-hour sales for the previous fiscal year. Each of these utilities shall pay its allocation into the State Treasury at such time and in such manner as the Commissioner may direct.

Eighth: In Sec. 11, 30 V.S.A. § 248, in subsection (a), by striking out subdivisions (4) through (6) in their entirety and inserting in lieu thereof new subdivisions (4) through (6) to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

* * *

(C) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

* * *

(E) The Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(F) The following shall apply to the participation of the Agency of Agriculture, Food and Markets in proceedings held under this subsection:

(i) In any proceeding regarding an electric generation facility that will have a capacity greater than 500 kilowatts and will be sited on a tract containing primary agricultural soils as defined in 10 V.S.A. § 6001, the Agency shall appear as a party and provide evidence and recommendations

concerning any findings to be made under subdivision (b)(5) of this section on those soils, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(ii) In a proceeding other than one described in subdivision (i) of this subsection (4)(F), the Agency shall have the right to appear and participate.

(G) The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection. The regional planning commission of an adjacent region shall have the same right if the distance of the facility's nearest component to the boundary of that planning commission is 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(H) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection. The legislative body and planning commission of an adjacent municipality shall have the same right if the distance of the facility's nearest component to the boundary of that adjacent municipality is 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(I) When a person has the right to appear as a party in a proceeding before the Board under this chapter, the person may exercise this right by filing a letter with the Board stating that the person appears through the person's duly authorized representative, signed by that representative.

(J) This subdivision (J) applies to an application for an electric generation facility with a capacity that is greater than 50 kilowatts, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity. In addition to any other information required by the Board, the application for such a facility shall include information that delineates:

(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the facility, the amount of those soils to be disturbed, and any other proposed impacts to those soils;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.

(5) The Board shall adopt rules regarding standard conditions on postconstruction inspection and maintenance of aesthetic mitigation and on decommissioning to be included in certificates of public good for in-state facilities approved under this section. The purpose of these standard conditions shall be to ensure that all required aesthetic mitigation is performed and maintained and that facilities are removed once they are no longer in service.

(6) In any certificate of public good issued under this section for an in-state plant as defined in section 8002 of this title that generates electricity from wind, the Board shall require the plant to install radar-controlled obstruction lights on all wind turbines for which the Federal Aviation Administration (FAA) requires obstruction lights, if the plant includes four or more wind turbines and the FAA allows the use of radar-controlled lighting technology.

(A) Nothing in this subdivision shall allow the Board to approve obstruction lights that do not meet FAA standards.

(B) The purpose of this subdivision is to reduce the visual impact of wind turbine obstruction lights on the environment and nearby properties. The General Assembly finds that wind turbine obstruction lights that remain illuminated through the night create light pollution. Radar-controlled obstruction lights are only illuminated when aircraft are detected in the area, and therefore the use of these lights will reduce the negative environmental impacts of obstruction lights.

Ninth: In Sec. 11, 30 V.S.A. § 248, in subsection (b), in subdivision (5), after "(9)(K)" by striking out ", impacts to primary agricultural soils as defined in 10 V.S.A. § 6001,"

Tenth: After Sec. 11, by inserting a Sec. 11a to read:

Sec. 11a. RULES; PETITION

(a) On or before November 1, 2016, the Department of Public Service shall file a petition for rulemaking with the Public Service Board containing proposed rules to implement 30 V.S.A. § 248(a)(5) (postconstruction inspection of aesthetic mitigation; decommissioning) as enacted by Sec. 11 of this act.

(b) On or before December 15, 2016, the Public Service Board shall file proposed rules to implement 30 V.S.A. § 248(a)(5) with the Secretary of State under 3 V.S.A. § 838. The Board shall finally adopt such rules on or before August 15, 2017, unless such deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Eleventh: By striking out Sec. 12 in its entirety and inserting in lieu thereof a new Sec. 12 to read:

Sec. 12. SOUND STANDARDS; WIND GENERATION

(a) On or before July 1, 2017, the Public Service Board (the Board) finally shall adopt rules under 3 V.S.A. chapter 25 regarding sound from wind generation facilities approved under 30 V.S.A. § 248, unless such deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c). In developing these rules, the Board shall consider:

(1) standards that apply to all wind generation facilities;

(2) a methodology for determining sound levels and measurement locations for each such facility on a case-by-case basis; or

(3) standards that apply to one or more categories of wind generation facilities, with a methodology for determining sound levels and measurement locations for other such facilities on a case-by-case basis.

(b) Notwithstanding any contrary provision of 1 V.S.A. § 213 or 214 or 3 V.S.A. § 845, rules adopted under this section shall apply to an application for a certificate of public good under 30 V.S.A. § 248 filed on or after April 15, 2016, regardless of whether such a certificate is issued prior to the effective date of the rules. The Board shall condition each certificate of public good issued for a wind generation facility on compliance with the rules to be issued under this section.

Twelfth: After Sec. 12, by inserting a reader guide, Secs. 12a and 12b, and a further reader guide to read:

* * * Preferred Location Pilot; Standard Offer * * *

Sec. 12a. 30 V.S.A. § 8005a is amended to read:

§ 8005a. STANDARD OFFER PROGRAM

* * *

(c) Cumulative capacity. In accordance with this subsection, the Board shall issue standard offers to new standard offer plants until a cumulative plant capacity amount of 127.5 MW is reached.

(1) Pace. Annually commencing April 1, 2013, the Board shall increase the cumulative plant capacity of the standard offer program (the annual increase) until the 127.5-MW cumulative plant capacity of this subsection is reached.

* * *

(D) Pilot project; preferred locations. For one year commencing on January 1, 2017, the Board shall allocate one-sixth of the annual increase to new standard offer plants that will be wholly located in one or more preferred locations other than parking lots or parking lot canopies and, separately, one-sixth of the annual increase of the annual increase to new standard offer plants that will be wholly located over parking lots or on parking lot canopies.

(i) To qualify for these allocations, the plant shall not require the construction of a new substation by the interconnecting retail electricity provider or by increasing the capacity of one or more of the provider's existing facilities. To qualify for the allocation to plants wholly located over parking lots or on parking lot canopies, the location shall remain in use as a parking lot.

(ii) These allocations shall apply proportionally to the independent developer block and provider block.

(iii) If in a given year an allocation under this pilot project is not fully subscribed, the Board in the same year shall allocate the unsubscribed capacity to new standard offer plants outside the pilot project.

(iv) As used in this subdivision (D), "preferred location" means a site within the State on which a renewable energy plant will be located that is one of the following:

(I) A new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity.

(II) A parking lot canopy over a paved parking lot, provided that the location remains in use as a parking lot.

(III) A tract previously developed for a use other than siting a plant on which a structure or impervious surface was lawfully in existence and use prior to July 1 of the year preceding the year in which an application for a certificate of public good under section 248 of this title for the plant is filed or in which the plant seeks an award of a contract under the standard offer program under this section, whichever is earlier. To qualify under this subdivision (III), the limits of disturbance of a proposed renewable energy plant must include either the existing structure or impervious surface and shall not include any headwaters, streams, shorelines, floodways, rare and

irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forestlands, and primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

(IV) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642.

(V) A sanitary landfill as defined in 10 V.S.A. § 6602, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and is suitable for the development of the plant.

(VI) The disturbed portion of a gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that all activities pertaining to site reclamation required by applicable law or permit condition are satisfied prior to the installation of the plant.

(VII) A specific location designated in a duly adopted municipal plan under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or specific type or size of renewable energy plant, provided that the plant meets any siting criteria recommended in the plan for the location.

(VIII) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms each of the following:

(aa) The site is listed on the NPL.

(bb) Development of the plant on the site will not compromise or interfere with remedial action on the site.

(cc) The site is suitable for development of the plant.

(IX) A new hydroelectric generation facility at a dam in existence as of January 1, 2016 or a hydroelectric generation facility that was in existence but not in service for a period of at least 10 years prior to January 1, 2016 and that will be redeveloped for electric generation, if the facility has received approval or a grant of exemption from the U.S. Federal Energy Regulatory Commission.

* * *

(f) Price. The categories of renewable energy for which the Board shall set standard offer prices shall include at least each of the categories established pursuant to subdivision (c)(2) of this section. The Board by order shall determine and set the price paid to a plant owner for each kWh generated under a standard offer required by this section, with a goal of ensuring timely

development at the lowest feasible cost. The Board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25.

* * *

(5) Price; preferred location pilots. For the period during which the Board allocates capacity to new standard offer plants that will be wholly located in one or more preferred locations as set forth in subdivision (c)(1)(D) of this section, the following shall apply to the price paid to such a plant:

(A) If the Board uses a market-based mechanism under subdivision (1) of this subsection (f) to determine this price for one or both of the two allocations of capacity, the Board shall compare only the proposals of plants that qualify for the allocation.

(B) If the Board uses avoided costs under subdivision (2) of this subsection (f) to determine this price for one or both of the two allocations of capacity, the Board shall apply the definition of "avoided costs" as set forth in subdivision (2)(B) of this subsection with the modification that the avoided energy or capacity shall be from distributed renewable generation that is sited on a location that qualifies for the allocation.

(C) With respect to the allocation to the new standard offer plants that will be wholly located over parking lots or on parking lot canopies, if in a given year the Board receives only one application or multiple applications for plants owned or controlled by the same person as defined in 10 V.S.A. § 6001, the Board shall investigate each application and shall have discretion to reduce the price to be consistent with the standard offer price for plants outside the pilot project using the same generation technology.

* * *

Sec. 12b. STANDARD OFFER PILOT; REPORT

On or before January 15, 2018, the Public Service Board shall file a report with the House Committee on Commerce and Economic Development, the Senate Committee on Finance, and the House and Senate Committees on Natural Resources and Energy on the standard offer pilot project on preferred locations authorized in Sec. 12a of this act. This report shall itemize the size, type of preferred location, generation technology, and cost per kilowatt hour of each application received under the pilot project and shall identify each generation facility approved under the pilot and the price awarded to each such facility.

* * * Net Metering * * *

Thirteenth: After Sec. 15, by inserting a reader guide and Sec. 15a to read:

* * * Allocation of AAFM and Postclosure Monitoring Costs * * *

Sec. 15a. 30 V.S.A. §§ 20 and 21 are amended to read:

§ 20. PARTICULAR PROCEEDINGS AND ACTIVITIES; PERSONNEL

(a)(1) The Board or the Department of Public Service may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services:

(i)(A) To assist the Board or Department in any proceeding listed in subsection (b) of this section.

(ii)(B) To monitor compliance with any formal opinion or order of the Board.

(iii)(C) In proceedings under section 248 of this title, to assist other State agencies that are named parties to the proceeding where the Board or Department determines that they are essential to a full consideration of the petition, or for the purpose of monitoring compliance with an order resulting from such a petition.

(iv)(D) In addition to the ~~above~~ services in subdivisions (1)(A)–(C) of this subsection (a), in proceedings under subsection 248(h) of this title, by contract with the regional planning commission of the region or regions affected by a proposed facility, to assist in determining conformance with local and regional plans and to obtain the ~~commissions~~ commission's data, analysis, and recommendations on the economic, environmental, historic, or other impact of the proposed facility in the region.

(v)(E) To assist in monitoring the ongoing and future reliability and the postclosure activities of any nuclear generating plant within the State. ~~For the purpose of In this subdivision section,~~ “postclosure activities” includes planning for and implementation of any action within the State’s jurisdiction that shall or will occur when the plant permanently ceases generating electricity.

(2) The Agency of Natural Resources may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services to:

(A) Assist the Agency of Natural Resources in any proceeding under section 248 of this title.

(B) Monitor compliance with an order issued under section 248 of this title.

(C) Assist the Board or the Department of Public Service in any proceedings described in subdivisions (b)(9) (Federal Energy Regulatory

Commission) and (11) (Nuclear Regulatory Commission) of this section. Allocation of Agency of Natural Resources costs under this subdivision (C) shall be in the same manner as provided under subdivisions (b)(9) and (11) of this section. The Agency of Natural Resources shall report annually to the Joint Fiscal Committee all costs incurred and expenditures charged under the authority of this subsection with respect to proceedings under subdivision (b)(9) of this section and the purpose for which such costs were incurred and expenditures made.

(D) Assist in monitoring the postclosure activities of any nuclear generating plant within the State.

(3) The Department of Health may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services to assist in monitoring the postclosure activities of any nuclear generating plant within the State.

(4) The Agency of Agriculture, Food and Markets may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research, scientific, or engineering services to:

(A) assist the Agency of Agriculture, Food and Markets in any proceeding under section 248 of this title; or

(B) monitor compliance with an order issued under section 248 of this title.

(5) The personnel authorized by this section shall be in addition to the regular personnel of the Board or the Department of Public Service or other State agencies; and in the case of the Department of Public Service or other State agencies may be retained only with the approval of the Governor and after notice to the applicant or the public-service company or companies involved. The Board or the Department of Public Service shall fix the amount of compensation and expenses to be paid such additional personnel, except that the Agency of Natural Resources, the Department of Health, or the Agency of Agriculture, Food and Markets, respectively, shall fix the amount of compensation and expenses to be paid to additional personnel that it retains under subdivision (2), (3), or (4) of this subsection.

* * *

§ 21. PARTICULAR PROCEEDINGS AND ACTIVITIES; ASSESSMENT OF COSTS

(a) The Board, the Department, or the Agency of Natural Resources An agency may allocate the portion of the expense incurred or authorized by it in retaining additional personnel for the particular proceedings authorized in

pursuant to section 20 of this title to the applicant or the public service company or companies involved in those proceedings. In this section, "agency" means an agency, board, or department of the State enabled to authorize or retain personnel under section 20 of this title.

(1) The Board shall upon petition of an applicant or ~~public service~~ company to which costs are proposed to be allocated, review and determine, after opportunity for hearing, having due regard for the size and complexity of the project, the necessity and reasonableness of such costs, and may amend or revise such allocations. Nothing in this section shall confer authority on the Board to select or decide the personnel, the expenses of whom are being allocated, unless such personnel are retained by the Board. Prior to allocating costs, the Board shall make a determination of the purpose and use of the funds to be raised hereunder, identify the recipient of the funds, provide for allocation of costs among companies to be assessed, indicate an estimated duration of the ~~proceedings~~ retention of personnel whose costs are being allocated, and estimate the total costs to be imposed. With the approval of the Board, such estimates may be revised as necessary. From time to time during the progress of the work of such additional personnel, the ~~Board, the Department, or the Agency of Natural Resources~~ agency retaining the personnel shall render to the company detailed statements showing the amount of money expended or contracted for in the work of such personnel, which statements shall be paid by the applicant or the ~~public service~~ company into the State Treasury at such time and in such manner as the ~~Board, the Department, or the Agency of Natural Resources~~ agency may reasonably direct.

(2) In any proceeding under section 248 of this title, the Agency of Natural Resources may allocate the portion of the expense incurred in retaining additional staff authorized in subsection 21(a) of this title only if the following apply:

(A) the Agency of Natural Resources does not have the expertise and the retention of such expertise is required to fulfill ~~the Agency's~~ its statutory obligations in the proceeding; and

(B) the Agency of Natural Resources allocates only that portion of the cost for such expertise that exceeds the fee paid by the applicant under section 248b of this title.

(b) When regular employees of ~~the Board, the Department, or the Agency of Natural Resources~~ an agency are employed in the particular proceedings and activities described in section 20 of this title, the ~~Board, the Department, or the Agency of Natural Resources~~ agency may also allocate the portion of ~~their~~ its costs and expenses to the applicant or the ~~public service~~ company or companies involved ~~in the proceedings~~. The costs of regular employees shall

be computed on the basis of working days within the salary period. The manner of assessment and of making payments shall otherwise be as provided for additional personnel in subsection (a) of this section. However, with respect to proceedings under section 248 of this title, the Agency of Natural Resources shall not allocate the costs of regular employees.

* * *

(e) ~~On or before January 15, 2011, and annually thereafter, the Agency of Natural Resources~~ Annually, on or before January 15, each agency shall report to the Senate and House Committees on Natural Resources and Energy the total amount of expenses allocated under this section during the previous fiscal year. The report shall include the name of each applicant or public service company to whom expenses were allocated and the amount allocated to each applicant or company. The Agency of Agriculture, Food and Markets also shall submit a copy of its report to the Senate Committee on Agriculture and the House Committee on Agriculture and Forests Products.

* * *

(g) ~~The Board, or the Department with the approval of the Governor, An~~ agency may allocate such portion of expense incurred or authorized by it in compensating persons retained in the monitoring of postclosure activities of a nuclear generating plant pursuant to subdivision 20(a)(1)(v) subsection 20(a) of this title to the nuclear generating plant whose activities are being monitored. Except for the Board, the agency shall obtain the approval of the Governor before making such an allocation.

* * *

Fourteenth: After Sec. 15a, by inserting a reader guide and Sec. 15b to read:

* * * Regulated Energy Utility Expansion Funds * * *

Sec. 15b. 30 V.S.A. § 218d(d) is amended to read:

(d) Alternative regulation may include such changes or additions to, waivers of, or alternatives to, traditional rate-making procedures, standards, and mechanisms, including substantive changes to rate base-rate of return rate setting, as the ~~board~~ Board finds will promote the public good and will support the required findings in subsection (a) of this section. In addition, the Board shall not allow a company to set aside funds collected from ratepayers for the purpose of supporting a future expansion or upgrade of its transmission or distribution network except after notice and opportunity for hearing and only if all of the following apply:

(1) There is a cost estimate for the expansion or upgrade that the company demonstrates is consistent with the principles of least cost integrated planning as defined in section 218c of this title.

(2) The amount of such funds does not exceed 10 percent of the estimated cost of the expansion or upgrade.

(3) Interest earned on the funds is credited to the ratepayers.

(4) The funds are not disbursed to the company until after expansion or upgrade is in service.

(5) The funds are not used to defray any portion of the costs of expansion or upgrade in excess of the cost estimate described in subdivision (1) of this subsection.

Fifteenth: By striking out Sec. 16 (effective dates) in its entirety and inserting in lieu thereof a new Sec. 16 to read:

Sec. 16. EFFECTIVE DATES

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

(1) This section and Secs. 9 (initial implementation; recommendations; standards), 11 (30 V.S.A. § 248), 11a (rules; petition), 12 (sound standards; wind generation) and 15 (Access to Public Service Board Working Group) shall take effect on passage. Sec. 6 (optional determination of energy compliance) shall apply on passage to the activities of the Department of Public Service under Sec. 9.

(2) Sec. 13 (net metering) shall take effect on January 2, 2017, and shall amend 30 V.S.A. § 8010 as amended by 2015 Acts and Resolves No. 56, Sec. 12. Notwithstanding any contrary provision of 1 V.S.A. § 214, Sec. 13 shall apply to the Public Service Board process under 2014 Acts and Resolves No. 99, Sec. 5.

(3) Sec. 15a (30 V.S.A. §§ 20 and 21) shall take effect on July 2, 2016.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment as moved by Senators Bray, Campion, MacDonald, Riehle and Rodgers?, Senator Ashe moved to further amend the proposal of amendment of Senators Bray, Campion, MacDonald, Riehle and Rodgers as follows:

First: In the eleventh instance of amendment, in Sec. 12 (sound standards; wind generation), in subsection (b), by striking out the second sentence and inserting in lieu thereof:

Except for applications filed before April 15, 2016, the Board shall condition each certificate of public good issued for a wind generation facility on compliance with the rules to be issued under this section.

Second: In the fourteenth instance of amendment, in Sec. 15a, in 30 V.S.A. § 218d(d), in subdivision (2) after “exceed” by striking out “10” and inserting in lieu thereof 20

Thereupon, pending the question, Shall the proposal of amendment of Senators Bray, Campion, MacDonald, Riehle and Rodgers be amended as proposed by Senator Ashe?, Senator Campbell moved to recess to 1:35 P.M.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; House Proposal of Amendment Concurred in with Further Proposal of Amendment

S. 230.

Consideration was resumed on House Proposal of amendment entitled:

An act relating to improving the siting of energy projects.

Thereupon, the pending question, Shall the proposal of amendment of Senators Bray, Campion, MacDonald, Riehle and Rodgers be amended as proposed by Senator Ashe?, Was decided in the affirmative.

Thereupon, Senator Bray moved that the *ninth* instance of the proposal of amendment of Senators Bray, Campion, MacDonald, Riehle and Rodgers be struck out, which was agreed to.

Thereupon, Senator Starr, moved to amend the proposal of amendment of Senators Bray, Campion, MacDonald, Riehle and Rodgers, as amended, in the *eighth* proposal of amendment, in Sec. 11, in 30 V.S.A. § 248, in subdivision (a)(6), in the first sentence after “if the plant includes” by striking out “four” and inserting in lieu thereof two.

Pending the question, Shall the proposal of amendment be amended as proposed by Senator Starr?, Senator Starr requested and was granted leave to withdraw his proposal of amendment.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, was agreed to.

**Further Proposal of Amendment; Bill Passed in Concurrence with
Proposals of Amendment**

H. 869.

House bill entitled:

An act relating to judicial organization and operations.

Was taken up.

Thereupon, pending third reading of the bill, Senator Campbell, moved that the Senate further propose to the House to amend the bill as follows:

First: In Sec. 1, 4 V.S.A. § 38, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The Administrative Judge may appoint a licensed Vermont lawyer who has been engaged in the practice of law in Vermont for at least the last five years to serve as a Judicial Master. The Judicial Master shall be an employee of the Judiciary and be subject to the Code of Judicial Conduct. A Judicial Master shall not engage in the active practice of law for remuneration while serving in this position. In making this appointment, the Administrative Judge shall apply the criteria and standards for judicial appointments contained in section 601 of this title. The Judicial Master may hear and decide the following matters as designated by the Administrative Judge:

(1) In the Criminal Division of the Superior Court, proceedings in treatment court dockets, as approved by the presiding judge, to assure compliance with court orders, including attendance and participation with a treatment plan, imposition of sanctions and incentives, including incarceration in the course of the program and dismissal from the program due to noncompliance; the Master shall not have authority to accept pleas or to impose sentences, to hear motions to suppress, or to dismiss for lack of a prima facie case.

(2) In the Family Division of the Superior Court, in juvenile proceedings, as approved by the presiding judge, to assure compliance with existing court orders, including attendance and participation in substance abuse, mental health, and other court-ordered counseling; compliance with and modification of parent-child contact; to act as the administrative body to conduct permanency hearings pursuant to 33 V.S.A. § 5321(g) unless a contested permanency hearing becomes necessary; and to provide case management of juvenile proceedings; the Master shall not have the authority to hear temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.

Second: By striking out Sec. 7 in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. [Deleted].

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Sears, moved that the Senate further propose to the House to amend the bill as follows:

First: By inserting a new Sec. 8a to read as follows:

Sec. 8a. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE

(a) Creation. There is created a Spousal Support and Maintenance Task Force for the purpose of reviewing and making legislative recommendations to Vermont's law concerning spousal support and maintenance.

(b) Membership. The Task Force shall be composed of the following seven members:

(1) a current member of the House of Representatives who shall be appointed by the Speaker of the House;

(2) a current member of the Senate who shall be appointed by the Committee on Committees;

(3) a Superior Court judge who has significant experience in the Family Division of Superior Court appointed by the Chief Justice;

(4) the Chief Superior Court Judge;

(5) two experienced family law attorneys appointed by the Family Law Section of the Vermont Bar Association; and

(6) a representative of Vermont Alimony Reform who is a resident of Vermont.

(c) Powers and duties. The Task Force shall make legislative recommendations to Vermont's spousal support and maintenance laws aimed to improve clarity, fairness, and predictability in recognition of changes to the family structure in recent decades. The Task Force may hold public hearings and shall endeavor to hear a wide variety of perspectives from stakeholders and interested parties.

(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(e) Recommendation. On or before January 15, 2017, the Task Force shall submit its recommendations for any legislative action to the Senate and House Committees on Judiciary.

(f) Meetings.

(1) The Superior Court judge appointed in accordance with subdivision (b)(3) of this section shall serve as chair.

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

(3) The Task Force shall cease to exist on March 1, 2017.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than four regular meetings and two public hearings.

(2) Other members of the Task Force who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four regular meetings and two public hearings.

Second: In Sec. 9 (Effective Dates), by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Secs. 1, 2, 3, 4, 7, 8, 8a, and this section shall take effect on passage.

Which was agreed to.

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

Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment

H. 533.

House bill entitled:

An act relating to victim notification.

Was taken up.

Thereupon, pending third reading of the bill, Senator Starr moved to amend the Senate proposal of amendment by adding a Sec. 9a to read:

Sec. 9a. VERMONT ROUTE 105 BRIDGE NAMING

Bridge #64 on Vermont Route 105 in the town of Derby shall be named the "Kermit A. Smith Memorial Bridge." In fiscal year 2017, the Agency of Transportation shall place a commemorative plaque or erect a sign on or near the bridge to reflect its naming. This plaque or sign shall conform to the

Federal Highway Administration's Manual on Uniform Traffic Control Devices.

Which was agreed to.

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

Proposal of Amendment; Consideration Interrupted by Recess

H. 306.

Senator Sirotkin, for the Committee on Finance, to which was referred House bill entitled:

An act relating to unemployment compensation.

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

Sec. 1. 21 V.S.A. § 342a is amended to read:

§ 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

(a) An employee or the Department on its own motion may file a complaint that wages have not been paid to an employee, not later than two years from the date the wages were due. The Commissioner shall provide notice and a copy of the complaint to the employer by service, or by certified mail sent to the employer's last known address, together with an order to file a response to the specific allegation in the complaint filed by the employee or the Department with the Department within 10 calendar days of receipt.

(b) The Commissioner shall investigate the complaint, and may examine the employer's records, enter and inspect the employer's business premises, question such employees, subpoena witnesses, and compel the production of books, papers, correspondence, memoranda, and other records necessary and material to investigate the complaint. If a person fails to comply with any lawfully issued subpoena, or a witness refuses to testify to any matter on which he or she may be lawfully interrogated, the Commissioner may seek an order from the Civil Division of the Superior Court compelling testimony or compliance with the subpoena.

~~(c)(1) If after the investigation wages are found to be due, the Commissioner shall attempt to settle the matter between the employer and employee. If the attempt fails, Following the investigation of the complaint:~~

(A) If the Commissioner determines that wages are due the employee, the Commissioner shall attempt to settle the matter between the employer and the employee before issuing a written determination and order

for collection. If the Commissioner is unable to settle the matter, the Commissioner shall issue a written determination and order for collection, which stating that wages are due and an order for collection. The written determination shall specify the facts and the conclusions upon which the determination is based. The Department shall collect from the employer the amounts due and remit them to the employee.

(B) If the Commissioner determines that wages are not due the employee, the Commissioner shall issue a written determination stating that wages are not due, which shall specify the facts and conclusions upon which the determination is based.

(2) Notice of the determination and, if applicable, the order for collection to the employer shall be provided to all interested parties by certified mail or service.

(3) The Department shall collect from the employer the amounts due and remit them to the employee.

(d) If the Commissioner determines that the unpaid wages were willfully withheld by the employer, the order for collection may provide that the employer is liable to pay an additional amount not to exceed twice the amount of unpaid wages, one-half of which will be remitted to the employee and one-half of which shall be retained by the Commissioner to offset administrative and collection costs.

(e) Within 30 days after the date of the ~~collection order~~ determination, the employer or employee may file an appeal from the determination to a departmental administrative law judge. The appeal shall, after notice to the employer and employee, be heard by the administrative law judge within a reasonable time. The administrative law judge shall review the complaint de novo, and after a hearing, the determination and, if applicable, order for collection shall be sustained, modified, or reversed by the administrative law judge. Prompt notice in writing of the decision of the administrative law judge and the reasons for it shall be given to all interested parties.

* * *

Sec. 2. 21 V.S.A. § 1329 is amended to read:

§ 1329. COLLECTION OF UNPAID CONTRIBUTIONS; SUIT

* * *

(e) No action shall be commenced for the collection of contributions, interest and penalties under this chapter more than ~~three~~ six years after the date on which the contributions became due and payable, unless prior to the expiration of the ~~three-year~~ six-year period:

(1) ~~An~~ an assessment proceeding has been instituted under the provisions of section 1330 of this title; or

(2) ~~A~~ a civil action has been instituted under subsection (b) of this section; or

(3) ~~A~~ a lien has been created under section 1336 of this title.

(f) The provisions of subsection (e) of this section shall not apply where an employer by willful failure or refusal to file a report with the ~~commissioner~~ Commissioner or to include in any report all wages which he or she has paid, or otherwise has attempted to avoid or reduce liability for the payment of contributions.

Sec. 3. 21 V.S.A. § 1330 is amended to read:

§ 1330. ASSESSMENT PROVIDED

(a) When any employer fails to pay any contributions or payments required under this chapter, the ~~commissioner~~ Commissioner shall make an assessment of contributions against ~~such~~ the employer together with interest and penalty thereon. After making the assessment, ~~due notice shall be given thereof, by ordinary or certified mail, to the employer~~ the Commissioner shall provide the employer with notice of the assessment by ordinary or certified mail and the assessment shall be final unless the employer petitions for a hearing on ~~such~~ the assessment within the time hereinafter specified by section 1331 of this chapter.

(b) If the employer fails to comply with the reporting requirements of section 1314a or 1322 of this chapter, or if the employer files an incorrect or insufficient report pursuant to section 1314a or 1322 of this chapter and fails to file a corrected or sufficient report within 30 days after the Commissioner provides written notice to the employer to correct or supplement the report, the Commissioner shall, on the basis of the information that is available to the Commissioner, make an assessment of the amount of the contribution due from the employer together with interest and penalty.

Sec. 4. 21 V.S.A. § 1347 is amended to read:

§ 1347. NONDISCLOSURE OR MISREPRESENTATION

(a) Any person who fails, without good cause, to make reasonable effort to secure suitable work when directed to do so by the employment office or the Commissioner and has received any amount as benefits under this chapter with respect to weeks for which the person is determined to be ineligible for such failure, and any person who by nondisclosure or misrepresentation by him or her, or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any

amount as benefits under this chapter while any conditions for the receipt of benefits imposed by this chapter were not fulfilled in his or her case or while he or she was disqualified from receiving benefits, shall be liable for such amount. Notice of determination in such cases shall specify that the person is liable to repay to the Fund the amount of overpaid benefits, the basis of the overpayment, and the week or weeks for which such benefits were paid. The determination shall be made within ~~three~~ six years from the date of such overpayment.

(b) Any person who receives remuneration described in subdivision 1344(a)(5)(~~A~~), (~~B~~), (~~C~~), (~~D~~), (~~E~~), or (~~F~~) of this title which is allocable in whole or in part to prior weeks during which he or she received any amounts as benefits under this chapter shall be liable for all ~~such~~ amounts of benefits or those portions of ~~such~~ the amounts equal to the portions of ~~such~~ the remuneration properly allocable to the weeks in question. Notice of determination in such cases shall specify that the person is liable to repay to the Fund the amount of overpaid benefits, the basis of the overpayment, and the week or weeks for which ~~such~~ the benefits were paid. The determination shall be made within ~~three~~ six years from the date of such overpayment or within one year from the date of receipt of the remuneration, whichever period is longer.

* * *

Sec. 5. 21 V.S.A. § 1321 is amended to read:

§ 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

* * *

(c)(1) Financing benefits paid to employees of nonprofit organizations. Benefits paid to employees of nonprofit organizations shall be financed in accordance with the provisions of this subsection. ~~For the purposes of~~ As used in this subsection, a nonprofit organization is an organization (or group of organizations) described in Section 501(c)(3) of the U.S. Internal Revenue Code which is exempt from income tax under Section 501(a) of such code.

(2) Liability for contributions and election of reimbursement. Any nonprofit organization which, pursuant to subdivision 1301(5)(B)(i) of this title, is, or becomes, subject to this chapter on or after January 1, 1972 shall pay contributions under the provisions of this section, unless it elects, in accordance with this subsection, to pay to the Commissioner, for the Unemployment Trust Fund, an amount equal to the amount of regular benefits and of one-half of the extended benefits paid, that is attributable to service in the employ of such nonprofit organization, to individuals for weeks of unemployment which begin during the effective period of such election.

* * *

(C) Any nonprofit organization which makes an election in accordance with subdivisions (c)(2)(A) and (B) of this section will continue to be liable for payments in lieu of contributions until ~~it files~~ its election is terminated by the Commissioner. An employer shall file with the Commissioner a written notice ~~terminating its election~~ requesting that its election be terminated not later than 30 days prior to the beginning of the calendar year for which such termination ~~shall~~ would first be effective. The Commissioner, in accordance with rules adopted by the Board, shall determine whether the employer is eligible to terminate its election based on the employer's anticipated contributions to the Unemployment Trust Fund and any additional liability expected to be incurred by the Fund as a result of the proposed termination. The Commissioner's determinations shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this title.

* * *

(e) Any municipality, any State institution of higher education, and any political or governmental subdivisions or instrumentalities of the State shall pay contributions unless it elects to pay to the Commissioner for the Unemployment ~~Compensation~~ Trust Fund, an amount equal to the amount of benefits paid, including the full amount of extended benefits paid, attributable to service by individuals in the employ of these entities. Subsections (a) and (b) and subdivisions (3)(C) through (3)(F), inclusive, and subdivisions (4) through (6), inclusive, of subsection (c) of this section as they apply to nonprofit organizations shall also apply to the entities designated in this subsection, except that these entities shall be liable for all benefits paid, including the full amount of extended benefits paid, attributable to service in the employ of these entities.

* * *

(3) Any entity designated in this subsection which makes an election in accordance with subdivisions (1) and (2) of this subsection will continue to be liable for payments in lieu of contributions until ~~it files with~~ its election is terminated by the Commissioner. The entity shall file with the Commissioner a written notice ~~terminating its election~~ requesting that its election be terminated not later than 30 days prior to the beginning of the calendar year for which the termination ~~shall~~ would first be effective. The Commissioner, in accordance with rules adopted by the Board, shall determine whether the entity is eligible to terminate its election based on the entity's anticipated contributions to the Unemployment Trust Fund and any additional liability expected to be incurred by the Fund as a result of the proposed termination.

The Commissioner's determinations shall be subject to reconsideration and to appeal and review in accordance with the provisions of section 1337a of this title.

* * *

Sec. 6. STUDY; REPORT

The Commissioner of Labor shall study whether reimbursable employers pursuant to 21 V.S.A. § 1321(c) should be required to procure and maintain a bond, escrow account, or other surety to fund unemployment compensation benefit liability in the event the employer dissolves or ceases to operate while liability still exists. The Commissioner shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding the findings of the study and any recommendations for statutory changes on or before November 15, 2016.

Sec. 7. 21 V.S.A. § 1358 is amended to read:

§ 1358. UNEMPLOYMENT ~~COMPENSATION~~ TRUST FUND; ESTABLISHMENT AND CONTROL

There is hereby established as a special fund, to be kept separate and apart from all other public ~~moneys~~ monies or funds of this ~~state~~ State, an ~~unemployment compensation fund~~ Unemployment Trust Fund, which shall be administered by the ~~commissioner~~ Commissioner exclusively for the purposes of this chapter. This ~~fund~~ Fund shall consist of (1) all contributions collected under this chapter; (2) interest earned upon any ~~moneys~~ monies in the ~~fund~~ Fund; (3) any property or securities acquired through the use of ~~moneys~~ monies belonging to the ~~fund~~ Fund; (4) all earnings of such property or securities; (5) all money credited to this ~~state's~~ State's account in the ~~unemployment trust fund~~ federal Unemployment Trust Fund pursuant to ~~section 903 of the Social Security Act, 42 U.S.C. § 1103~~ as amended; and (6) all other ~~moneys~~ monies received for the ~~fund~~ Fund from any other source. All ~~moneys~~ monies in the ~~fund~~ Fund shall be mingled and undivided.

Sec. 8. STATUTORY REVISION

(a) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout 21 V.S.A. chapter 17 as needed for consistency with Sec. 7 of this act (amending 21 V.S.A. § 1358), as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace "unemployment compensation fund" with "Unemployment Trust Fund";

(2) replace “unemployment fund” with “Unemployment Trust Fund”; and

(3) replace “unemployment compensation trust fund” with “Unemployment Trust Fund.”

(b) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace the word “moneys” wherever it appears in Title 21 of the Vermont Statutes Annotated with the word “monies,” as long as the revisions have no other effect on the meaning of the affected statutes

Sec. 9. NOTICE OF PROJECTED REDUCTIONS IN EMPLOYER CONTRIBUTIONS

(a) The Commissioner of Labor shall include a plain language statement describing the projected reductions in the statewide employer contributions to the Unemployment Trust Fund for calendar years 2018 through 2022 with the unemployment insurance contribution rate notice sent in June 2016 to each employer subject to 21 V.S.A. chapter 17.

(b) The notice shall include the following statement:

“In order to help Vermont employers plan for future business activities, the Vermont Department of Labor is providing information regarding the roughly 49% decrease from the current amount of statewide employer contributions to the Unemployment Trust Fund that is projected to occur by calendar year 2022. Beginning in 2018, the projected total amount of employer contributions is expected to drop to \$126.6 million, a decrease of approximately \$14.4 million from 2017. In 2019, the projected total amount of employer contributions is expected to decrease by a further \$21.5 million to \$105.1 million. In 2020, the projected total amount of employer contributions is expected to decrease by a further \$3.2 million to \$101.9 million. In 2021, the projected total amount of employer contributions is expected to decrease by a further \$23.1 million to \$78.8 million. Finally, in 2022, the projected total amount of employer contributions is expected to decrease by a further \$7.5 million to \$71.3 million.

The projected amount of employer contributions for calendar year 2022 would represent a roughly 49% reduction from the current amount of employer contributions to the Unemployment Trust Fund. These projected reductions in employer contributions are a result of the Unemployment Trust Fund’s recovery and return to good financial health following legislative reforms that were enacted in 2010.

The impact of the projected reductions on individual employers will vary based on each employer’s experience and unique circumstances, and changes

to the economy could have an impact on the estimates contained in this notice.”

Sec. 10. EFFECTIVE DATES

(a) This section and Sec. 9 shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2016.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Recess

On motion of Senator Flory the Senate recessed until 3:00 P.M..

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Consideration Postponed

H. 306.

Consideration was resumed on House bill entitled:

An act relating to unemployment compensation.

Thereupon, on motion of Senator Sirotkin consideration of the bill was postponed until next legislative day.

Committee Relieved; Rules Suspended; Bill Committed

H. 871.

On motion of Senator Campbell the Committee on Rules was relieved of House bill entitled:

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

and the bill was committed to the Committee on Government Operations.

Pending entry on the Calendar for notice on motion of Senator White, the rules were suspended and the bill was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Government Operations, Senator White moved that Senate Rule 49 be

suspended in order to commit the bill to the Committee on Finance with the report of the Committee on Government Operations *intact*,

Which was agreed to.

House Proposal of Amendment Concurred In

S. 243.

House proposal of amendment to Senate bill entitled:

An act relating to combating opioid abuse in Vermont.

Was taken up.

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

* * * Vermont Prescription Monitoring System * * *

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

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

(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 cessation of the use of controlled substances; 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 undergraduate and graduate medical education and dental and pharmacy residency 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) 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 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. 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(d)(3) (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.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

Rules Suspended; House Proposal of Amendment Concurred In with Amendment

S. 250.

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to alcoholic beverages.

Was taken up for immediate consideration.

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

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(5) ~~“Cabaret license”: a first class license or first and third class licenses where the business is devoted primarily to providing entertainment, dancing, and the sale of alcoholic beverages to the public and not the service of food. The holder of a “cabaret license” shall serve food at all times when open for business and shall have adequate and sanitary space and equipment for preparing and serving food. However, the gross receipts from the sale of food shall be less than the combined receipts from the sales of alcoholic beverages, entertainment, and dancing in the prior reporting year. All laws and regulations pertaining to a first class license or first and third class licenses shall apply to the first class or first and third class cabaret licenses. [Repealed.]~~

(6) “Caterer’s license”: a license issued by the Liquor Control Board authorizing the holder of a first-class license or first- and third-class licenses for a ~~cabaret~~, restaurant; or hotel premises to serve malt or vinous beverages, spirits, or fortified wines at a function located on premises other than those occupied by a first-, first- and third-, or second-class licensee to sell alcoholic beverages.

* * *

(15) “Manufacturer’s or rectifier’s license”: a license granted by the Liquor Control Board that permits the holder to manufacture or rectify ~~spirits or malt beverages, or vinous beverages and fortified wines, or spirits and fortified wines.~~ Spirits and fortified wines may be manufactured or rectified by a license holder for export and sale to the Liquor Control Board, or and malt beverages and vinous beverages may be manufactured or rectified by a license holder for export and sale to bottlers or wholesale dealers. This license permits a manufacturer of vinous beverages or fortified wines to receive from another manufacturer licensed in or outside this State bulk shipments of vinous beverages to rectify with the licensee’s own product, provided that the vinous beverages or fortified wines produced by a Vermont manufacturer may contain no more than 25 percent imported vinous beverage. The Liquor Control Board may grant to a licensed manufacturer or rectifier of spirits, fortified wines, vinous beverages, or malt beverages a first-class ~~restaurant or cabaret~~ license or a first- and a third-class restaurant or cabaret license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer’s premises, which for the purposes of a manufacturer of malt beverages, includes up to two licensed establishments that are located on the contiguous real estate of the holder of the manufacturer’s license, provided the manufacturer or rectifier owns or has direct control over those establishments. ~~A manufacturer of malt beverages who also holds a first class restaurant or cabaret license may serve to a customer malt beverage by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass.~~ The Liquor Control Board may grant to a licensed manufacturer or a rectifier of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the manufacturer’s or rectifier’s premises. A licensed manufacturer or rectifier ~~of vinous beverages~~ may serve, with or without charge, at an event held on the premises of the licensee or the vineyard property at a location on the contiguous real estate of the licensee, spirits, fortified wines, vinous beverages, and malt beverages, provided the licensee gives the Department written notice of the event, including details required by the Department, at least five days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or the Liquor Control Board.

(16) “Person;”: as applied to licensees, means ~~individuals~~ an individual who are citizens is a citizen or a lawful permanent resident of the United States, ~~partnerships;~~ a partnership composed of individuals, a majority of whom are citizens or lawful permanent residents of the United States, ~~and corporations;~~ a corporation organized under the laws of this State or another state in which a majority of the directors are citizens or lawful permanent residents of the United States ~~and to;~~ or a limited liability companies company

organized under the laws of this State or another state in which a majority of the members or managers are citizens or lawful permanent residents of the United States.

* * *

(27) “Special events permit”: a permit granted by the Liquor Control Board permitting a ~~person holding a manufacturer’s or rectifier’s license~~ licensed manufacturer or rectifier to sell by the glass or by unopened bottle spirits, fortified wines, malt beverages, or vinous beverages manufactured or rectified by the license holder at an event open to the public that has been approved by the local licensing authority. For the purposes of tasting only, the permit holder may distribute, with or without charge, beverages manufactured by the permit holder by the glass no more than two ounces per product and eight ounces total of malt beverages or vinous beverages and no more than one ounce in total of spirits or fortified wines to each individual. No more than 104 special events permits may be issued to a ~~holder of a manufacturer’s or rectifier’s license~~ licensed manufacturer or rectifier during a year. A special ~~event~~ events permit shall be valid for the duration of each public event or four days, whichever is shorter. Requests for a special events permit, accompanied by the fee as required by subdivision 231(13) of this title, shall be submitted to the Department of Liquor Control at least five days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer’s or rectifier’s annual limit of 104 special event permit limitation ~~special events permits~~.

(28) “Fourth-class license” or “farmers’ market license”: the license granted by the Liquor Control Board permitting a ~~manufacturer or rectifier of malt beverages, vinous beverages, fortified wines, or spirits~~ licensed manufacturer or rectifier to sell by the unopened container and distribute by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth-class and farmers’ market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth-class license location, a ~~manufacturer or rectifier of vinous beverages, malt beverages, fortified wines, or spirits~~ licensed manufacturer or rectifier may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages, malt beverages, fortified wines, or spirits produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier ~~of vinous beverages, malt beverages, fortified wines, or spirits~~ may sell its product to no more than five additional manufacturers or rectifiers. A fourth-class licensee may distribute by the glass no more than two ounces of malt beverages or vinous beverages with a total of eight ounces to

each retail customer and no more than one-quarter ounce of spirits or fortified wine with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A ~~fourth-class~~ fourth-class licensee may distribute by the glass up to four mixed drinks containing a combined total of no more than one ounce of spirits or fortified wine to each retail customer for consumption only on the manufacturer's premises. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

(36) "Outside consumption permit": a permit granted by the Liquor Control Board allowing the holder of a first-class or, first- and third-class license holder and, or fourth-class license holder to allow for consumption of alcohol in a delineated outside area.

* * *

(40) "Retail delivery permit": a permit granted by the Liquor Control Board that permits a second-class licensee to deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age at a physical address in Vermont.

(41) "Destination resort master license": a license granted by the Liquor Control Board pursuant to section 472 of this title permitting a destination resort to designate licensed caterers and commercial caterers that will be permitted to cater individual events within the boundaries of the resort without being required to obtain a request to cater permit for each individual event. For purposes of a destination resort master license, a "destination resort" is a resort that contains at least 100 acres of land, offers at least 50 units of sleeping accommodations, offers food and beverage service to the public for consideration, and has related sports and recreational facilities for the convenience or enjoyment of its guests. "Destination resort" does not include the University of Vermont, the Vermont State Colleges, or any other university, college, or postsecondary school.

Sec. 2. 7 V.S.A. § 67 is amended to read:

§ 67. ALCOHOLIC BEVERAGE TASTINGS; PERMIT; PENALTIES

* * *

(d) Promotional alcoholic beverage tasting:

(1) At the request of a holder of a first- or second-class license, a holder of a manufacturer's, rectifier's, or wholesale dealer's license may distribute without charge to the first- or second-class licensee's management and staff, provided they are of legal drinking age and are off duty for the rest of the day,

two ounces per person of vinous or malt beverages for the purpose of promoting the beverage. At the request of a holder of a third-class license, a manufacturer or rectifier of spirits or fortified wines may distribute without charge to the third-class licensee's management and staff, provided they are of legal drinking age and are off duty for the rest of the day, one-quarter ounce of each beverage and no more than a total of one ounce to each individual for the purpose of promoting the beverage. No permit is required under this subdivision, but written notice of the event shall be provided to the Department of Liquor Control at least ~~five days~~ two days prior to the date of the tasting.

* * *

(e) Tastings for product quality assurance. A licensed manufacturer or rectifier may distribute to its management and staff who are directly involved in the production of the licensee's products, provided they are of legal drinking age and at the licensed premises, samples of the licensee's products for the purpose of assuring the quality of the products. Each sample of vinous or malt beverages shall be no larger than two ounces, and each sample of spirits or fortified wines shall be no larger than one-quarter ounce. No permit is required under this subsection.

(f) Age and training of servers. No individual who is under ~~the age of~~ 18 years of age or who has not received training as required by the Department may serve alcoholic beverages at an event under this section.

~~(f)~~(g) Penalties. The holder of a permit issued under this section that provides alcoholic beverages to an underage individual or permits an individual under ~~the age of~~ 18 years of age to serve alcoholic beverages at a beverage tasting event under this section shall be fined not less than \$500.00 nor more than \$2,000.00 or imprisoned not more than two years, or both.

Sec. 3. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES AND PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid:

(1) For a manufacturer's or rectifier's license to manufacture or rectify malt beverages ~~and, or~~ and, or vinous beverages and fortified wines, or ~~to manufacture or rectify~~ spirits and fortified wines, \$285.00 for ~~either~~ each license.

* * *

(11) For up to ten fourth-class ~~vinous~~ licenses, \$70.00.

* * *

(25) For a retail delivery permit, \$100.00.

(26) For a destination resort master license, \$1,000.00.

* * *

Sec. 4. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST- AND SECOND-CLASS LICENSES; GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the Liquor Control Board, the control commissioners may grant the following licenses to a retail dealer for the premises where the dealer carries on business:

(1) Upon making application and paying the license fee provided in section 231 of this title, a first-class license which authorizes the dealer to sell malt and vinous beverages for consumption only on those premises, and upon satisfying the Liquor Control Board that the premises are leased, rented, or owned by the retail dealer and are devoted primarily to dispensing meals to the public, except clubs ~~and cabarets~~, and that the premises have adequate and sanitary space and equipment for preparing and serving meals. The term "public" includes patrons of hotels, boarding houses, restaurants, dining cars, and similar places where meals are served. A retail dealer carrying on business in more than one place shall acquire a first-class license for each place where the retail dealer sells malt and vinous beverages. No malt or vinous beverages shall be sold by a first-class licensee to a minor. Partially consumed bottles of vinous beverages or specialty beers that were purchased with a meal may be removed from first-class licensed premises provided the beverages are recapped or resealed.

* * *

(7)(A)(i) The Liquor Control Board may grant a retail delivery permit to a second-class licensee if the licensee files an application accompanied by the fee provided in section 231 of this title.

(ii) Notwithstanding subdivision (i) of this subdivision (7)(A), the Liquor Control Board shall not grant a retail delivery permit in relation to a second-class license issued to a licensed manufacturer or rectifier for the manufacturer's or rectifier's premises.

(B) A retail delivery permit holder may deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to an individual who is at least 21 years of age subject to the following requirements:

(i) Deliveries shall only be made by the permit holder or an employee of the permit holder.

(ii) Deliveries shall only occur between the hours of 9:00 a.m. and 5:00 p.m.

(iii) Deliveries shall only be made to a physical address located in Vermont.

(iv) An employee of a retail delivery permit holder shall not be permitted to make deliveries of malt beverages or vinous beverages pursuant to the permit unless he or she has completed a training program approved by the Department as required pursuant to section 239 of this chapter.

(v) Malt beverages and vinous beverages delivered pursuant to a retail delivery permit shall be for personal use and not for resale.

Sec. 5. RETAIL DELIVERY PERMIT; RULEMAKING

On or before January 1, 2017, the Liquor Control Board shall adopt rules necessary to implement the retail delivery permit created by Sec. 4 of this act. The rules shall include:

- (1) minimum insurance requirements for a retail delivery permit holder;
- (2) limitations on the quantity of malt beverages and vinous beverages that may be delivered;
- (3) training and age requirements for employees permitted to make deliveries; and
- (4) requirements related to age verification of delivery recipients, recordkeeping, labeling of deliveries, and the identification of delivery personnel or delivery vehicles.

Sec. 6. 7 V.S.A. § 224 is amended to read:

§ 224. THIRD-CLASS LICENSES; OPEN CONTAINERS

(a) The Liquor Control Board may grant to a person who operates a hotel, restaurant, ~~cabaret~~, or club a license of the third class if the person files an application accompanied by the license fee as provided in section 231 of this title for the premises in which the business of the hotel, restaurant, ~~cabaret~~, or club is carried on. The holder of a third-class license may sell spirits and fortified wines for consumption only on the premises covered by the license. The applicant for a third-class license shall satisfy the Liquor Control Board that the applicant is the bona fide owner or lessee of the premises and that the premises are operated for the purpose covered by the license.

* * *

Sec. 7. 7 V.S.A. § 242 is added to read:

§ 242. DESTINATION RESORT MASTER LICENSES

(a) The Liquor Control Board may grant a destination resort master license to a person that operates a destination resort if the applicant files an application

with the Liquor Control Board accompanied by the license fee provided in section 231 of this title. In addition to any information required pursuant to rules adopted by the Board, the application shall:

(1) designate all licensed caterers and commercial caterers that are proposed to be permitted to cater individual events within the boundaries of the resort pursuant to the destination resort master license;

(2) demonstrate that the destination resort:

(A) contains at least 100 acres of land; and

(B) offers at least 50 units of sleeping accommodations; and

(3) include a plan of the destination resort that sets forth:

(A) the destination resort boundaries;

(B) the ownership of the destination resort lands;

(C) the location and general design of buildings and other improvements within the resort boundaries; and

(D) the location of any sports and recreational facilities within the resort boundaries.

(b) A licensee may, upon five days' notice to the Department, amend the list of licensed caterers and commercial caterers that are designated in the destination resort master license.

(c) The holder of the destination resort master license shall, at least two days prior to the date of the event, provide the Department and local control commissioners with written notice of an event within the resort boundaries that will be catered pursuant to the master license. A licensed caterer or commercial caterer that is designated in the master license shall not be required to obtain a request to cater permit to cater an event occurring within the destination resort boundaries if the master licensee has provided the Department and local control commissioners with the required notice pursuant to this subsection.

(d) Real estate of a destination resort master license holder that is not contiguous with the license holder's principal premises or is located in a different municipality from the license holder's principal premises may be included in the destination resort's boundaries if it is clearly identified and delineated on the plan of the destination resort that is submitted pursuant to subsection (a) of this section.

Sec. 8. 7 V.S.A. § 421 is amended to read:

§ 421. TAX ON MALT AND VINOUS BEVERAGES

(a) Every bottler and wholesaler shall pay to the Commissioner of Taxes the sum of 26 and one-half cents per gallon for every gallon or its equivalent of malt beverage containing not more than six percent of alcohol by volume at 60 degrees Fahrenheit sold by them to retailers in the State and the sum of 55 cents per gallon for each gallon of malt beverage containing more than six percent of alcohol by volume at 60 degrees Fahrenheit and each gallon of vinous beverages sold by them to retailers in the State and shall also pay to the Liquor Control Board all fees for bottler's and wholesaler's licenses. A manufacturer or rectifier of malt or vinous beverages shall pay the taxes required by this subsection to the Commissioner of Taxes for all malt and vinous beverages manufactured or rectified by them and sold at retail.

* * *

(c)(1) For the purpose of ascertaining the amount of tax, ~~on or before the tenth day of each calendar month~~ on the filing dates set out in subdivision (2) of this subsection according to tax liability, each bottler and wholesaler shall transmit to the Commissioner of Taxes, upon a form prepared and furnished by the Commissioner, a statement or return under oath or affirmation showing the quantity of malt and vinous beverages sold by the bottler or wholesaler during the preceding ~~calendar month~~ filing period, and report any other information requested by the Commissioner accompanied by payment of the tax required by this section. The amount of tax computed under subsection (a) of this section shall be rounded to the nearest whole cent. At the same time this form is due, each bottler and wholesaler also shall transmit to the Commissioner in electronic format a separate report showing the description, quantity, and price of malt and vinous beverages sold by the bottler or wholesaler to each retail dealer as defined in subdivision 2(18) of this title; provided, however, for direct sales to retail dealers by manufacturers or rectifiers of vinous beverages, the report required by this subsection may be submitted in a nonelectronic format.

(2) Where the tax liability for the immediately preceding full calendar year has been (or would have been in cases when the business was not operating for the entire year):

(A) \$2,000.00 or less, then payment of the tax and submission of the documents required by this section shall be due and payable in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending the last day of March, June, September, and December of each year; or

(B) More than \$2,000.00, then payment of the tax and submission of the documents required by this section shall be due and payable monthly on or before the 25th (23rd of February) day of the month following the month for which the tax is due.

* * *

Sec. 9. 7 V.S.A. § 423 is amended to read:

§ 423. ~~REGULATIONS~~ RULES

(a) ~~The tax commissioner~~ Commissioner of Taxes and the ~~liquor control board~~ Liquor Control Board shall ~~make~~ adopt such rules and ~~regulations~~ as they deem necessary for the proper administration and collection of the tax imposed under section 422 of this title.

(b) Notwithstanding subsection (a) of this section, where the spirits and fortified wines tax liability of a manufacturer or rectifier under section 422 of this title for the immediately preceding full calendar year has been (or would have been in cases when the business was not operating for the entire year) \$1,000.00 or less, the tax imposed on the manufacturer or rectifier by section 422 of this title shall be due and payable in one annual payment on or before the 25th day of January. Where the spirits and fortified wines tax liability of a manufacturer or rectifier under section 422 of this title for the immediately preceding full calendar year has been (or would have been in cases when the business was not operating for the entire year) more than \$1,000.00, the tax imposed on the manufacturer or rectifier by section 422 of this title shall be due and payable in quarterly installments on or before the 25th day of the calendar month succeeding the quarter ending the last day of March, June, September, and December of each year.

Sec. 10. 7 V.S.A. § 424 is amended to read:

§ 424. COLLECTION

~~The liquor control board~~ Liquor Control Board shall collect the tax imposed under section 422 of this title ~~from the purchaser thereof~~. The taxes so collected ~~on sales by the Liquor Control Board~~ shall be paid weekly to the ~~state treasurer~~ State Treasurer, and the taxes collected on sales by a manufacturer or rectifier shall be paid quarterly to the State Treasurer.

Sec. 11. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

The following words, terms, and phrases when used in this chapter shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

* * *

(4) “Operator” means any person, or his or her agent, operating a hotel, whether as owner or proprietor or lessee, sublessee, mortgagee, licensee, or otherwise; and any person, or his or her agent, charging for a taxable meal or alcoholic beverage; and any person, or his or her agent, engaged in both of the foregoing activities. In the event that an operator is a corporation or other entity, the term “operator” shall include any officer or agent of such corporation or other entity who, as an officer or agent of the corporation, is under a duty to pay the gross receipts tax to the Commissioner as required by this chapter.

* * *

(11) “Alcoholic beverages” means any malt beverages, vinous beverages, ~~or spirituous liquors~~ spirits, or fortified wines as defined in 7 V.S.A. § 2 and served ~~on premises by a holder of a first or third class license issued under 7 V.S.A. chapter 9~~ for immediate consumption. “Alcoholic beverages” do not include any beverages served under the circumstances enumerated in subdivision 9202(10)(D)(ii) of this chapter under which beverages are excepted from the definition of “taxable meal.”

* * *

Sec. 12. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(10) Sales of meals or alcoholic beverages taxed or exempted under chapter 225 of this title, or any alcoholic beverages provided for immediate consumption.

* * *

Sec. 13. DEPARTMENT OF TAXES; STUDY OF TRANSFER OF MALT BEVERAGES BETWEEN LICENSED MANUFACTURING LOCATIONS; REPORT

(a) The Department of Taxes, in consultation with the Department of Liquor Control and interested stakeholders, shall study the bulk transfer of malt beverages without the payment of taxes pursuant to 7 V.S.A. § 421 between licensed manufacturers of malt beverages that are under the same ownership. In particular, the Department shall study:

(1) what legislative, regulatory, or administrative changes, if any, are necessary to enable the bulk transfer of malt beverages without the payment of taxes pursuant to 7 V.S.A. § 421 between licensed manufacturers of malt beverages that are under the same ownership; and

(2) whether permitting the bulk transfer of malt beverages without the payment of taxes pursuant to 7 V.S.A. § 421 between licensed manufacturers of malt beverages that are under the same ownership would adversely impact the State's tax revenues.

(b) On or before January 15, 2017, the Department of Taxes shall submit a written report to the House Committees on General, Housing and Military Affairs and on Ways and Means, and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding its findings and any recommendations for legislative action.

(c) For purposes of this section, two licensed manufacturers of malt beverages are "under the same ownership" if:

(1) the manufacturers are part of the same company;

(2) one manufacturer owns the controlling interest in the other manufacturer; or

(3) the controlling interest in each manufacturer is owned by the same person.

Sec. 14. 7 V.S.A. § 101 is amended to read:

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR CONTROL; LIQUOR CONTROL BOARD

(a) The Department of Liquor Control, created by 3 V.S.A. § 212, shall include the Commissioner of Liquor Control and the Liquor Control Board.

(b)(1) The Liquor Control Board shall consist of five persons, not more than three members of which shall belong to the same political party.

~~(2)(A) Biennially, with~~ With the advice and consent of the Senate, the Governor shall appoint ~~a person as a member~~ members of ~~such~~ the Board for a ~~staggered five-year term, whose staggered five-year terms.~~

(B) The Governor shall fill a vacancy occurring during a term by an appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which ~~such appointment is made~~ the member is appointed.

(3) A member of the Board may serve for no more than two consecutive full terms. A member who is appointed to fill a vacancy occurring during a term may serve two consecutive full terms in addition to the unexpired portion of the term during which the member is first appointed.

(4) The Governor shall biennially designate a member of ~~such~~ the Board to be its Chair.

Sec. 15. 7 V.S.A. § 102 is amended to read:

§ 102. REMOVAL

~~After Notwithstanding any provision of 3 V.S.A. § 2004 to the contrary, after notice and hearing, the governor~~ Governor may remove a member of the ~~liquor control board~~ Liquor Control Board for incompetency, failure to discharge his or her duties, malfeasance, immorality, or other cause inimical to the general good of the ~~state~~ State. In case of such removal, the ~~governor~~ Governor shall appoint a person to fill the unexpired term.

Sec. 16. 7 V.S.A. § 106 is amended to read:

§ 106. COMMISSIONER OF LIQUOR CONTROL; REPORTS; RECOMMENDATIONS

~~The board shall employ an executive officer, who shall be the secretary of the board and shall be called the commissioner of liquor control. The commissioner shall be appointed for an indefinite period and shall be subject to removal upon the majority vote of the entire board. At such times and in such detail as the board directs, the commissioner shall make reports to the board concerning the liquor distribution system of the state, together with such recommendations as he deems proper for the promotion of the general good of the state.~~

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the Liquor Control Board a Commissioner of Liquor Control for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages.

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

Sec. 17. 7 V.S.A. § 107 is amended to read:

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

The Commissioner of Liquor Control shall:

(1) In towns ~~which that~~ vote to permit the sale of spirits and fortified wines, establish ~~such number of~~ local agencies ~~therein~~ as the Board shall determine, ~~enter into agreements for the rental of necessary and adequate quarters, and employ suitable assistants for the operation thereof.~~ However, it ~~shall not be obligatory upon~~ the Liquor Control Board shall not be obligated to establish an agency in every town ~~which that~~ votes to permit the sale of spirits and fortified wines.

(2) ~~Make regulations~~ Recommend rules subject to ~~the approval of and adoption by~~ the Board governing the hours during which ~~such local~~ agencies shall be open for the sale of spirits and fortified wines ~~and governing~~ the qualifications, ~~department, and salaries~~ of the agencies' employees, and the business, operational, financial, and revenue standards that must be met for the establishment of an agency and its continued operation.

(3) ~~Make regulations~~ Recommend rules subject to ~~the approval of and adoption by~~ the Board governing:

(A) the prices at which spirits shall be sold by local agencies, the method for their delivery, and the quantities of spirits that may be sold to any one person at any one time; and

(B) the minimum prices at which fortified wines shall be sold by local agencies and second-class licensees that hold fortified wine permits, the method for their delivery, and the quantities of fortified wines that may be sold to any one person at any one time.

(4) Supervise the quantities and qualities of spirits and fortified wines to be kept as stock in local agencies and ~~make regulations~~ recommend rules subject to ~~the approval of and adoption by~~ the Board regarding the filling of requisitions therefor on the Commissioner of Liquor Control.

(5) Purchase through the Commissioner of Buildings and General Services spirits and fortified wines for and in behalf of the Liquor Control Board, supervise ~~the their~~ storage ~~thereof~~ and ~~the~~ distribution to local agencies, druggists ~~and, licensees of the third class,~~ third-class licensees, and holders of fortified wine permits, and ~~make regulations~~ recommend rules subject to ~~the approval of and adoption by~~ the Board regarding the sale and delivery from the central storage plant.

(6) Check and audit the income and disbursements of all local agencies, and the central storage plant.

(7) Report to the Board regarding the State's liquor control system and make recommendations for the promotion of the general good of the State.

(8) Devise methods and plans for eradicating intemperance and promoting the general good of the ~~state~~ State and make effective such methods and plans as part of the administration of this title.

Sec. 18. RULEMAKING

On or before July 1, 2017, the Commissioner shall prepare and submit to the Liquor Control Board for its approval and adoption his or her recommendation for rules to govern the business, operational, financial, and revenue standards for local agencies as necessary to implement this act.

Sec. 19. LEGISLATIVE COUNCIL; DRAFT LEGISLATION

On or before January 15, 2017, the Office of Legislative Council shall prepare and submit a draft bill to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs that makes statutory amendments of a technical nature to improve the clarity of Title 7 through the reorganization of its provisions and the modernization of its statutory language. The draft bill shall also identify provisions of Title 7 that may require amendment in order to remove out-of-date and obsolete provisions or to reflect more accurately the current practices and programs of the Liquor Control Board and the Department of Liquor Control. The Office of Legislative Council shall consult with the Commissioner of Liquor Control, the Liquor Control Board, and the Office of the Attorney General to identify language requiring modernization and provisions that are out-of-date, obsolete, or do not reflect accurately the current practices and programs of the Liquor Control Board and the Department of Liquor Control.

Sec. 20. COMMISSIONER OF LIQUOR CONTROL; CURRENT TERM; APPOINTMENT OF SUCCESSOR

The Commissioner of Liquor Control in office on the effective date of this act shall be deemed to have commenced a four-year term pursuant to 7 V.S.A. § 106(a)(1) on February 1, 2016. The Commissioner shall serve until the end of the four-year term or until a successor is appointed as provided pursuant to 7 V.S.A. § 106. Notwithstanding any provision of 3 V.S.A. § 2004 or 7 V.S.A. § 106(b) to the contrary, during this current term, the Governor may remove the Commissioner for cause after notice and a hearing.

Sec. 21. CURRENT LIQUOR CONTROL BOARD MEMBERS; TERM LIMIT

For purposes of the term limit set forth in 7 V.S.A. § 101(b)(3), the current term of each of the Liquor Control Board members in office on the effective date of this act shall be deemed to be that member's first consecutive term as a member of the Board.

Sec. 22. RECAPTURE OF LOST SALES OF SPIRITS AND FORTIFIED WINES; DEPARTMENT OF LIQUOR CONTROL; PROPOSAL

(a) In order to increase revenue by recapturing sales of spirits and fortified wines that are lost to neighboring states, the Commissioner of Liquor Control shall develop a written proposal to improve, diversify, and increase the number of Vermont's agency liquor stores. The proposal shall include an optimal number of State agency liquor stores, taking into account population, geography, and proximity to Vermont's borders, and a recommendation for any legislative action that is necessary to implement it.

(b) The proposal also shall consider and address the following:

(1) The distribution of agency liquor stores in rural areas and underserved portions of the State, and whether additional stores that are permitted to carry a smaller or more limited selection of products should be added to serve such areas.

(2) Whether to create a new type of agency liquor store that owns the spirits and fortified wines it sells.

(3) Whether to permit certain agency liquor stores to decide to carry a modified selection of products subject to minimum requirements established by the Liquor Control Board.

(c) On or before January 15, 2017, the Commissioner shall submit the proposal to the House Committees on General, Housing and Military Affairs and on Ways and Means, and the Senate Committees on Economic Development, Housing and General Affairs and on Finance.

Sec. 23. EFFECTIVE DATES

(a) In Sec. 3, 7 V.S.A. § 231, subdivisions (a)(1) (manufacturer's or rectifier's license) and (a)(11) (fourth-class license) shall take effect on July 2, 2016. The remaining provisions of Sec. 3 shall take effect on July 1, 2016.

(b) In Sec. 4, 7 V.S.A. § 222, subdivision (7) shall take effect on January 1, 2017. The remaining provisions of Sec. 4 shall take effect on July 1, 2016.

(c) This section and the remaining sections of this act shall take effect on July 1, 2016.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senators Mullin, Balint, Baruth, Cummings and Doyle moved that the Senate concur in the House proposal of amendment with further proposal of amendment as follows:

First: After Sec. 13, Department of Taxes; Study of Transfer of Malt Beverages Between Licensed Manufacturing Locations; Report, by inserting Secs. 13a and 13b to read as follows:

Sec. 13a. 7 V.S.A. § 70 is added to read:

§ 70. MANUFACTURERS OF MALT BEVERAGES; TRANSFER OF MALT BEVERAGES BETWEEN LICENSED LOCATIONS

(a) A licensed manufacturer of malt beverages may transfer malt beverages to a second licensed manufacturer of malt beverages provided:

(1) the manufacturers are part of the same company;

(2) one manufacturer owns the controlling interest in the other manufacturer; or

(3) the controlling interest in each manufacturer is owned by the same person.

(b) For each transfer of malt beverages pursuant to this section, the manufacturers shall:

(1) document on invoices the amount of malt beverages transferred; and

(2) prepare and maintain records of each transfer in accordance with all applicable federal laws and regulations.

(c) The tax on malt beverages pursuant to section 421 of this title shall not be due at the time of the transfer, but shall be paid as provided in section 421 of this title when the transferred malt beverages are either:

(1) sold by a wholesaler or bottler to a retailer in this State; or

(2) sold at retail by the manufacturer that received the transferred malt beverages.

Sec. 13b. REPEAL

7 V.S.A. § 70 (transfer of malt beverages between licensed manufacturers) shall be repealed on July 1, 2017.

Second: In Sec. 22, Recapture of Lost Sales of Spirits and Fortified Wines, in subsection (c), by striking out the year "2017" and inserting in lieu thereof the year 2018

Which was agreed to.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, was agreed to.

Recess

On motion of Senator Campbell the Senate recessed until 4:00 P.M.

Called to Order

The Senate was called to order by the President.

Message from the House No. 68

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

H. 278. An act relating to selection of the Adjutant and Inspector General.

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

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

Rep. Head of South Burlington

Rep. Gonzalez of Winooski

Rep. Tate of Mendon.

Message from the House No. 69

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposal of amendment to House bill of the following title:

H. 130. An act relating to the Agency of Public Safety.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Committees of Conference Appointed**H. 278.**

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

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator White
Senator Benning
Senator Pollina

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 571.

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

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Sears
Senator Nitka
Senator Flory

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

H. 877.

An act relating to transportation funding.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Mazza
Senator Campbell
Senator Degree

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Committee of Conference Appointed**H. 859.**

An act relating to special education.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Cummings
Senator Baruth
Senator Nitka

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Rules Suspended; Third Reading Ordered

H. 855.

Appearing on entry on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to forest fire suppression and forest fire wardens.

Was taken up for immediate consideration.

Senator Collamore, for the Committee on Government Operations, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered; Rules Suspended; Bill Passed in Concurrence with Proposal of Amendment; Bill Messaged

H. 857.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to timber harvesting.

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

* * * General Policy and Enforcement Provisions * * *

Sec. 1. 10 V.S.A. § 2600 is added to read:

§ 2600. FINDINGS

The General Assembly finds that:

(1) Private and public forestlands:

(A) constitute unique and irreplaceable resources, benefits, and values of statewide importance;

(B) contribute to the protection and conservation of wildlife habitat, air, water, and soil resources of the State;

(C) mitigate the effects of climate change; and

(D) benefit the general health and welfare of the people of the State.

(2) The forest products industry, including maple sap collection:

(A) is a major contributor to and is valuable to the State's economy by providing jobs to its citizens;

(B) is essential to the manufacture of forest products that are used and enjoyed by the people of the State; and

(C) benefits the general welfare of the people of the State.

(3) Private and public forestlands are critical for and contribute significantly to the State's outdoor recreation and tourism economies.

(4) Forestry operations are adversely affected by the encroachment of urban, commercial, and residential land uses throughout the State that result in forest fragmentation and conversion and erode the health and sustainability of remaining forests.

(5) As a result of encroachment on forests, conflicts have arisen between traditional forestry land uses, and urban, commercial, and residential land uses convert forestland permanently to other uses, resulting in an adverse impact to the economy and natural environment of the State.

(6) The encouragement, development, improvement, and preservation of forestry operations will result in a general benefit to the health and welfare of the people of the State and the State's economy.

(7) The forest products industry, in order to survive, likely will need to change, adopt new technologies, and diversify into new products.

Sec. 2. 10 V.S.A. § 2601 is amended to read:

§ 2601. POLICY AND PURPOSES

(a) The conservation of the forests, timberlands, woodlands, and soil and recreational resources of the ~~state~~ State are hereby declared to be in the public interest. It is the policy of the ~~state~~ State to encourage economic management of its forests and woodlands, to sustain long-term forest health, integrity, and productivity, to maintain, conserve, and improve its soil resources, and to control forest pests to the end that forest benefits, including maple sugar production, are preserved for its people, floods and soil erosion are alleviated, hazards of forest fires are lessened, its natural beauty is preserved, its wildlife is protected, the development of its recreational interests is encouraged, the fertility and productivity of its soil are maintained, the impairment of its dams and reservoirs is prevented, its tax base is protected, and the health, safety, and general welfare of its people are sustained and promoted.

(b) The ~~department~~ Department shall implement the policies of this chapter by assisting ~~forest land~~ forestland owners and lumber operators in the cutting and marketing of forest growth, encouraging cooperation between forest owners, lumber operators, and the ~~state~~ State of Vermont in the practice of conservation and management of ~~forest lands~~ forestlands, managing, promoting, and protecting the multiple use of publicly owned forest and park lands; planning, constructing, developing, operating, and maintaining the system of ~~state~~ State parks; determining the necessity of repairs and replacements to all ~~department-owned~~ Department-owned buildings and causing urgent repairs and replacements to be accomplished, with the approval of the ~~secretary of administration~~ Secretary of Administration, if within the limits of specific appropriations or if approved by the ~~emergency board~~ Emergency Board; and providing advice and assistance to municipalities, other political subdivisions, ~~state~~ State departments and nongovernmental organizations in the development of wholesome and adequate community or institutional recreation programs.

(c) The Commissioner shall implement the policy established under this section when constructing the provisions of this chapter related to the management of forestlands and the construction of chapters 85 and 87 of this title.

Sec. 3. 10 V.S.A. § 2602 is amended to read:

§ 2602. DEFINITIONS

As used in this chapter:

(1) “Agency” means the ~~agency of natural resources~~ Agency of Natural Resources as created by 3 V.S.A. chapter 51 of Title 3;

(2) “Department” means the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation within the ~~agency of natural resources~~; Agency of Natural Resources.

(3) “Commissioner” means the ~~commissioner of the department of forests, parks and recreation~~; Commissioner of Forests, Parks and Recreation.

(4) “Secretary” means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources.

(5) “Forest product” mean logs; pulpwood; veneer; bolt wood; wood chips; stud wood; poles; pilings; biomass; fuel wood; maple sap; or bark.

(6) "Forestry operation" 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 operation" includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs.

(7) "Timber" means trees, saplings, seedlings, bushes, shrubs, and sprouts from which trees may grow, of every size, nature, kind, and description.

(8) "Timber harvest" means a forestry operation involving the harvest of timber.

Sec. 4. 10 V.S.A. § 2608 is amended to read:

§ 2608. ENFORCEMENT; PENALTIES; LIABILITY

~~(a) Enforcement of the provisions of this chapter or any regulations or proclamations promulgated rules adopted hereunder shall be in accordance with the provisions of 3 V.S.A. § 2822(e) chapter 201 or 211 of this title.~~

~~(b) A person who violates any provision of this chapter or regulations or proclamations promulgated hereunder, or neglects or refuses to assist a fire warden when called upon to do so as provided in section 2644 of this title, shall be imprisoned not more than 30 days or fined not more than \$ 50.00, or both. Such person shall be liable for all damages resulting from a violation to be recovered in a civil action under this statute by the person injured.~~

* * * Harvest Notification * * *

Sec. 5. 10 V.S.A. § 2612a is added to read:

§ 2612a. HARVEST NOTIFICATION; PILOT PROGRAM

(a) Findings. The General Assembly finds that:

(1) The public will benefit from accountability of persons conducting timber harvests by providing a mechanism for the Department to distribute information and guidance to achieve compliance with existing laws and programs related to harvesting, including Use Value Appraisal eligibility requirements, and those that protect landowners, the environment, and the economy.

(2) Enforcement of compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont will be facilitated through notification and documentation of timber harvests.

(3) Owners of forestlands will benefit from proactive and timely delivery of guidance and resources that support successful forestry operations, including timber harvesting, provided by the Department, including the Vermont Voluntary Harvesting Guidelines.

(4) State knowledge of harvest locations will improve the understanding of factors affecting the forest economy, thereby informing opportunities to support it.

(b) Harvest notification; pilot. The Commissioner shall establish a harvest notification pilot program under which a landowner of property may notify the Commissioner prior to commencement of a timber harvest. The process established by the Commissioner shall allow for a harvest notification by electronic means, telephone, or paper submission.

(c) Requested information. The Commissioner shall designate the information to be submitted to the Department in a voluntary harvest notification. The requested information shall contain, at a minimum, the following information:

(1) the landowner's name; mailing address; physical address of residence; e-mail address, if any; and telephone number;

(2) the name of the harvester or contractor conducting the harvest and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(3) the name of the landowner's agent or consulting forester, if any, and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(4) the location of the timber harvest, including the town and the nearest public town highway used to access the timber harvest;

(5) the school property account number (SPAN) of the parcel where the timber harvest will occur;

(6) the estimated date the timber harvest will commence and the estimated date the harvest will be completed;

(7) the estimate of the acreage of the timber harvest area; and

(8) whether the parcel where the timber harvest will occur is enrolled in the use value appraisal program.

(d) Harvest number; technical assistance. Upon receipt of a complete harvest notification, the Commissioner shall assign a unique harvest number to the timber harvest and shall provide the landowner with technical guidance or information, including: a sample timber sale contract; voluntary harvesting

guidelines; guidance on compliance with maintaining water quality protection during a timber harvest; and referral, where applicable, to appropriate natural resource professionals.

(e) Confidentiality. Information submitted by a landowner in a voluntary harvest notification under this section is confidential and exempt from public inspection under the Public Records Act.

Sec. 6. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
HARVEST NOTIFICATION UPDATE

On or before February 1, 2018, the Commissioner of Forests, Parks and Recreation shall testify before or submit written testimony to the House Committees on Natural Resources and Energy and on Agriculture and Forest Products and the Senate Committee on Natural Resources and Energy regarding implementation of the Harvest Notification Pilot Program established under 10 V.S.A. § 2612a. The testimony shall include:

(1) Summarize implementation of and participation in the Pilot Program, including the number of harvest notifications received.

(2) Summarize the technical assistance and information provided to landowners under the program.

(3) Summarize the effectiveness of the program in increasing compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont.

(4) Summarize whether the Pilot Program increased the amount or quality of information collected by the Department of Forests, Parks and Recreation regarding timber harvests in the State.

(5) Recommend whether harvest notification should be a voluntary or mandatory program.

Sec. 7. SUNSET; HARVEST NOTIFICATION PILOT PROGRAM

10 V.S.A. § 2612a (Harvest Notification Pilot Program) shall be repealed on June 30, 2018.

Sec. 8. 10 V.S.A. § 2613 is added to read:

§ 2613. HARVEST NOTIFICATION; RULEMAKING; REQUIREMENT

(a) On or before July 1, 2018, the Commissioner of Forests, Parks and Recreation shall adopt rules requiring a landowner of property where timber is or will be harvested to notify the Department of Forests, Parks and Recreation of the harvest. The rules shall:

(1) Specify the time period within which the landowner will be required to provide notice of the harvest.

(2) Identify the method or means by which the landowner shall provide notice. The rules shall allow for a harvest notification by electronic means, telephone, or paper submission.

(3) Establish exemptions from the harvest notification requirement based on the size of the harvest or other criteria.

(4) Identify the information to be submitted in a harvest notification, provided that the rules shall require the following information.

(A) the landowner's name; mailing address; physical address of residence; e-mail address, if any; and telephone number;

(B) the name of the harvester or contractor conducting the harvest and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number.

(C) the name of the landowner's agent or consulting forester, if any, and his or her mailing address; address of the principal place of business or residence; e-mail address, if any; and telephone number;

(D) the location of the timber harvest, including the town and the nearest public town highway used to access the timber harvest;

(E) the school property account number (SPAN) of the parcel where the timber harvest will occur;

(F) the date the timber harvest commenced or will commence and the estimated date the harvest will be completed;

(G) the estimate of the acreage of the timber harvest area;

(H) whether the parcel where the timber harvest will occur is enrolled in the use value appraisal program;

(5) Specify whether a harvest identification number will be assigned to each harvest and whether the harvest identification number shall be posted at the harvest site.

(6) Specify the duration of any harvest identification number issued by the Commissioner.

(b) Beginning on July 1, 2018, a landowner of property where timber is or will be harvested shall submit to the Department of Forests, Parks and Recreation the harvest notification required by the rules adopted under subsection (a) of this section.

* * * Maple Sugar Production on State Lands * * *

Sec. 9. 10 V.S.A. § 2606b is amended to read:

§ 2606b. LICENSE OF ~~FOREST LANDS~~ FORESTLANDS FOR MAPLE SUGAR PRODUCTION

(a) The ~~general assembly~~ General Assembly finds and declares that:

(1) Maple sugaring is an important cultural tradition of Vermont life that should be maintained and encouraged.

(2) Maple sugaring is an important component of the agricultural and forest products economy in Vermont and is increasingly necessary for farmers that must diversify in order to continue to farm in Vermont.

(3) Maple sugaring is a sustainable use of ~~forest land~~ forestland.

(4) State ~~forest land~~ forestland should be managed and used for multiple uses, including maple sugar production.

(b) It is hereby adopted as ~~state~~ State policy to permit limited use of designated ~~state-owned~~ State-owned land under the jurisdiction of the ~~department~~ Department for maple sugar production.

(c) ~~Beginning on July 1, 2009, pursuant~~ Pursuant to guidelines developed jointly by the ~~department of forests, parks and recreation and the Vermont maple sugar makers' association~~ Department of Forests, Parks and Recreation, in consultation with the Vermont Maple Sugar Makers' Association, the ~~department shall~~ Department may issue licenses for the use of ~~state forest land~~ State forestland for the tapping of maple trees, the collection of maple sap, and the transportation of such sap to a processing site located off ~~state forest land~~ State forestland or to sites located on ~~state forest land~~ State forestland if approved by the ~~commissioner~~ Commissioner. All tapping of maple trees authorized under a license shall be conducted according to the guidelines for tapping maple trees ~~agreed to established~~ established by the ~~department and the Vermont maple sugar makers' association~~ Department of Forests, Parks and Recreation, in consultation with the Vermont Maple Sugar Makers' Association. Each person awarded a license under this section shall maintain and repair any road, water crossing, or work area according to requirements set by the ~~department~~ Department in the license. Each license shall include such additional terms and conditions set by the ~~department~~ Department as may be necessary to preserve forest health and to assure compliance with the requirements of this chapter and applicable rules. A license shall be issued for a fixed term not to exceed five years and shall be renewable for two five-year terms subsequent to the initial license. Subsequent renewals shall be allowed where agreed upon by the ~~department~~ Department and the licensee. The ~~department~~ Department

shall have power to terminate or modify a license for cause, including damage to forest health.

* * *

~~(f) There shall be an annual license fee. A per tap license charge shall be imposed based on the number of taps installed in the license area. The per tap fee for a license issued under this section shall be one quarter of the average of the per pound price of Vermont fancy grade syrup and the per pound price of Vermont commercial grade syrup as those prices are set on May 1 of each year. The fee set each May 1 shall apply to licenses issued by the department for the succeeding period beginning June 1 and ending May 31. The Commissioner shall establish this per tap license charge at a reasonable rate that reflects current market rates. Fees Charges collected under this section shall be deposited in the forest parks revolving fund Lands and Facilities Trust Fund established under section 2609 of this title and shall be used by the department to implement the license program established by this section 3 V.S.A. § 2807.~~

~~(g) On or before January 15, 2010, the commissioner of forests, parks and recreation shall submit to the senate and house committees on natural resources and energy and the senate and house committees on agriculture a report regarding the implementation of the requirements of this section. The report shall include:~~

~~(1) A copy of the guidelines required by this section for issuing licenses for the use of state forest land for maple sap collection and production.~~

~~(2) A summary of the process used to identify parcels of state forest land suitable for licensing for maple sap collection and production and the process by which the department allocated licenses.~~

~~(3) A summary of the licenses issued for maple sap collection and production on state forest land.~~

~~(4) An estimate of the fees collected for licenses issued under this section.~~

~~(5) A copy of any rules adopted by or proposed for adoption by the commissioner to implement the requirements of this section. [Repealed.]~~

* * * Working Group on Intergenerational Transfer of Forestland * * *

Sec. 10. DEPARTMENT OF FORESTS, PARKS AND RECREATION;
WORKING GROUP ON INTERGENERATIONAL TRANSFER OF
FORESTLAND

(a) On or before August 1, 2016, the Commissioner of Forests, Parks and Recreation shall establish a working group of interested parties to develop

recommendations for a statewide program to improve the capacity of providing successional planning technical assistance to forestland owners in Vermont. The working group shall:

(1) develop recommended priorities for succession planning for forestland owners;

(2) develop strategies for improving conservation investments or incentives that facilitate the intergenerational transfers of intact forestland;

(3) develop other strategies for lessening the impact of estate taxes or other pressures that could lead to the breaking up and subdivision of intact forest parcels;

(4) develop recommended legislative changes that may be needed to implement its recommendations and strategies; and

(5) identify fiscal issues related to its recommendations.

(b) On or before December 15, 2016, the Commissioner shall submit a report to the House Committees on Natural Resources and Energy and on Ways and Means and the Senate Committees on Natural Resources and Energy and Finance that shall include the working group's findings and any recommendations for legislative action.

* * * Forest Fire Wardens; Fire Suppression; Open Burning * * *

Sec. 11. 10 V.S.A. chapter 83, subchapter 4 is amended to read:

Subchapter 4. Forest Fires and Fire Prevention

§ 2641. TOWN FOREST FIRE WARDENS; APPOINTMENT AND REMOVAL

(a) Upon approval by the ~~select board~~ selectboard and acceptance by the appointee, the ~~commissioner~~ Commissioner shall appoint a town forest fire warden for a term of five years or until a successor is appointed. A town forest fire warden may be reappointed for successive five-year terms by the Commissioner or until a successor is approved by the selectboard and appointed by the Commissioner. The warden may be removed for cause at any time by the ~~commissioner~~ Commissioner with the approval of the ~~select board~~ selectboard. A warden shall comply with training requirements established by the ~~commissioner~~ Commissioner.

(b) The ~~commissioner~~ Commissioner may appoint a forest fire warden for an unorganized town or gore, who shall ~~hold office until he or she resigns or is removed for cause~~ serve for a term of five years or until a successor is appointed. An appointed forest fire warden for an unorganized town or gore may be reappointed for successive five-year terms by the Commissioner until

the Commissioner appoints and the unorganized town or gore approves a successor. The warden may be removed for cause at any time by the Commissioner with the approval of the unorganized town or gore. The forest fire warden of an unorganized town or gore shall have the same powers and duties as town forest fire wardens and shall be subject to the requirements of this subchapter.

(c) When there are woodlands within the limits of a city ~~or incorporated village~~, the chief of the fire department of such city ~~or village~~ shall act as the city or village forest fire warden with all the powers and duties of town forest fire wardens.

(d) When the ~~commissioner~~ Commissioner deems it difficult in any municipality for one warden to take charge of protecting the entire municipality from forest fires, he ~~or she~~ may appoint one or more deputy forest fire wardens. Such wardens under the direction of the fire warden shall have the same powers, duties, and pay and make the same reports through the fire warden to the ~~commissioner~~ Commissioner as forest fire wardens.

(e) The ~~commissioner~~ Commissioner may appoint special forest fire wardens who shall hold office during the pleasure of the ~~commissioner~~ Commissioner. Such fire wardens shall have the same powers and duties throughout the ~~state~~ State as town forest fire wardens, except that all expenses and charges incurred on account of their official acts shall be paid from the appropriations for the ~~department~~ Department.

§ 2642. SALARY AND COMPENSATION OF TOWN FOREST FIRE WARDENS

(a) The salary of a town forest fire warden shall be determined by the selectboard members for time spent in the performance of the duties of his ~~or her~~ office, which shall be paid by the town. ~~He or she shall also receive from the town the sum of \$0.15 for each fire permit issued.~~ In addition thereto, he or she shall receive from the ~~commissioner~~ Commissioner ~~\$20.00~~ \$30.00 annually for ~~properly making out and submitting reports of fires in his or her district fulfilling the requirements of section 2645 of this title and keeping the required state~~ State records. He or she shall also receive from the ~~commissioner~~ Commissioner ~~\$15.00~~ \$30.00 per diem for attendance at each training ~~meeting called~~ required by the ~~commissioner~~ Commissioner. ~~He or she shall also receive annually an amount of \$10.00 for each fire report that is submitted by the forest fire warden under section 2644 of this title.~~

(b) ~~The pay of a warden of an unorganized town or gore and his or her assistants, including patrolmen, and all expenses incurred by him or her in extinguishing forest fires, as provided for by the Commissioner, including employment of a person to assist him or her, on the approval of the~~

~~Commissioner, shall be paid by the State from the monies annually available from taxes in the unorganized town and gore, and the Commissioner of Finance and Management shall issue his or her warrant therefor. [Repealed.]~~

~~(c) A person employed by a warden to assist him or her in extinguishing a forest fire as authorized under section 2644 of this title, shall be paid at the same rate per hour as is paid for labor upon highways. A minimum of two hours' pay for the first hour or any portion thereof shall be allowed persons who are officially summoned to assist in the extinguishment of forest fires. When a warden employs men or women in extinguishing a fire in a municipality adjoining his or her own, the expense incurred shall be paid by the municipality in which the work was done at the rate of pay prevailing in the municipality where the laborers reside. A municipality wherein such warden resides shall forthwith pay the warden and assistants for their services, and the municipality may recover the expense thereof in a civil action on this statute from the municipality where the work was done. [Repealed.]~~

~~§ 2643. TOWN'S LIABILITY FOR EXTINGUISHING SUPPRESSION OF FOREST FIRES; STATE AID~~

~~(a) For the purpose of extinguishing forest fires, a town shall not be held liable in any one year for an amount greater than ten percent of its grand list. A municipality in which a forest fire occurs shall pay the cost to suppress a forest fire that occurs on land that is not owned by the Agency of Natural Resources, including the costs of personnel and equipment. The Commissioner may, according to the Department fire suppression reimbursement policy, reimburse a municipality for all or a portion of the costs of suppressing a forest fire on land that is not owned by the Agency of Natural Resources.~~

~~(b) The state shall reimburse a town for its forest fire suppression costs in excess of ten percent of its grand list and for one-half its forest fire suppression costs up to and including ten percent of its grand list when the bills are presented to the commissioner by December 31 of each year with proper vouchers and in a form approved by him. For the purpose of suppressing forest fires on lands owned by the Agency of Natural Resources, the State shall reimburse a town for all its forest fire suppression costs at a rate determined by the Commissioner according to the Department fire suppression reimbursement policy. If the total acreage of a forest fire is determined to be partially on land owned by the Agency of Natural Resources and partially on land owned by another party, the Commissioner shall, at a minimum, reimburse the town at a rate determined by the Commissioner according to the Department fire suppression reimbursement policy for costs incurred by the municipality on land owned by the Agency of Natural Resources.~~

(c) For any forest fire on lands owned by the Agency of Natural Resources to be considered eligible for reimbursement from the State, a town forest fire warden shall have reported the forest fire to the Commissioner within 14 days of extinguishment of the fire as required under section 2644 of this title. For reimbursement of fire suppression costs for forest fires on land owned by the Agency of Natural Resources, the town forest fire warden and the Commissioner or designee shall approve the costs before submission to the municipality for payment. The town forest fire warden may submit to the State on an annual basis a request for reimbursement of fire suppression costs on lands owned by the Agency of Natural Resources. The State shall reimburse a town for all applicable forest fire suppression costs when the reimbursement request is presented in a form approved by the Commissioner to the Commissioner by December 31 of each year.

§ 2644. DUTIES AND POWERS OF FIRE WARDEN

(a) When a forest fire or fire threatening a forest is discovered in his or her town, the town forest fire warden shall enter upon any premises and take measures for its prompt control, suppression, and extinguishment. The town forest fire warden may call upon any person for assistance. ~~He or she may arrest without warrant any person found in the act of violating a provision of law or proclamation pertaining to forest fires.~~ The town forest fire warden may choose to share or delegate command authority to a chief engineer of a responding fire department or, in the chief's absence, the highest ranking assistant firefighter present during the fire.

(b) A town forest fire warden shall keep a record of his or her acts, ~~the amount of expenses incurred,~~ the number of fires and causes, the areas burned over, and the character and amount of damages done in the warden's jurisdiction. Within two weeks after the ~~discovery of such~~ extinguishment of a fire, he or she the town forest fire warden shall report the same fire to the commissioner on forms which shall be furnished by him or her Commissioner, but the making of ~~such a~~ report under this subsection shall not be a charge against the town.

~~(c) During the danger season and subject to the approval or direction of the commissioner, a warden shall establish a patrol in dangerous localities, and the expense for the same shall be paid as expenses for fighting fires. Wardens shall receive the same pay for time spent in posting notices, patrolling or in making investigations of damages done that they receive for time spent in actual fire fighting. [Repealed.]~~

§ 2645. OPEN BURNING; PERMITS

(a) Except as otherwise provided in this section, a person shall not kindle or authorize another person to kindle a fire in the open air for the purpose of

~~burning natural wood, brush, weeds, or grass or rubbish of any kind except where there is snow on the site, without first obtaining permission from the fire warden or deputy warden of the town, stating when and where such fire may be kindled without first obtaining permission from the town forest fire warden or deputy forest fire warden, stating when and where such fire may be kindled. Wood, brush, weeds, or grass may not be burned if they have been altered in any way by surface applications or injection of paints, stains, preservatives, oils, glues, or pesticides. Whenever such permission is granted, such the fire warden, within 12 hours, shall issue a written permit "Permit to Kindle" for record purposes stating when and where such fire may be kindled. Permission shall not be required for the kindling of a fire in a location which is 200 feet or more from any woodland, timberland or field containing dry grass or other inflammable plant material contiguous to woodland. With the written approval of the secretary, during periods of extreme fire hazard, the commissioner may notify town fire wardens that for a specified period no burning permits shall be issued. The wardens shall issue no permits during the specified period.~~

~~(b) Whenever the commissioner deems that the public safety of any town or portion of a town of this state does not require the protection provided by this section, he or she may cause the town fire warden of any such town to post notices to that effect in not less than five conspicuous places in such town. [Repealed.]~~

(c) The provisions of this section will not apply to:

~~(1) To areas posted in accordance with subsection (b) of this section the kindling of a fire in a location where there is snow surrounding the open burning site;~~

~~(2) To fires built in stone arches, outdoor fireplaces, or existing fire rings at state State recreational areas or fires built in stone arches, outdoor fireplaces, or fire rings on private property that are not located within woodland, timberland, or a field containing dry grass or other flammable plant material contiguous to woodland;~~

~~(3) To fires built in special containers used for burning brush, waste, grass or rubbish when conditions are deemed satisfactory to the town fire warden the kindling of a fire in a location that is 200 feet or more from: any woodland, timberland, or field containing dry grass or other flammable plant material contiguous to woodland; or~~

~~(4) To areas within ~~cities or villages~~ cities maintaining a fire department.~~

~~(d)(1) As used in this section, "natural wood" means:~~

~~(A) trees, including logs, boles, trunks, branches, limbs, and stumps;~~

(B) lumber, including timber, logs, or wood slabs, especially when dressed for use; and

(C) pallets that are used for the shipment of various materials, so long as such pallets are not chemically treated with any preservative, paint, or oil.

(2) "Natural wood" shall not mean other wood products such as sawdust, plywood, particle board, or press board.

(e) Nothing in this section shall be construed to limit the authority of the air pollution control officer to prohibit open burning in accordance with the rules adopted under chapter 23 of this title.

* * *

§ 2648. SLASH REMOVAL

(a) A person may cut or cause to be cut forest growth only if all slash adjoining the right-of-way of any public highway, or the boundary lines of woodlots owned by adjoining property owners, is treated as follows:

(1) All slash shall be removed for a distance of 50 feet from the right-of-way of any public highway or from the boundary lines of woodlots owned by adjoining property owners.

(2) All slash shall be removed for a distance of 100 feet from standing buildings on adjoining property.

~~(b) Owners or operators of timber or woodlots shall leave the main logging roads through cut over areas free from slash so that tractors may pass over these roads unobstructed in order to carry men and supplies and fire fighting equipment to fire suppression crews. [Repealed.]~~

(c) If in the opinion of the town forest fire warden there is no fire hazard as a result of a cutting, the warden may issue, upon request, a statement relieving the operator of the conditions required in this section.

Sec. 12. DEPARTMENT OF FORESTS, PARKS AND RECREATION; POLICY FOR REIMBURSEMENT OF FIRE SUPPRESSION COSTS

On or before January 1, 2017, the Commissioner of Forests, Parks and Recreation, in consultation with the Vermont League of Cities and Towns and other interested parties, shall develop a policy that provides the criteria the Department of Forests, Parks and Recreation shall use in determining whether and how to reimburse towns for the costs of fire suppression. The policy shall include criteria for:

(1) whether and how to reimburse a municipality for the costs of forest fire suppression incurred on lands not owned by the Agency of Natural Resources; and

(2) determining the rate a municipality shall be reimbursed for fire suppression costs incurred on lands owned by the Agency of Natural Resources.

Sec. 13. 10 V.S.A. § 2515 is added to read:

§ 2515. INTERCOMPACT LIABILITY—ARTICLE XV

The provisions of Article IX of this compact that relate to mutual aid in combating, controlling, or preventing forest fires shall be operative as between any state party to this compact and any other state that is party to a regional forest fire protection compact in another region provided that the legislature of such other state shall have given its assent to the mutual aid provisions of this compact.

* * * Forest Integrity; Municipal and Regional Planning * * *

Sec. 14. 24 V.S.A. § 4302(c) is amended to read:

(c) In addition, this chapter shall be used to further the following specific goals:

* * *

(6) To maintain and improve the quality of air, water, wildlife, forests, and other land resources.

* * *

(C) Vermont's forestlands should be managed so as to maintain and improve forest blocks and habitat connectors.

* * *

(9) To encourage and strengthen agricultural and forest industries.

(A) Strategies to protect long-term viability of agricultural and ~~forest lands~~ forestlands should be encouraged and should include maintaining low overall density.

* * *

Sec. 15. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context otherwise requires:

* * *

(10) "Land development" means the division of a parcel into two or more parcels, the construction, reconstruction, conversion, structural alteration,

relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill, and any change in the use of any building or other structure, or land, or extension of use of land.

* * *

(34) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and uses exempt from regulation under subsection 4413(d) of this title.

(35) “Forest fragmentation” means the division or conversion of a forest block by land development other than by a recreational trail or use exempt from regulation under subsection 4413(d) of this title.

(36) “Habitat connector” means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and uses exempt from regulation under subsection 4413(d) of this title. In a plan or other document issued pursuant to this chapter, a municipality or regional plan commission may use the phrase “wildlife corridor” in lieu of “habitat connector.”

(37) “Recreational trail” means a corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

Sec. 16. 24 V.S.A. § 4348a(a)(2) is amended to read:

(2) A land use element, which shall consist of a map and statement of present and prospective land uses, that:

(A) ~~indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, areas reserved for flood plain, and areas identified by the State, regional planning commissions, or municipalities, ~~which that~~ require special consideration for aquifer protection; for wetland protection; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes;

(B) ~~indicating~~ Indicates those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title;

(C) ~~indicating~~ Indicates locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks, office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions;.

(D) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services;.

(E) ~~indicating~~ Indicates those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs.

(F) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the regional planning commission.

* * *

Sec. 17. 24 V.S.A. § 4382(a)(2) is amended to read:

(2) A land use plan:

~~(A) consisting of, which shall consist of a map and statement of present and prospective land uses, that:~~

(A) ~~indicating~~ Indicates those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, and open spaces, areas reserved for flood plain, and areas identified by the State, the regional planning commission, or the municipality that require special consideration for aquifer protection; for wetland protection; for the maintenance of forest blocks, wildlife habitat, and habitat connectors; or for other conservation purposes;.

(B) ~~setting~~ Sets forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service;.

(C) ~~identifying~~ Identifies those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.

(D) Indicates those areas that are important as forest blocks and habitat connectors and plans for land development in those areas to minimize forest fragmentation and promote the health, viability, and ecological function of forests. A plan may include specific policies to encourage the active management of those areas for wildlife habitat, water quality, timber production, recreation, or other values or functions identified by the municipality.

Sec. 18. STUDY AND REPORT; LAND USE REGULATION; FOREST INTEGRITY

(a) Creation. There is created a Study Committee on Land Use Regulation and Forest Integrity to study potential revisions to 10 V.S.A. chapter 151 (Act 250) and to 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands.

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

(1) a current member of the House of Representatives, appointed by the Speaker of the House;

(2) a current member of the Senate, appointed by the Committee on Committees;

(3) a current officer of a municipality, appointed by the Vermont League of Cities and Towns;

(4) a representative of the Vermont Association of Planning and Development Agencies, appointed by that Association;

(5) the Commissioner of Housing and Community Development or designee;

(6) the Chair of the Natural Resources Board or designee;

(7) the Commissioner of Forests, Parks and Recreation or designee;

(8) a representative of the Vermont Natural Resources Council, appointed by that Council, to represent the Council and to provide input from the Vermont Forest Roundtable;

(9) a representative of the Vermont Working Lands Enterprise Board established under 6 V.S.A. § 4606, appointed by that Board;

(10) a representative of the Vermont Forest Products Association, appointed by that Association; and

(11) a representative of the Vermont Woodlands Association, appointed by that Association.

(c) Powers and duties. The Committee shall study potential revisions to Act 250 and 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands. This study shall include the following:

(1) a review of the relevant provisions of Act 250 and 24 V.S.A. chapter 117 as they exist on passage of this act;

(2) a development and review of options to revise Act 250 and the bylaw provisions of chapter 117 to protect forestland from fragmentation and promote habitat connectivity;

(3) an evaluation of the impact of those options on land use;

(4) a recommendation on whether to make such revisions and the reason for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made; and

(5) a review of the definitions added by Sec. 15 of this act to 24 V.S.A. § 4303 and the amendments made by Secs. 16 and 17 of this act to 24 V.S.A. §§ 4348a and 4382, a recommendation on whether to make revisions to these provisions and the reasons for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made.

(d) Assistance. For purposes of scheduling meetings, preparing its recommendation on whether to make statutory revisions, and preparing any recommended legislation, the Committee shall have the assistance of the Office of Legislative Council. The Committee also shall be entitled to the technical and professional assistance of the Departments of Housing and Community Development and of Forests, Parks and Recreation and of the Natural Resources Board.

(e) Report. On or before January 1, 2017, the Committee shall submit its written recommendation and any proposed legislation to the House Committee on Fish, Wildlife and Water Resources and the House and Senate Committees on Natural Resources and Energy.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur on or before July 15, 2016.

(2) The Committee shall select a chair from among its legislative members at the first meeting.

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

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than four meetings.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings.

* * * Municipal Regulation of Forestry Operations * * *

Sec. 19. 24 V.S.A. § 4413(d) is amended to read:

(d)(1) A bylaw under this chapter shall not regulate:

(A) required agricultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets ~~or~~;

(B) accepted silvicultural practices, as defined by the Commissioner of Forests, Parks and Recreation, including practices which are in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; or

(C) forestry operations.

~~(1)(2) For purposes of~~ As used in this section:

(A) “~~farm~~ Farm structure” means a building, enclosure, or fence for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted agricultural or farming practices, including a silo, as “farming” is defined in 10 V.S.A. § 6001(22), but excludes a dwelling for human habitation.

(B) “Forestry operations” has the same meaning as in 10 V.S.A. § 2602.

~~(2)~~(3) A person shall notify a municipality of the intent to build a farm structure and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.

~~(3) A municipality may enact a bylaw that imposes forest management practices resulting in a change in a forest management plan for land enrolled in the use value appraisal program pursuant to 32 V.S.A. chapter 124 only to the extent that those changes are silviculturally sound, as determined by the Commissioner of Forests, Parks and Recreation, and protect specific natural, conservation, aesthetic, or wildlife features in properly designated zoning districts. These changes also must be compatible with 32 V.S.A. § 3755.~~

(4) This subsection does not prevent an appropriate municipal panel, when issuing a decision on an application for land development over which the panel otherwise has jurisdiction under this chapter, from imposing reasonable conditions under subsection 4464(b) of this title to protect wildlife habitat, threatened or endangered species, or other natural, historic, or scenic resources and does not prevent the municipality from enforcing such conditions, provided that the reasonable conditions do not restrict or regulate forestry operations unrelated to land development.

* * * Land Use Change Tax; Transfer of Lands to State
and Federal Forest * * *

Sec. 20. 32 V.S.A. § 3757 is amended to read:

§ 3757. LAND USE CHANGE TAX

(a) Land which has been classified as agricultural land or managed forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. The tax shall be at the rate of 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the changed land as a separate parcel, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

* * *

(f)(1) When the application for use value appraisal of agricultural and forestland has been approved by the State, the State shall record a lien against the enrolled land in the land records of the municipality ~~which~~ that shall constitute a lien to secure payment of the land use change tax to the State upon development. The landowner shall bear the recording cost. The land use change tax and any obligation to repay benefits paid in error shall not constitute a personal debt of the person liable to pay the same, but shall constitute a lien which shall run with the land. All of the administrative provisions of chapter 151 of this title, including those relating to collection and enforcement, shall apply to the land use change tax. The Director shall release the lien when notified that:

(A) the land use change tax is paid;

(B) the land use change tax is abated pursuant to this section;

(C) the land use change tax is abated pursuant to subdivision 3201(5) of this title;

(D) the land is exempt from the levy of the land use change tax pursuant to this section and the owner requests release of the lien; or

(E) the land is exempt from the levy of the land use change tax pursuant to this section and the land is developed.

(2) Nothing in this subsection shall be construed to allow the enrollment of agricultural land or managed forestland without a lien to secure payment of the land use change tax. Any fees related to the release of a lien under this subsection shall be the responsibility of the owner of the land subject to the lien.

(g) Upon application, the Commissioner may abate a use change tax levy concerning agricultural land found eligible for use value appraisal under subdivision 3752(1)(A) of this title, in the following cases:

(1) If a disposition of such property resulting in a change of use of it takes place within five years of the initial assessment at use value because of the permanent physical incapacity or death of the individual farmer-owner or farmer-operator of the property.

(2) If a disposition of the property was necessary in order to raise funds to continue the agriculture operation of the seller. In this case, the Commissioner shall consider the financial gain realized by the sale of the land and whether, in respect to that gain, payment of the use change tax would significantly reduce the ability of the seller to continue using the remaining property, or any part thereof, as agricultural land.

(h) Land condemned as a result of eminent domain or sold voluntarily to a condemning authority in anticipation of eminent domain proceedings is exempt from the levy of a land use change tax under this section.

* * *

(j)(1) Land transferred to the ~~United States~~ U.S. Forest Service is exempt from the levy of a use change tax under this section, provided ~~all~~ one of the following ~~apply~~ applies:

~~(1)(A)~~ land transferred is eligible for use value appraisal at the time of the transfer;

~~(2)(B)~~ the transfer is in consideration for the receipt from the ~~United States~~ U.S. Forest Service of land of approximately equal value, as determined by the Commissioner; ~~and~~ or

~~(3)(C)~~ the landowner has submitted to the Commissioner in writing a binding document that would substitute the land received for the land transferred to the Forest Service, for the purposes of this chapter.

(2) Land acquired by the Green Mountain National Forest for public use is exempt from the levy of a use change tax under this section.

(k) Conservation and preservation rights and interests held by an agency of the United States or by a qualified holder, as defined in 10 V.S.A. chapter 34, shall be exempt from the levy of a use change tax. Upon request of the agency or qualified holder, the Commissioner may petition the Director to release the conservation and preservation rights and interests from any lien recorded pursuant to this chapter.

(l) Land acquired by the Agency of Natural Resources; the Department of Forests, Parks and Recreation; the Department of Fish and Wildlife; or the Department of Environmental Conservation for public uses, as authorized by 10 V.S.A. § 6303(a)(1)–(4), is exempt from the levy of a land use change tax under this section.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 10 (intergenerational working group) and 18 (forest integrity study and report) shall take effect on passage.

(b) Secs. 1–4 (general policy and enforcement), 5–7 (harvest notification pilot program), 8 (harvest notification rulemaking), 9 (maple sugar production on State lands), 11–13 (fire wardens; fire suppression), 14 (forest integrity; purpose; goals), 19 (municipal regulation of forestry operations), and 20 (land use change tax) shall take effect on July 1, 2016.

(c) Secs. 15 (forest integrity; definitions), 16 (elements of a regional plan) and 17 (plan for municipality) shall take effect on January 1, 2018. Secs. 15–17 shall apply to municipal and regional plans adopted or amended on or after January 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Campbell, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: By striking out Secs. 5–8 (Harvest Notification) in their entirety and by inserting in lieu thereof the following:

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Sec. 7. [Deleted.]

Sec. 8. [Deleted.]

Second: In Sec. 12 (Policy for Fire Suppression Reimbursement), before “On or before January 1, 2017” by inserting (a)

And by adding a subsection (b) to read as follows:

(b) The Commissioner of Forests, Parks and Recreation shall submit the reimbursement policy developed under subsection (a) of this section to the Senate and House Committees on Natural Resources and Energy and the Senate and House Committees on Appropriations.

Third: By striking out Sec. 18 (Forest Integrity Study) in its entirety and inserting in lieu thereof the following:

Sec. 18. STUDY AND REPORT; LAND USE REGULATION; FOREST INTEGRITY

(a) Creation. There is created a Study Committee on Land Use Regulation and Forest Integrity to study potential revisions to 10 V.S.A. chapter 151 (Act 250) and to 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands.

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

(1) the Commissioner of Forests, Parks and Recreation or designee.

(2) the Commissioner of Housing and Community Development or designee.

(3) the Chair of the Natural Resources Board or designee;

(4) a current officer of a municipality, appointed by the Vermont League of Cities and Towns;

(5) a representative of the Vermont Association of Planning and Development Agencies, appointed by that Association;

(6) a representative of the Vermont Natural Resources Council, appointed by that Council, to represent the Council and to provide input from the Vermont Forest Roundtable;

(7) a representative of the Vermont Working Lands Enterprise Board established under 6 V.S.A. § 4606, appointed by that Board;

(8) a representative of the Vermont Forest Products Association, appointed by that Association; and

(9) a representative of the Vermont Woodlands Association, appointed by that Association.

(c) Powers and duties. The Committee shall study potential revisions to Act 250 and 24 V.S.A. chapter 117, subchapter 7 (bylaws) to protect contiguous areas of forestland from fragmentation and promote habitat connectivity between forestlands. This study shall include the following:

(1) a review of the relevant provisions of Act 250 and 24 V.S.A. chapter 117 as they exist on passage of this act;

(2) a development and review of options to revise Act 250 and the bylaw provisions of chapter 117 to protect forestland from fragmentation and promote habitat connectivity;

(3) an evaluation of the impact of those options on land use;

(4) a recommendation on whether to make such revisions and the reason for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made; and

(5) a review of the definitions added by Sec. 15 of this act to 24 V.S.A. § 4303 and the amendments made by Secs. 16 and 17 of this act to 24 V.S.A. §§ 4348a and 4382, a recommendation on whether to make revisions to these provisions and the reasons for the recommendation and, if the recommendation is affirmative, the revisions that the Committee suggests be made.

(d) Assistance. For purposes of scheduling meetings, preparing its recommendation on whether to make statutory revisions, and preparing any

recommended legislation, the Committee shall have the assistance of the Department of Forests, Parks and Recreation. The Committee also shall be entitled to the technical and professional assistance of the Department of Housing and Community Development and the Natural Resources Board. The Committee shall be entitled to assistance from the Department of Taxes, including assistance from consultant economists with expertise on tax and finance issues related to forestlands. If the Committee recommends legislative changes, the Committee shall have the assistance of the Office of Legislative Council and the Joint Fiscal Office for the purpose of preparing recommended draft legislation and fiscal analysis.

(e) Report. On or before January 1, 2017, the Committee shall submit its written recommendation and any proposed legislation to the House Committee on Fish, Wildlife and Water Resources, the House and Senate Committees on Natural Resources and Energy, and the House Committee on Agriculture and Forest Products.

(f) Meetings.

(1) The Commissioner of Forests, Parks and Recreation shall call the first meeting of the Committee to occur on or before July 15, 2016.

(2) The Committee shall select a chair from among its members at the first meeting.

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

Fourth: In Sec. 21 (Effective Dates) in subsection (b), by striking out “5-7 (harvest notification pilot program, 8 (harvest notification rulemaking),” where it appears

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending the bill without recommendation.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Appropriations?, Senators Lyons, Bray, Ashe, Ayer, Campbell, Degree, Kitchel, MacDonald, Mullin, Sirotkin, Starr and Westman moved to amend the proposal of amendment of the Committee on Appropriations as follows:

First: By striking out Sec. 5 (deleted section) in its entirety and inserting in lieu thereof the following:

Sec. 5. DEPARTMENT OF FORESTS, PARKS AND RECREATION
HARVEST NOTIFICATION REPORT

On or before December 15, 2016, the Commissioner of Forests, Parks and Recreation (Commissioner) shall submit to the House Committees on Natural Resources and Energy, on Agriculture and Forest Products, and on Appropriations and the Senate Committees on Natural Resources and Energy and on Appropriations a report recommending implementation in the State of a harvest notification program. The report shall:

(1) Recommend how a harvest notification program would be structured and implemented under which a landowner or timber harvester notifies the Department of Forests, Parks and Recreation of the commencement of a timber harvest. The recommendation should address:

(A) how a harvest notification would be provided to the State;

(B) who should provide notice of a harvest;

(C) when a harvest notification should be provided, including the harvest threshold for notice and any exemptions to notification;

(D) how a harvest notification should be provided to the Commissioner; and

(E) any additional elements necessary to implement the recommended harvest notification program.

(2) Summarize the environmental and economic benefits to the State of the recommended harvest notification program, including whether the recommended harvest notification program would increase compliance with the Acceptable Management Practice for Maintaining Water Quality on Logging Jobs in Vermont.

(3) Estimate the staff and additional funding needed to implement the recommended harvest notification program.

(4) Propose how implementation of the recommended harvest notification program would be funded.

(5) Propose draft legislation to implement the recommended harvest notification program.

Second: In Sec. 21 (Effective Dates) in subsection (b), after “(general policy and enforcement).” and before “9 (maple sugar production on State lands).” by inserting 5 (harvest notification report).

Which was agreed to.

Thereupon, the pending question, Shall the recommendation of proposal of amendment of the Committee on Natural Resources and Energy be amended as recommended by the Committee on Appropriations, as amended?, was agreed to.

President *pro tempore* Assumes the Chair

Thereupon, the proposal of amendment as recommended by the Committee on Natural Resources and Energy, as amended, was agreed to and third reading of the bill was ordered.

Thereupon, on motion of Senator Rodgers, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

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

Thereupon, on motion of Senator Baruth, the rules were suspended, and the bill was ordered messaged to the House forthwith.

Rules Suspended; Proposal of Amendment; Third Reading Ordered

H. 853.

Appearing on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and Senate bill entitled:

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

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Education, to which was referred reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Yields and Nonresidential Tax Rate * * *

Sec. 1. PROPERTY DOLLAR EQUIVALENT YIELD AND INCOME DOLLAR EQUIVALENT YIELD FOR FISCAL YEAR 2017

Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2017 only:

- (1) the property dollar equivalent yield is \$9,654.00; and
- (2) the income dollar equivalent yield is \$10,803.00.

Sec. 2. NONRESIDENTIAL PROPERTY TAX RATE FOR FISCAL YEAR 2017

For fiscal year 2017 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(2) shall be reduced from the rate of \$1.59 and instead be \$1.539 per \$100.00.

* * * Transfer of Debt of Merged Districts * * *

Sec. 3. TRANSFER OF DEBT OF MERGED DISTRICTS

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

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

* * * Duties of Secretary * * *

Sec. 4. 16 V.S.A. § 212 is amended to read:

§ 212. SECRETARY'S DUTIES GENERALLY

The Secretary shall execute those policies adopted by the State Board in the legal exercise of its powers and shall:

* * *

(9) Establish requirements for information to be submitted by school districts, including necessary statistical data and other information and ensure, to the extent possible, that data are reported in a uniform way. Data collected under this subdivision shall include budget surplus amounts, reserve fund amounts, and information concerning the purpose and use of any reserve funds.

* * *

* * * Study on Aggregate Common Level of Appraisal * * *

Sec. 5. COMMON LEVEL OF APPRAISAL; MERGED SCHOOL DISTRICT; STUDY COMMITTEE; REPORT

(a) Creation. There is created a Common Level of Appraisal (CLA) Study Committee to study the use of an aggregate common level of appraisal in a merged school district to determine the statewide education tax for each municipality in that district.

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

(1) the Director of Property Valuation and Review or designee, who shall chair the Committee;

(2) two town listers appointed by the Vermont Association of Listers and Assessors;

(3) one school board member from a merged district, appointed by the Vermont School Board Association; and

(4) one member from the Vermont League of Cities and Towns, appointed by the Board of Directors of that organization.

(c) Powers and duties. The Committee shall study the impact of aggregating the common level of appraisal in a merged school district, including the following issues:

(1) how to determine and calculate the aggregate CLA; and

(2) the potential impacts of aggregating the CLA, including any advantages or disadvantages.

(d) Report. On or before December 15, 2016, the Committee shall submit a written report to the House Committees on Ways and Means and on Education and the Senate Committees on Finance and on Education with its findings and any recommendations for legislative action.

(e) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Committee shall have the assistance of Department of Taxes.

(f) Meetings.

(1) The Director of Property Valuation and Review or designee shall call the first meeting of the Committee to occur on or before August 1, 2016.

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

(3) The Committee shall cease to exist on January 31, 2017.

(g) Compensation. Nonlegislative members of the Committee shall be entitled to compensation as provided under 32 V.S.A. § 1010.

Sec. 6. REPORT ON THE IMPACT OF H.846 OF 2016

(a) On or before November 15, 2016, the Joint Fiscal Office, with the assistance of the Office of Legislative Council and the Department of Taxes, shall issue a report analyzing the impact of H.846 of 2016, an act related to making changes to the calculation of the statewide education property tax. The

analysis shall be based on the statutory language presented to the House Committee on Education on March 11, 2016. The report shall be delivered to the Senate Committees on Finance and on Education and the House Committees on Ways and Means and on Education.

(b) The report shall address:

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

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

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

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

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

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

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

Sec. 7. REPORT ON THE IMPACT OF H.656 OF 2016

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

(b) The report shall address:

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

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

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

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

- (5) any transition issues created by the proposed changes;
- (6) the impact of the proposed changes on taxpayer confidentiality; and
- (7) any related issues identified by the Joint Fiscal Office.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except for Sec. 4 (data collection) which shall take effect on July 1, 2019.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ayer, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Education with the following amendments thereto:

First: By striking out Sec. 3 (debt of merging districts) in its entirety and inserting in lieu thereof the following:

Sec. 3. [Deleted.]

Second: By striking out Sec. 6 in its entirety, and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. REPORT ON THE IMPACT OF S.168 OF 2016

(a) On or before November 15, 2016, the Joint Fiscal Office, with the assistance of the Office of Legislative Council and the Department of Taxes, shall issue a report analyzing the impact of S.168 of 2016, an act related to incentives for lower education spending. The report shall be delivered to the Senate Committees on Finance and on Education and the House Committees on Ways and Means and on Education.

(b) The report shall address:

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

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

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

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

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

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

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

Third: By striking out Sec. 7 in its entirety, and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. IMPLEMENTATION OF S.175 OF 2016

(a) On or before December 15, 2016, the Joint Fiscal Office, with the assistance of the Office of Legislative Council and the Department of Taxes, shall issue a report identifying any issues related to the implementation of S.175 of 2016, an act relating to creating an education tax that is adjusted by income for all taxpayers. The report shall be delivered to the Senate Committees on Finance and on Education and the House Committees on Ways and Means and on Education.

(b) The report shall address:

(1) the impact of the proposed changes on different groups of taxpayers, including taxpayers who pay an education property tax based on property value and those who pay based on income, given a transition point in Sec. 4 of the bill of \$47,000.00, \$90,000.00, and \$250,000.00;

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

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

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

(5) the impact of the proposed changes on taxpayer confidentiality, if any; and

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

Fourth: By inserting a Sec. 7a to read as follows:

Sec. 7a. CALCULATION OF TAX RATES FOR MEMBER TOWNS IN VOLUNTARY SCHOOL GOVERNANCE MERGERS

(a) Definitions. As used in this section:

(1) The "tax rate reductions" means collectively the equalized homestead property tax rate reductions, and related household income percentage reductions, provided for voluntary school governance mergers in

2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, and 2015 Acts and Resolves No. 46.

(2) The “five percent provision” means collectively the provisions in 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, and 2015 Acts and Resolves No. 46, limiting a town’s equalized homestead property tax rate increase or decrease, and related household income percentage adjustments to five percent in a single year during the years in which the corresponding tax rate reductions apply to a new union school district’s equalized unified homestead property tax rate.

(3) “Yield change” means the percentage change in the property dollar equivalent yield from the year for which the equalized homestead property tax rate is being calculated, and the prior fiscal year.

(b) Calculation of tax rates for member towns in voluntary school governance mergers.

(1) In any fiscal year in which tax rate reductions are applied to the equalized homestead property tax rate of a union school district, if the tax rate of a member town is determined to be the same as the new district’s equalized homestead property tax rate, then the member town’s tax rate shall be the same as the new district’s equalized homestead property tax rate and shall not be adjusted pursuant to the five percent provision in that or any subsequent year.

(2) In a fiscal year in which the tax rate reductions are applied, if a new union school district’s education spending per equalized pupil increases by more than the yield change above its education spending per equalized pupil in the prior fiscal year, then the five percent provision shall be adjusted by the difference between the yield change and the actual increase (the “percentage point increase”) as follows:

(A) the tax rate of a member town that would otherwise be increased by no more than five percent shall be increased by no more than five percent plus the percentage point increase; and

(B) the tax rate of a member town that would otherwise be decreased by no more than five percent shall be decreased by no more than five percent minus the percentage point increase.

(3) For purposes of the adjustments required by subdivision (2) of this subsection, in the first fiscal year in which a union school district operates, the union school district’s “education spending per equalized pupil in the prior fiscal year” shall be defined as the total education spending of all merging districts in the year prior to merger, divided by the total number of equalized pupils of all the merging districts in the year prior to merger.

(4) For any fiscal year in which the provisions of subdivision (2) of this subsection shall apply, a union school district may appeal to the Secretary of Education for an exemption in that fiscal year. The Secretary may grant the requested exemption upon demonstration that the increase was beyond the union school district's control or for other good cause shown. The Secretary's determination shall be final.

Fifth: By striking Sec. 8 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Sec. 4 (data collection) shall take effect on July 1, 2019.

(2) Sec. 7a(b)(1) (calculation at unified rate) shall take effect on passage and shall apply retroactively to any union school district created on or after July 1, 2010.

(3) Sec. 7a(b)(2) (calculation at variance with unified rate) shall take effect on passage and shall apply to calculations where the "prior fiscal year" is fiscal year 2016 or after.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Education was amended as recommended by the Committee on Finance.

Thereupon, the proposal of amendment recommended by the Committee on Education, as amended, was agreed to and third reading of the bill was ordered.

Thereupon, on motion of Senator Mazza, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence with proposal of amendment.

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

Rules Suspended; Bills Messaged

On motion of Senator Mazza, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S. 230, S. 250, H. 533, H. 853, H. 869.

Adjournment

On motion of Senator Mazza, the Senate adjourned until eleven o'clock in the morning.