

House Calendar

Friday, March 16, 2018

73rd DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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ACTION CALENDAR

Third Reading

H. 710

An act relating to beer and wine franchises

Amendment to be offered by Rep. Scheuermann of Stowe to H. 710

First: In Sec. 4, 7 V.S.A. § 751(a)(1), after “50,000 barrels of malt beverages” by inserting the words “per year”

Second: In Sec. 4, 7 V.S.A. § 751(a)(2), after “50,000 barrels of malt beverages” by inserting the words “per year”

Third: In Sec. 4, 7 V.S.A. § 751(c)(2), after the words “both inside and outside Vermont” by inserting the words “during the year”

Fourth: In Sec. 4, 7 V.S.A. § 752(2), after “50,000 barrels of malt beverages” and before the words “per year” by striking out the word “or”

H. 767

An act relating to adopting the ThinkVermont Innovation Initiative

H. 831

An act relating to funding for an accelerated weatherization program

H. 916

An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority

Favorable with Amendment

H. 676

An act relating to miscellaneous energy subjects

Rep. Yantachka of Charlotte, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 248(s) is amended to read:

(s) This subsection sets minimum setback requirements that shall apply to in-state ground-mounted solar electric generation facilities approved under this section, unless the facility is installed on a canopy constructed on an area primarily used for parking vehicles that is in existence or permitted on the date

the application for the facility is filed.

* * *

Sec. 2. 30 V.S.A. § 248b is amended to read:

§ 248b. FEES; AGENCY OF NATURAL RESOURCES; PARTICIPATION
IN SITING PROCEEDINGS

(a) Establishment. This section establishes fees for the purpose of supporting the role of the Agency of Natural Resources (the Agency) in reviewing applications for in-state facilities under sections 248 and 248a of this title.

* * *

(d) Electric and natural gas facilities. This subsection sets fees for applications under section 248 of this title.

(1) There shall be no fee for an electric generation facility less than or equal to ~~139~~ 50 kW in plant capacity, for roof-mounted photovoltaic systems of any capacity up to and including 500 kW, or for an application filed under subsection 248(k), (l), or (n) of this title.

(2) The fee for electric generation facilities greater than ~~139~~ 50 kW through five MW in plant capacity shall be calculated as follows, except that in no event shall the fee exceed \$15,000.00:

(A) An electric generation facility from 51 kW through 139 kW in plant capacity, \$2.00 per kW.

(B) An electric generation facility from 140 kW through 450 kW in plant capacity, \$3.00 per kW.

~~(B)~~(C) An electric generation facility from 451 kW through 2.2 MW in plant capacity, \$4.00 per kW.

~~(C)~~(D) An electric generation facility from 2.201 MW through five MW in plant capacity, \$5.00 per kW.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee Vote: 8-0-0)

Reps. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Energy and Technology.

(Committee Vote: 10-0-1)

H. 736

An act relating to lead poisoning prevention

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

Sec. 1. 18 V.S.A. chapter 38 is amended as follows:

CHAPTER 38. LEAD POISONING PREVENTION

§ 1751. DEFINITIONS

(a) Words and phrases used in this chapter shall have the same ~~definitions~~ meaning as provided in the ~~Federal~~ federal Residential Lead-Based Paint Hazard Reduction Act of 1992 unless there is an inconsistency, in which case any definition provided in this section that narrows, limits, or restricts shall control.

(b) As used in this chapter:

(1) “Abatement” means any set of measures designed to ~~permanently~~ eliminate ~~lead-based paint~~ lead hazards permanently in accordance with standards established by appropriate State and federal agencies. The term includes:

(A) removal of lead-based paint and lead-contaminated dust, permanent containment or encapsulation of lead-based paint, replacement of lead-painted surfaces or ~~fixtures~~ components, and removal or covering of lead-contaminated soil; and

(B) all preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

(2) “Accredited training program” means a training program that has been approved by the Commissioner of Health to provide training for individuals engaged in lead-based paint activities or RRPM activities. Training program accreditation is issued to a specific training provider who shall receive accreditation for each training discipline that the accredited training program offers as a course.

(3) “Certified” means completion of an accredited training program by an individual.

(4) “Child” or “children” means an individual or individuals under ~~the~~ age of 18 years of age, except where specified as a child or children six years of age or younger.

~~(3)~~(5) “Child care facility” means a child care facility or family child

care home as defined in 33 V.S.A. § 3511 that was constructed prior to 1978.

(6) “Child-occupied facility” means a building or portion of a building constructed prior to 1978, visited regularly by the same child, six years of age or under, on at least two different days within any week, provided that each day’s visit lasts at least three hours and the combined weekly visits last at least six hours and the combined annual visits last at least 60 hours. Child-occupied facilities include child care facilities, preschools, and kindergarten classrooms.

(7) “Commercial facility” means any building constructed for the purposes of commercial or industrial activity and not primarily intended for use by the general public, including office complexes, industrial buildings, warehouses, factories, and storage facilities.

(8) “Component” or “building component” means specific design or structural elements or fixtures of a facility or residential dwelling that are distinguished from each other by form, function, and location. These include interior components such as ceilings; crown moldings; walls; chair rails; doors; door trim; floors; fireplaces; radiators and other heating units; shelves; shelf supports; stair treads; stair risers; stair stringers; newel posts; railing caps; balustrades; windows and trim, including sashes, window heads, jambs, sills, or stools and troughs; built-in cabinets; columns; beams; bathroom vanities; countertops; air conditioners; and exterior components such as painting; roofing; chimneys; flashing; gutters and downspouts; ceilings; soffits; fascias; rake boards; cornerboards; bulkheads; doors and door trim; fences; floors; joists; lattice work; railings and railing caps; siding; handrails; stair risers and treads; stair stringers; columns; balustrades; windowsills or stools and troughs; casings; sashes and wells; and air conditioners.

(9) “Contractor” means any firm, partnership, association, corporation, sole proprietorship, or other business concern as well as any governmental, religious, or social organization or union that agrees to perform services.

(4)(10) “Deteriorated paint” means any interior or exterior lead-based paint or other coating that is peeling, chipping, chalking, or cracking or any paint or other coating located on an interior or exterior surface or ~~fixture~~ component that is otherwise damaged or separated from the substrate.

(5)(11) “Due date” means the date by which an owner of rental target housing or a child care facility shall file with the Department the ~~EMP RRPM~~ compliance statement required by section 1759 of this title. The due date shall be one of the following:

(A) not later than ~~366~~ 365 days after the most recent ~~EMP RRPM~~ compliance statement or ~~EMP affidavit~~ was received by the Department;

(B) within 60 days after the closing of the purchase of the property if

no ~~EMP RRPM~~ compliance statement was filed with the Department within the past 12 months;

(C) any other date agreed to by the owner and the Department; or

(D) any other date set by the Department.

~~(6)~~(12) “Dwelling” means any residential unit, including attached structures such as porches and stoops, used as the home or residence of one or more persons.

~~(7)~~(13) “Elevated blood lead level” means having a blood lead level of at least five micrograms per deciliter of human blood, or a lower threshold as determined by the Commissioner.

~~(8) “EMP” means essential maintenance practices required by section 1759 of this title.~~

(14) “Facility” means any institutional, commercial, public, private, or industrial structure, installation, or building or private residence and its grounds.

(15) “Firm” means a company, partnership, corporation, sole proprietorship, or individual doing business; an association or business entity; a State or local government agency; or a nonprofit organization.

~~(9)~~(16) “Independent dust clearance” means a visual examination and collection of dust samples, by a ~~lead~~ lead-based paint inspector or lead risk assessor ~~lead-based paint inspector-risk assessor~~ who has no financial interest in either the work being performed or the property to be inspected, and is independent of both the persons performing the work and the owner of the property. The ~~lead~~ lead-based paint inspector or lead risk assessor ~~lead-based paint inspector-risk assessor~~ shall use methods specified by the Department and analysis by an accredited laboratory to determine that lead exposures do not exceed limits set by the Department ~~utilizing current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.~~

~~(10)~~(17) “Inspection” means a surface-by-surface investigation to determine the presence of lead-based paint and other lead hazards and the provision of a report explaining the results of the investigation.

~~(11)~~(18) “Interim controls” means a set of measures designed to temporarily to reduce human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of ~~lead-based paint~~ lead hazards or potential hazards, and the establishment of management and resident education programs.

~~(12)~~(19) “Lead-based paint” means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Federal Lead-Based Paint Poisoning Prevention Act an amount:

(A) equal to 1.0 mg/cm² or 0.5 percent by weight or greater;

(B) lower than that described in subdivision (A) of this subdivision (19) as may be established by the Secretary of the U.S. Department of Housing and Urban Development pursuant to Section 302(c) of the Lead-Based Paint Poisoning Prevention Act; or

(C) lower than that described in subdivision (A) of this subdivision (19) as may be established by the Administrator of the U.S. Environmental Protection Agency.

~~(13)~~ “Lead contractor” means any person employing one or more individuals licensed by the Department under this chapter.

(20) “Lead-based paint abatement supervisor” means any individual who has satisfactorily completed an accredited training program approved by the Commissioner and has a current license issued by the Department to perform abatement work supervision.

~~(14)~~(21) “Lead Lead-based paint abatement worker” means any individual who has satisfactorily completed an accredited training program approved by the ~~Department~~ Commissioner and has a current license issued by the Department to perform ~~abatement~~ abatement work.

(22) “Lead-based paint activities” means:

(A) with regard to target housing or a child care facility: risk assessment, inspection, visual inspection for risk assessment, project design, abatement, visual inspection for clearance, dust clearance after an abatement project, and lab analysis of paint chip or dust wipe samples collected for the purpose of an inspection or risk assessment; and

(B) with regard to a public facility constructed before 1978, a commercial building, bridge, or other structure: inspection, risk assessment, project design, abatement, de-leading, removal of lead from bridges and other superstructures, visual inspection for clearance, dust clearance after an abatement project, and lab analysis of paint chip or dust wipe samples collected for the purposes of an inspection or risk assessment. As used in this subdivision (B), “de-leading” means activities conducted by a person who offers to eliminate or plan for the elimination of lead-based paint or lead-based paint hazards.

~~(15)~~ “Lead designer” means any individual who has satisfactorily completed an accredited training program approved by the Department and has

a current license issued by the Department to prepare lead abatement project designs, occupant protection plans, and abatement reports.

~~(16) “Lead hazard” means any condition that causes exposure to lead inside and in the immediate vicinity of target housing from water, dust, soil, paint, or building materials that would result in adverse human health effects as defined by the Department using current information from the U.S. Environmental Protection Agency or the U.S. Department of Housing and Urban Development.~~

~~(17) “Lead inspector” means any individual who has satisfactorily completed an accredited training program approved by the Department and has a current license issued by the Department to conduct inspections.~~

~~(23) “Lead-based paint contractor” means an entity that employs one or more individuals licensed by the Department under this chapter and has a current license issued by the Department to conduct lead-based paint activities or RRPM activities.~~

~~(24) “Lead hazard” means a condition that causes exposure to lead from contaminated dust, lead-contaminated soil, lead-containing coatings, or lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects.~~

~~(25) “Lead-based paint inspector” means an individual who has satisfactorily completed an accredited training program approved by the Commissioner and has a current license issued by the Department to conduct lead-based paint inspections.~~

~~(18)(26) “Lead risk Lead-based paint inspector-risk assessor” means any an individual who has satisfactorily completed an accredited training program approved by the Department Commissioner and has a current license issued by the Department to conduct lead-based paint inspections and risk assessments.~~

~~(19) “Lead-safe renovator” means any person who has completed a lead-safe training program approved by the Department and has a current registration issued by the Department to perform renovations in target housing or child care facilities in which interior or exterior lead-based paint will be disturbed.~~

~~(20) “Lead supervisor” means any individual who has satisfactorily completed an accredited training program approved by the Department and has a current license issued by the Department to supervise and conduct abatement projects and prepare occupant protection plans and abatement reports.~~

~~(27) “Lead-based paint project designer” means an individual who has satisfactorily completed an accredited training program approved by the~~

Commissioner and has a current license issued by the Department to prepare lead abatement project designs, occupant protection plans, and abatement reports.

(28) “Lead-safe RRPM supervisor” means an individual who has completed an accredited RRPM training program approved by the Commissioner and, if performing services for compensation, has a current license issued by the Department. This individual is authorized to perform or supervise RRPM activities in target housing or a child-occupied facility in which interior or exterior lead-based paint will be disturbed.

(29) “License” means the document issued to an individual, entity, or firm indicating that the standards for licensure for each discipline, category of entity, or firm established in this chapter have been met.

(30) “Licensee” means a person who engages in lead-based paint activities or RRPM activities and has obtained a license to perform such activities for compensation.

(31) “Maintenance” means work intended to maintain and preserve target housing, a child-occupied facility, a pre-1978 facility, a commercial facility, bridge, or other superstructure. It does not include minor RRPM activities.

(32) “Minor RRPM activities” means maintenance and repair activities that disturb less than one square foot of painted surface for interior activities or 20 square feet or less of painted surface for exterior activities if the work does not involve window replacement or demolition of painted surface areas. With regard to removing painted components or portions of painted components, the entire surface area removed is the amount of painted surface disturbed. Work, other than emergency renovations, performed in the same room within the same 30-day period shall be considered the same work for the purposes of determining whether the work is a minor RRPM activity.

~~(21)~~(33) “Occupant” means any person who resides in, or regularly uses, a dwelling, mobile dwelling, or structure.

~~(22)~~(34) “Owner” means any person who, alone or jointly or severally with others:

(A) Has legal title to any dwelling or child care facility with or without actual possession of the property.

(B) ~~Has charge, care, or control of any dwelling or child care facility as agent of the guardian of the estate of the owner.~~

(C) ~~Has charge, care, or control of any dwelling or child care facility as property manager for the owner if the property management contract~~

~~includes responsibility for any maintenance services, unless the property management contract explicitly states that the property manager will not be responsible for compliance with section 1759 of this title.~~

~~(D)~~ Is the Chief Executive Officer of the municipal or State agency that owns, leases, or controls the use of publicly owned target housing or a child care facility.

~~(E)~~(C) Is a person who has taken full legal title of a dwelling or child care facility through foreclosure, deed in lieu of foreclosure, or otherwise. “Owner” does not include a person who holds indicia of ownership given by the person in lawful possession for the primary purpose of assuring repayment of a financial obligation. Indicia of ownership includes interests in real or personal property held as security or collateral for repayment of a financial obligation such as a mortgage, lien, security interest, assignment, pledge, surety bond, or guarantee and includes participation rights of a financial institution used for legitimate commercial purposes in making or servicing the loan.

(35) “Owner’s representative” means a person who has charge, care, or control of a dwelling or child care facility as property manager, agent, or guardian of the estate.

(36) “Public facility” means a house of worship; courthouse; jail; municipal room; State or county institution; railroad station; school building; social hall; hotel, restaurant, or building used or rented to boarders or roomers; place of amusement; factory; mill; workshop or building in which persons are employed; building used as a nursery, convalescent home, or home for the aged; tent or outdoor structure used for public assembly; and barn, shed, office building, store, shop, shop other than a workshop, or space where goods are offered for sale, wholesale, or retail. It does not include a family residence registered as a child care facility.

(37) “Renovation” means the modification of any existing structure or portion of an existing structure that results in the disturbance of a painted surface unless the activity is performed as part of a lead-based paint abatement activity or is a minor RRPM activity. Renovation includes the following when it results in the disturbance of a painted surface: the removal, modification, re-coating, or repair of a painted surface or painted component of a surface; the removal of building components; a weatherization project; and interim controls that disturb painted surfaces. “Renovation” includes the performance of activities for the purpose of converting a building or part of a building into target housing or a child-occupied facility when it results in the disturbance of a painted surface.

(38) “RRPM” means the Renovation, Repair, Painting, and Maintenance

Program that pertains to projects that disturb lead-based paint on target housing and child-occupied facilities.

(39) “RRPM activities” means lead-safe renovation, repair, painting, and maintenance practices as required by section 1759 of this chapter and as adopted by rule by the Commissioner by rule. It does not include minor RRPM activities.

(40) “RRPM firm” means a company, partnership, corporation, sole proprietorship, or individual doing business; association; or other business entity that regularly engages in RRPM activities for compensation and that employs or contracts with persons to perform RRPM activities as determined by the Department.

(23)(41) “Rental target housing” means target housing offered for lease or rental under a rental agreement as defined in 9 V.S.A. § 4451. “Rental target housing” does not include a rented single room located within a dwelling in which the owner of the dwelling resides unless a child six years of age or younger resides in or is expected to reside in that dwelling.

(42) “Repair” means the restoration of paint or other coatings that have been damaged, including the repair of permanent containment around lead-based paint materials in a facility. Repair of previously encapsulated lead-based paint may involve filling damaged areas with non-lead paint substitutes and reencapsulating. It shall not include minor RRPM activities.

(24)(43) “Risk assessment” means an on-site investigation by a ~~lead-risk assessor~~ lead-based paint inspector-risk assessor to determine and report the existence, nature, severity, and location of lead hazards, including information gathering about the age and history of the property and occupancy by children six years of age or younger, visual inspection, limited wipe sampling, or other environmental sampling techniques, other appropriate risk assessment activities, and a report on the results of the investigation.

(25)(44) “Screen,” “screened,” or “screening” relating to blood lead levels, means the initial blood test to determine the presence of lead in a human.

(45) “Superstructure” means a large steel or other industrial structure, such as a bridge or water tower, that may contain lead-based paint.

(26)(46) “Target housing” means any dwelling constructed prior to 1978, except any 0-bedroom dwelling or any dwelling located in multiple-unit buildings or projects reserved for the exclusive use of elders or persons with disabilities, unless a child six years of age or younger resides in or is expected to reside in that dwelling. “Target housing” does not include units in a hotel, motel, or other lodging, including condominiums that are rented for transient

occupancy for 30 days or less.

§ 1752. ACCREDITATION OF TRAINING PROGRAMS;

~~CERTIFICATION AND LICENSURE OF ENVIRONMENTAL
LEAD INSPECTORS AND LEAD CONTRACTORS,
SUPERVISORS, AND WORKERS INDIVIDUALS, ENTITIES, OR
FIRMS INVOLVED IN LEAD-BASED PAINT OR RRPM
ACTIVITIES~~

~~(a) Not later than six months after promulgation of final federal regulations under section 402 of the Federal Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the The Department shall develop a program to administer and enforce the lead-based paint activities and RRPM activities with regard to training and certification licensing standards, regulations rules, or other requirements established by the Administrator of the federal Environmental Protection Agency Commissioner, which are at least as protective of human health and the environment as the applicable federal programs, for persons engaged in lead-based paint activities and RRPM activities performed on target housing, child-occupied facilities, pre-1978 facilities, commercial facilities, and bridges or other superstructures.~~

~~(b) The Secretary shall adopt emergency rules, and not later than January 1, 1994, the Secretary shall adopt permanent rules, Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing standards and specifications for the accreditation of training programs both within and outside Vermont for lead-based paint activities and RRPM activities, including the mandatory topics of instruction, the knowledge and performance standards that must be demonstrated by graduates in order to be certified or licensed, and required accreditation qualifications for training programs and instructors. Such The standards shall be designed to protect children, their families, and workers from improperly conducted lead-based paint activities and RRPM activities, and shall be at least as protective of human health and the environment as the federal program programs. Hands-on instruction and instruction for identification and proper handling of historic fabric and materials shall be components of the required training.~~

~~(c) The Commissioner shall certify risk assessors, designers, laboratories, inspectors, lead-safe renovation contractors, lead contractors, supervisors, abatement workers, and other persons engaged in lead-based paint activities when such persons have license consulting contractors, analytical contractors, lead-based paint abatement supervisors, lead-based paint abatement workers, project designers, inspector-risk assessors, RRPM firms, and RRPM supervisors, who have successfully completed an accredited training program~~

and met ~~such~~ other requirements as the ~~Secretary~~ Commissioner may, by rule, impose.

(d) The Commissioner shall certify individuals engaged in RRPM activities for no compensation and who have successfully completed an accredited training program and met all other requirements as the Commissioner may impose by rule.

(e) After the adoption of rules pursuant to ~~subsection (b)~~ of this section, ~~no~~ a person shall not perform lead-based paint activities or RRPM activities for compensation without first obtaining a license from the Commissioner. The Commissioner may grant a license to a person who holds a valid license from another state.

~~(e)(f)~~ Nothing in this chapter shall be construed to limit the authority of the Secretary, or the Commissioner of Health, ~~the Commissioner~~ of Labor, or ~~the Commissioner~~ of Environmental Conservation under the provisions of any other law.

§ 1753. ACCREDITATION, REGISTRATION, CERTIFICATION, AND LICENSE, PERMIT, NOTIFICATION, REGISTRATION, AND ADMINISTRATIVE FEES

(a) The Commissioner shall assess fees for accrediting training programs ~~and for certifications, registrations, licenses, and license renewals, and permits~~ issued in accordance with this chapter. Fees shall not be imposed on any ~~state~~ State or local government, agent of the State, or nonprofit training program and may be waived for the purpose of training State employees.

(b) Each accredited training program, ~~registrant~~, and licensee shall be subject to the following annual fees, except where otherwise noted:

Training <u>Lead-based paint training courses</u>	\$480.00 per year
Lead contractors <u>Lead-based paint contractor entity license</u>	\$600.00 per year
Lead workers <u>Lead-based paint abatement worker license</u>	\$60.00 per year
Lead supervisors <u>Lead-based paint abatement supervisor license</u>	\$120.00 per year
Lead inspectors <u>Lead-based paint inspector license</u>	\$180.00 per year
Lead risk assessors <u>Lead-based paint</u>	

<u>inspector-risk assessor license</u>	\$180.00 per year
<u>Lead designers Lead-based paint project designer license</u>	\$180.00 per year
<u>Laboratories</u>	\$600.00 per year
<u>Lead-safe RRPM training course accreditation</u>	\$560.00 initial, \$340.00 renewal every four years
<u>Lead-safe RRPM firm license</u>	\$300.00 every five years
<u>Lead-safe renovators RRPM supervisor license</u>	\$50.00 per year

(c) Each lead licensee seeking to complete a lead-based paint abatement project or RRPM activities project involving prohibited or unsafe work practices shall be subject to the following permit fees:

- (1) Lead abatement project Project permit fee \$50.00-
- (2) Lead abatement project Project permit revision fee \$25.00-

(d) Fees imposed by this section and monies collected under section 1766 of this chapter shall be deposited into the Lead Lead-Based Paint Abatement Accreditation and Licensing Special Fund. Monies in the Fund may be used by the Commissioner only to support departmental Departmental accreditation, registration, certification, and licensing, education, and training activities related to this chapter. The Fund shall be subject to the provisions of 32 V.S.A. chapter 7, subchapter 5.

§ 1754. PUBLIC EDUCATION

(a) ~~Beginning January 1, 1994, the~~ The Commissioner of ~~Health~~ shall prepare and distribute clear and simple ~~printed~~ materials describing the dangers of lead poisoning, the need for parents to have their child screened, how to have a child tested, and recommended nutrition and housekeeping practices. The Commissioner shall work with persons and organizations involved in occupations that may involve ~~lead-based paint~~ lead hazards or childhood lead poisoning to distribute the materials to their tenants, clients, patients, students, or customers, such as realtors, subcontractors, apartment owners, public housing authorities, pediatricians, family practitioners, nurse clinics, child clinics, other health care providers, child care and preschool operators, and kindergarten teachers. The Commissioner shall also identify those points in time or specific occasions when members of the public are in

contact with public agencies and lead might be an issue, such as building permits, home renovations, the WIC program, and programs established under 33 V.S.A. chapters 10, 11, and 12, and make the materials available on these occasions.

(b) The Commissioner shall prepare an appropriate media campaign to educate the public on lead poisoning prevention. The Commissioner shall encourage professional property managers, rehab and weatherization contractors, minimum housing inspectors, social workers, and visiting nurses to attend education and awareness workshops.

(c) The Commissioner shall develop a program or approve a program, or both, to train owners and managers of rental target housing and child care facilities and their employees to perform essential maintenance practices. The names and addresses of all persons who attend the approved training program shall be maintained as a public record that the Commissioner shall provide to the Department of Housing and Community Development.

§ 1755. UNIVERSAL SCREENING TESTING

(a) The Commissioner shall publish guidelines that establish the methods by which and the intervals at which children should be screened and given a confirmation test for elevated blood lead levels, according to the age of the children and their probability of exposure to lead. The guidelines shall take into account the recommendations of the U.S. Centers for Disease Control and Prevention and the American Academy of Pediatrics and shall be updated as those recommendations are changed. The Commissioner shall recommend screening for lead in other high risk groups. The Commissioner shall ensure that all health care providers who provide primary medical care to children six years of age or younger are informed of the guidelines. Once the Department has implemented lead screening reports within the immunization registry, the Department shall use the information in the registry to inform health care providers of their screening rates and to take, within available resources, other measures necessary to optimize screening rates, such as mailings to parents and guardians of children ages one and two, outreach to day care facilities and other community locations, screening at district offices, and educating parents and guardians of children being served.

(b) Annually, the Commissioner shall determine the percentage of children six years of age or younger who are being screened in accordance with the guidelines. If fewer than 85 percent of one-year-olds and fewer than 75 percent of two-year-olds as specified in the guidelines are receiving screening, the Secretary shall adopt rules to require that all health care providers who provide primary medical care to young children shall ensure that their patients are screened and tested according to the guidelines,

beginning January 1, 2011 All health care providers who provide primary health care to children shall test children one and two years of age for elevated blood lead levels in accordance with rules adopted by the Commissioner.

* * *

§ 1757. CHILDREN WITH ELEVATED BLOOD LEAD LEVELS

(a) ~~Upon receiving a report that a child has a screening test result of 10 or more micrograms of lead per deciliter of blood, or a lower level as determined by the Commissioner, the Commissioner shall take prompt action to ensure that the child obtains a confirmation test~~ The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 regarding:

(1) the method and frequency with which children shall be tested for elevated blood lead levels;

(2) the reporting requirements for the lead test result; and

(3) the action required for children found to have elevated blood lead levels.

(b) If the child has an elevated blood lead level, the Commissioner shall provide information on lead hazards to the parents or guardians of the child.

(c) If a child six years of age or younger has a confirmed blood lead level at or above ~~10 micrograms of lead per deciliter of blood~~ the level determined by the Commissioner, and if resources permit, the Commissioner:

(1) Shall, with the consent of the parent or guardian, provide an inspection of the dwelling occupied by the child or the ~~child care~~ child-occupied facility the child attends by a ~~state~~ State or private ~~lead risk assessor~~ lead-based paint inspector-risk assessor, and develop a plan in consultation with the parents, owner, physician, and others involved with the child to minimize the exposure of the child to lead. The plan developed under this subdivision shall require that any lead hazards identified through the inspection be addressed. The owner of rental target housing or a child care facility shall address those lead hazards within the owner's control, and shall not be required to abate lead hazards if interim controls are effective.

(2) May inspect and evaluate other dwelling units in the building in which the child is living if it is reasonable to believe that a child six years of age or younger occupies, receives care in, or otherwise regularly frequents the other dwellings in that building.

(d) Nothing in this section shall be construed to limit the Commissioner's authority under any other provision of Vermont law.

§ 1758. ~~HOUSING REGISTRY~~

~~(a) The Department shall issue certificates to all persons who satisfactorily complete a training program on performing essential maintenance practices for lead-based hazard control and shall compile a list of those persons' names.~~

~~(b) If additional funds are appropriated to the Department in fiscal year 1998, on or before October 1, 1997, the Department of Housing and Community Development shall establish and maintain a list of housing units that (1) are lead free, or (2) have undergone lead hazard control measures and passed independent dust clearance tests. The registry shall be maintained as a public record.~~

~~(c) The Department for Children and Families shall identify all child care facilities in which the owners have completed essential maintenance practices or lead hazard control measures and provide the findings to the Department annually. [Repealed.]~~

§ 1759. ESSENTIAL MAINTENANCE PRACTICES RRPM

ACTIVITIES

~~(a)(1) RRPM activities include activities that disturb lead-based paint on target housing and child-occupied facilities, unless the property has been certified as lead-free pursuant to subsection (e) of this section. RRPM practices for target rental housing and child care facilities shall minimally include regular inspection of painted surfaces for deterioration, prompt and safe repairs to deteriorated paint, and specialized cleaning after any work that disturbs painted surfaces and at tenant turnover.~~

~~(2) Essential maintenance practices (EMP) RRPM activities, including worksite preparation and cleanup of work areas, in rental target housing and child care child-occupied facilities shall be performed only by a person who has successfully completed an EMP accredited RRPM training program approved by the Commissioner or a person who works under the direct, on-site supervision of a person who has successfully completed such the training, unless the property is exempt pursuant to subsection (b) or (e) of this section. That person shall comply with section 1760 of this title and shall take all reasonable precautions to avoid creating lead hazards during any renovations, remodeling, maintenance, or repair project that disturbs more than one square foot of lead-based paint, pursuant to guidelines issued by the Department. The following essential maintenance practices shall be performed in all rental target housing and child care facilities, unless a lead inspector or a lead risk assessor has certified that the property is lead-free:~~

~~(1)(2) Install window well inserts in all windows or protect window wells by another method approved by the Department A person engaging in RRPM activities shall comply with section 1760 of this chapter and related~~

rules adopted by the Commissioner.

~~(2)(3) At least once a year, with the consent of the tenant, and at each change of tenant, perform visual on-site inspection of all interior and exterior painted surfaces and components at the property to identify deteriorated paint~~
A person engaging in RRPM activities shall take all reasonable precautions to avoid creating lead hazards during any RRPM project that is not a minor RRPM activity.

~~(3)(4) Promptly and safely remove or stabilize lead-based paint if more than one square foot of deteriorated lead-based paint is found on any interior or exterior surface located within any area of the dwelling to which access by tenants is not restricted. An owner shall assure that all surfaces are free of deteriorated lead-based paint within 30 days after deteriorated lead-based paint has been visually identified or within 30 days after receipt of a written or oral report of deteriorated lead-based paint from any person including the Department, a tenant, or an owner of a child care facility. Because exterior paint repairs cannot be completed in cold weather, any exterior repair work identified after November 1 shall be completed no later than the following May 31, provided that access to surfaces and components with lead hazards and areas directly below the deteriorated surfaces is clearly restricted~~
RRPM activities performed for compensation shall be conducted only by a licensed RRPM supervisor or under the direct, on-site supervision of a licensed RRPM supervisor.

~~(4) If more than one square foot of deteriorated paint is found on any exterior wall surface or fixture not covered by subdivision (3) of this subsection, the owner shall:~~

~~(A) promptly and safely repair and stabilize the paint and restore the surface; or~~

~~(B) prohibit access to the area, surface, or fixture to assure that children will not come into contact with the deteriorated lead-based paint.~~

~~(5) For any outdoor area, annually remove all visible paint chips from the ground on the property.~~

~~(6) At least once a year, using methods recommended by the Department, thoroughly clean all interior horizontal surfaces, except ceilings, in common areas accessible to tenants.~~

~~(7) At each change of tenant, thoroughly clean all interior horizontal surfaces of the dwelling, except ceilings, using methods recommended by the Department.~~

~~(8) Post, in a prominent place in buildings containing rental target housing units or a child care facility, a notice to occupants emphasizing the~~

~~importance of promptly reporting deteriorated paint to the owner or to the owner's agent. The notice shall include the name, address, and telephone number of the owner or the owner's agent.~~

~~(b) The owner of rental target housing shall perform all the following:~~

~~(1) File with the Department by the due date an EMP compliance statement certifying that the essential maintenance practices have been performed, including all the following:~~

~~(A) The addresses of the dwellings in which EMP were performed.~~

~~(B) The dates of completion.~~

~~(C) The name of the person who performed the EMP.~~

~~(D) A certification of compliance with subdivision (4) of this subsection.~~

~~(E) A certification that subdivisions (2) and (3) of this subsection have been or will be complied with within 10 days.~~

~~(2) File the statement required in subdivision (1) of this subsection with the owners' liability insurance carrier and the Department.~~

~~(3) Provide a copy of the statement to all tenants with written materials regarding lead hazards approved by the Department.~~

~~(4) Prior to entering into a lease agreement, provide approved tenants with written materials regarding lead hazards approved by the Department, along with a copy of the owner's most recent EMP compliance statement. The written materials approved by the Department pursuant to this subdivision shall include information indicating that lead is highly toxic to humans, particularly young children, and may even cause permanent neurological damage A homeowner residing in and intending to perform RRPM activities in his or her own private residence:~~

~~(1) is exempt from this section;~~

~~(2) shall comply with section 1760 of this chapter; and~~

~~(3) shall dispose of all lead-based paint in accordance with the rules adopted by the Department of Environmental Conservation.~~

~~(c) The owner of the premises of a child care facility shall perform all of the following:~~

~~(1) File with the Department by the due date an EMP compliance statement certifying that the essential maintenance practices have been performed, including all the following:~~

~~(A) The address of the child care facility.~~

~~(B) The date of completion of the EMP.~~

~~(C) The name of the person who performed the EMP.~~

~~(D) A certification that subdivision (2) of this subsection has been or will be complied with within 10 days.~~

~~(2) File the statement required in subdivision (1) of this subsection with the owner's liability insurance carrier; the Department for Children and Families; and with the tenant of the facility, if any. An owner of rental target housing or a child care facility or the owner's representative shall:~~

~~(1) file with the Department an RRPM compliance statement pursuant to rules adopted by the Commissioner, unless the property is exempt pursuant to subsection (e) of this section; and~~

~~(2) abide by any rules pertaining to the maintenance of lead-based paint and provision of notice to tenants as may be prescribed by the Commissioner.~~

~~(d)(1) An owner who desires an extension of time for filing the EMP compliance statement shall file a written request for an extension from the Department no later than 10 days before the due date. The Department may grant or deny an extension. Prior to entering into a lease agreement, an owner or owner's representative shall provide approved tenants with written materials approved by the Department regarding lead hazards and a copy of the owner's most recent RRPM compliance statement. The written materials approved by the Department pursuant to this subsection shall include information indicating that lead is highly toxic to humans, particularly young children, and may cause permanent neurological damage, even at low exposure levels.~~

~~(2) An owner of a facility, or owner's representative, shall fully inform a tenant who intends to operate a child care facility on the premises of the requirements of this section.~~

~~(e)(1) A property is exempt from this section if a written inspection report from a licensed lead-based paint inspector-risk assessor states that all accessible surfaces are free of lead-based paint and the owner and person performing RRPM activities have been provided with a copy of the report.~~

~~(2) An owner of rental target housing or a child care facility or owner's representative shall provide a copy of the written inspection report to the Department for review and determination of exempt status.~~

~~(3) A new written inspection report shall be required to maintain exempt status if lead hazards are created as a result of RRPM activities performed or if previously inaccessible components are exposed after the date of the original written inspection report.~~

~~(4) If a property has been remodeled, it is not exempt from this section~~

unless the full requirements of this section have been met.

(f) The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 as necessary for the implantation, administration, and enforcement of this section.

§ 1760. PRESUMPTION OF LEAD-BASED PAINT; PROHIBITED AND UNSAFE WORK PRACTICES

(a) All paint in target housing and child care, child-occupied facilities, and pre-1978 public facilities, commercial facilities, and bridges or other superstructures is presumed to be lead-based unless a lead inspector or lead risk assessor has determined that it is not lead-based the component affected by the RRPM activity is exempt pursuant to subsection (c) of this section. Unsafe work practices are prohibited and include the following, unless specifically authorized by permit by the Department:

(1) Removing lead-based paint by:

(A) open flame burning or torching;

(B) use of heat guns operated above 1,100 degrees Fahrenheit;

(C) dry scraping or dry sanding;

(D) machine sanding or grinding powered tools;

(E) uncontained hydro-blasting hydro-blasting or high-pressure washing;

(F) abrasive blasting or sandblasting without containment and high-efficiency particulate exhaust controls; and

(G) chemical stripping using methylene chloride products.

(2) Failing to employ one or more of the following lead-safe work practices: practice standards that the Commissioner shall adopt by rule.

(A) limiting access to interior and exterior work areas;

(B) enclosing interior work areas with plastic sheathing or other effective lead dust barrier;

(C) using protective clothing;

(D) misting painted surfaces before disturbing paint;

(E) wetting paint debris before sweeping to limit dust creation;

(F) any other measure required by the department.

(b) No A person shall not disturb more than one square foot or more of interior or exterior lead-based paint using unsafe work practices in target housing or in child care, child-occupied facilities, pre-1978 public facilities,

commercial facilities, and bridges or other superstructures.

(c) A component is exempt from this section if a written inspection report by a licensed lead-based paint inspector or lead-based paint inspector-risk assessor states that the component affected by an RRPM activity is free of lead-based paint, and the owner or firm, or both, conducting the activity has been provided with a copy of the report. Removal of all paint from a component does not exempt the component from the requirements of this section.

§ 1760a. ENFORCEMENT; ADMINISTRATIVE ORDER; PENALTIES

~~(a) A person who violates section 1759 of this title commits a civil violation and shall be subject to a civil penalty as set forth in this subsection which shall be enforceable by the Commissioner in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29.~~

~~(1) An owner of rental target housing who fails to comply with subdivisions 1759(b)(1), (2), and (3) of this title by the due date or an owner of a child care facility who fails to comply with subsection 1759(c) of this title by the due date shall pay a civil penalty of not more than \$50.00 if the owner comes into compliance within 30 days after the due date; otherwise the owner shall pay a civil penalty of not more than \$150.00.~~

~~(2) An owner who cannot demonstrate by a preponderance of the evidence that essential maintenance practices were performed by the due date shall pay an additional penalty of not more than \$250.00.~~

~~(b) Nothing in this section shall limit the Commissioner's authority under any other provisions of law. [Repealed.]~~

§ 1761. DUTY OF REASONABLE CARE; NEGLIGENCE; LIABILITY

~~(a) Owners~~ An owner of rental target housing and owners of or a child care facilities facility or an owner's representative shall take reasonable care to prevent exposure to, and the creation of, lead hazards. In an action brought under this section, evidence of actions taken or not taken to satisfy the requirements of this chapter, including performing ~~EMP~~ RRPM activities, may be admissible evidence of reasonable care or negligence.

(b) Any person who suffers an injury proximately caused by an owner's breach of this duty of reasonable care shall have a cause of action to recover damages and for all other appropriate relief.

(c) The owner of rental target housing or a child care facility or the owner's representative shall not be liable to a tenant of the housing or facility in an individual action for habitability under common law or pursuant to 9 V.S.A. chapter 63 or chapter 137, 10 V.S.A. chapter 153, or 12 V.S.A.

chapter 169 for injury or other relief claimed to be caused by exposure to lead if, during the relevant time period, the owner is in compliance with section 1759 of this title chapter and any of the following, should they exist:

(1) ~~the conditions of a lead risk assessor's certification, pursuant to Vermont regulations for lead control, that all identified lead hazards have been controlled and the housing or facility has passed an independent dust clearance test~~ specific recommendations of a lead-based paint risk assessment report provided by a lead-based paint inspector-risk assessor;

(2) any plan issued pursuant to section 1757 of this title chapter; or

(3) any assurance of discontinuance, order of the Commissioner, or court order regarding lead hazards.

(d) The immunity under subsection (c) of this section shall not be available if:

(1) there was fraud in the ~~certification process~~ RRPM compliance statement under section 1759 of this chapter; or

(2) the owner ~~violated conditions of the certification or~~ owner's representative did not follow the recommendations of a lead-based paint risk assessment report provided by a licensed lead-based paint inspector-risk assessor; or

(3) the owner or owner's representative created or allowed for the creation of lead hazards during renovation, remodeling, maintenance, or repair ~~after the certification; or~~

(4) the owner or the owner's representative failed to respond in a timely fashion to notification that lead hazards may have recurred on the premises.

(e) A defendant in an action brought under this section or at common law has a right to seek contribution from any other person who may be responsible, in whole or in part, for the child's blood lead level.

(f) Nothing in this section shall be construed to limit the right of the Commissioner or any agency or instrumentality of the State of Vermont to seek remedies available under any other provision of Vermont statutory law.

§ 1762. SECURED LENDERS AND FIDUCIARIES; LIABILITY

(a) A person who holds indicia of ownership in rental target housing or a child care facility furnished by the owner or person in lawful possession, for the primary purpose of assuring repayment of a financial obligation, and who takes full legal title through foreclosure or deed in lieu of foreclosure or otherwise shall not be liable as an owner of the property for injury or loss claimed to be caused by exposure to lead of a child on the premises, provided

that, on or before the 120th day after the date of possession, the person:

(1) performs ~~essential maintenance practices~~ RRPM activities as required by section 1759 of this ~~title~~ chapter; and

(2) fully discloses to all potential purchasers, operators, or tenants of the property any information in the possession of such person or the person's agents, regarding the presence of ~~lead-based paint~~ lead hazards or a lead-poisoned child on the property and, upon request, provides copies of all written reports on ~~lead-based paint~~ lead hazards to potential purchasers, operators, or tenants.

(b) The immunity provided in subsection (a) of this section shall expire 365 days after the secured lender or fiduciary takes full legal title.

(c) A person who holds legal title to rental target housing or a child care facility as an executor, administrator, trustee, or the guardian of the estate of the owner and demonstrates that in that fiduciary capacity the person does not have either the legal authority or the financial resources to fund capital or major property rehabilitation necessary to conduct ~~essential maintenance practices~~ RRPM activities shall not be personally liable as an owner for injury or loss caused by exposure ~~to lead by~~ of a child on the premises ~~to lead~~. However, nothing in this section shall limit the liability of the trust estate for such claims and those claims may be asserted against the trustee as a fiduciary of the trust estate.

§ 1763. PUBLIC FINANCIAL ASSISTANCE; RENTAL TARGET HOUSING AND CHILD CARE FACILITIES

Every State agency or instrumentality that makes a commitment to provide public financial assistance for the purchase or rehabilitation of rental target housing or child care facilities shall give priority to projects in which the property is ~~lead free~~, exempt pursuant to subsection 1759(e) of this chapter or lead-based paint hazards have been or will be identified and controlled and have passed or will pass an independent dust clearance test that determines that the property contains no lead-contaminated dust prior to occupancy or use. Priority rental target housing projects may include units occupied by severely lead-poisoned children and units in a building that are likely to contain ~~lead-based paint~~ lead hazards. ~~For purposes of~~ As used in this section, "public financial assistance" means any grant, loan, or allocation of tax credits funded by the State or the federal government, or any of their agencies or instrumentalities.

§ 1764. LEAD INSPECTORS; FINANCIAL RESPONSIBILITY

The Commissioner ~~may~~ shall require that a licensee or an applicant for a license under subsection 1752(d) of this ~~title~~ chapter provide evidence of

ability to ~~properly~~ indemnify properly a person who suffers damage from lead-based paint activities or RRPM activities such as proof of effective liability insurance coverage or a surety bond in an amount to be determined by the Commissioner, which shall not be less than \$300,000.00. This section shall not restrict or enlarge the liability of any person under any applicable law.

§ 1765. LIABILITY INSURANCE

(a) If the Commissioner of Financial Regulation determines that lead-based paint hazards have substantially diminished the availability of liability insurance for owners of rental target property or child care facilities and that a voluntary market assistance plan will not adequately restore availability, the Commissioner shall order liability insurers to provide or continue to provide liability coverage or to participate in any other appropriate remedial program as determined by the Commissioner, provided the prospective insured is otherwise in compliance with the provisions of this chapter.

* * *

§ 1766. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) A person who violates this chapter may be subject to an administrative penalty not to exceed \$5,000.00 for each determination of a separate violation. If the Commissioner determines that a violation is continuing, each day's continuance may be deemed a separate offense beginning from the date the violator is served with notice of the violation.

(b) The Commissioner may use the enforcement powers as set forth in chapter 3 of this title to enforce any violations of this chapter or of any related rules, permits, or orders issued.

§ 1767. TRANSFER OF OWNERSHIP OF TARGET HOUSING; ~~RISK~~ ASSESSMENT; ~~EMP~~ RRPM COMPLIANCE

(a) Prior to the time a purchase and sale agreement for target housing is executed, the seller shall provide the buyer with materials approved by the Commissioner, including a lead ~~paint~~ hazard brochure and materials on other lead hazards in housing. The seller shall also provide a disclosure form that shall include any lead-based paint inspection or risk assessment report or letter of exemption, assurance of discontinuance, administrative order, or court order the terms of which are not completed and, if the property is rental target housing, verification that the ~~EMP have been completed~~, RRPM was utilized pursuant to this chapter and that a current EMP RRPM compliance statement has been filed with the Department.

(b) At the time of sale purchase of target housing, sellers and other transferors shall provide the buyer or transferee with any materials delineated

in subsection (a) of this section not previously disclosed and a lead-safe renovation practices packet approved by the Commissioner and shall disclose any lead-based paint inspection or risk assessment report or letter of exemption, assurance of discontinuance, administrative order, or court order not disclosed pursuant to subsection (a) of this section the terms of which are not completed.

* * *

(d) Prior to the time of ~~sale~~ purchase of rental target housing, the real estate agents, sellers, and other transferors of title shall provide the buyer or transferee with information approved by the Commissioner explaining ~~EMP~~ RRPM obligations.

(e) A buyer or other transferee of title of rental target housing shall at the time of sale or transfer of ownership, or both, disclose this transfer to the Department.

(f) A buyer or other transferee of title to rental target housing who has purchased or received a building or unit that is not in full compliance with section 1759 of this ~~title~~ chapter shall bring the rental target housing into compliance with section 1759 of this ~~title~~ chapter within 60 days after the closing. Within the 60-day period, the buyer or transferee may submit a written request for an extension of time for compliance, which the Commissioner may grant in writing for a stated period of time for good cause only. Failure to comply with this subsection shall result in ~~a mandatory civil~~ an administrative penalty in accordance with section 1766 of this chapter.

~~(f) This section shall not apply to target housing that has been certified lead-free.~~

(g) Noncompliance with this section shall not affect marketability of title.

Sec. 2. EFFECTIVE DATE

This act shall take effect upon the Commissioner of Health's written confirmation to the Speaker of the House and the Senate President Pro Tempore, which shall be posted on the General Assembly's website, that the U.S. Environmental Protection Agency has issued a state certification to Vermont.

(Committee Vote: 11-0-0)

Rep. Browning of Arlington, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Human Services.

(Committee Vote: 8-0-3)

Amendment to be offered by Rep. Donahue of Northfield to the recommendation of amendment of the Committee on Human Services to H. 736

First: In Sec. 1, in 18 V.S.A. § 1754, in subsection (b), by inserting a second sentence to read as follows:

The campaign shall include education targeting owner-occupied residences regarding the importance of following safe maintenance and work practices when there is a potential for exposure to lead-based paint.

Second: In Sec. 1, in 18 V.S.A. § 1759, in subsection (a), by renumbering subdivision (2) in the second instance in which it appears to be subdivision (3) and by renumbering the remaining subdivisions to be numerically correct

Third: In Sec. 2 (Effective Date), by striking out the words “issued a state certification to Vermont” and inserting in lieu thereof the words “authorized the program as administered by Vermont”

H. 919

An act relating to workforce development.

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

Rep. Keenan of St. Albans City, for the Committee on Appropriations, recommends the bill ought to pass when amended as follows:

First: In Sec. 3 by striking out subsection (k) in its entirety and redesignating subsections (l)–(m) to be subsections (k)–(l)

Second: In Sec. 9 by striking out subsection (b) in its entirety and redesignating subsection (c) to be subsection (b)

(Committee Vote 11-0-0)

Action Postponed Until March 20, 2018

Committee Bill for Second Reading

H. 921

An act relating to nursing home oversight.

(Rep. Gamache of Swanton will speak for the Committee on Human Services.)

Amendment to be offered by Rep. Donahue of Northfield to H. 921

By striking out Sec. 3, effective dates, in its entirety and inserting in lieu thereof Secs. 3 and 4 to read as follows:

Sec. 3. TRANSFER OF OWNERSHIP; EXPEDITED CERTIFICATE OF NEED PROCESS

(a) Notwithstanding any provision of 18 V.S.A. chapter 221, subchapter 5 to the contrary, for the period from the effective date of this act through July 1, 2019, the Green Mountain Care Board shall review new applications for a certificate of need for transfer of ownership of a nursing home using the expedited process set forth in 18 V.S.A. § 9440(c)(5).

(b) For certificate of need applications for transfer of nursing home ownership that are pending on the effective date of this act, the Board may permit an applicant to elect whether to complete the certificate of need process on a standard or expedited basis.

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 (Nursing Home Oversight Working Group), Sec. 3 (transfer of ownership; expedited certificate of need process), and this section shall take effect on passage.

(b) Sec. 2 (18 V.S.A. § 9434) shall take effect on July 1, 2019 and shall apply to all transfers of ownership initiated on or after that date.

NOTICE CALENDAR

Favorable with Amendment

H. 429

An act relating to establishment of a communication facilitator program

Rep. Sibilia of Dover, for the Committee on Energy and Technology, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 218a(d) is amended to read:

(d) The Department of Public Service shall establish the Vermont Telecommunications Relay Service Advisory Council composed of the following members: one representative of the Department of Public Service, who shall act as chair and who shall be designated by the Commissioner of Public Service; one representative of the Department of Disabilities, Aging, and Independent Living, who shall act as vice chair; two representatives of the deaf community; one member of the community of people who are hard of hearing or have a speech limitation; one representative of a company providing local exchange service within the State; and one representative of an organization currently providing telecommunications relay services. The Council shall elect from among its members a chair and vice chair. Meetings shall be convened at the call of the Chair or a majority of the members of the

Council. The Council shall meet not more than six times a year. The members of the Council who are not officers or employees of the State shall receive per diem compensation and expense reimbursement in amounts authorized by 32 V.S.A. § 1010(b). The costs of such the compensation and reimbursement, and any other necessary administrative costs shall be included within the contract entered into under subsection (c) of this section. The Council shall advise the Department of Public Service and the contractor for telecommunications relay services on all matters concerning the implementation and administration of the State's telecommunications relay service.

Sec. 2. COMMUNICATION FACILITATOR PROGRAM; STUDY

The Commissioner of Public Service, in consultation with the Commissioner of Disabilities, Aging, and Independent Living, shall make findings and recommendations regarding the establishment a communication facilitator program in Vermont that would enable members of the DeafBlind community to make telephone calls. The Commissioner shall solicit input from representatives or members of the DeafBlind community in Vermont and shall take into consideration similar programs offered in other jurisdictions. The Commissioner's findings shall include the administrative and implementation costs of the program; the number of individuals in the DeafBlind community in Vermont; expected participation in the program; and an assessment of whether there are grant opportunities to help defray program costs. The Commissioner's recommendations shall include a funding source for the program. The Commissioner shall report his or her findings and recommendations on or before December 15, 2018 to the House Committees on Energy and Technology and on Human Services and the Senate Committees on Finance and on Health and Welfare.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 8-0-0)

Rep. Keenan of St. Albans City, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Energy and Technology.

(Committee Vote: 11-0-0)

H. 560

An act relating to household products containing hazardous substances

Rep. Sullivan of Burlington, for the Committee on Natural Resources; Fish; and Wildlife, recommends the bill be amended by striking all after the

enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Thousands of household products sold in the State contain substances designated as hazardous under State or federal law.

(2) Vermont's hazardous waste regulations establish specific requirements for the management of hazardous waste, including a prohibition on disposal in landfills.

(3) Leftover household products, known as household hazardous waste (HHW), are regulated through a requirement that municipal solid waste management entities (SWMEs) include provisions in solid waste implementation plans for the management and diversion of unregulated hazardous waste. The State solid waste management plan also will require the SWMEs to each hold four HHW collection events every year.

(4) Many SWMEs already offer more than four HHW collection events each year, and five of the SWMEs have established permanent facilities for the regular collection of HHW.

(5) HHW collection events or permanent facilities are expensive to operate, and SWMEs spend approximately \$1.6 million a year to manage HHW, costs that are subsequently passed on to the residents of Vermont through taxes or disposal charges.

(6) As a result of the failure to divert HHW, it is estimated that 640 tons or more per year of HHW are being disposed of in landfills.

(7) There is general agreement among the SWMEs and the Agency of Natural Resources that additional collection sites and educational and informational activities are necessary to capture more of the HHW being disposed of in landfills.

(8) Funding constraints are a current barrier to new collection sites and educational and informational activities.

(9) HHW released into the environment can contaminate air, groundwater, and surface waters, thereby posing a significant threat to the environment and public health.

(10) To improve diversion of HHW from landfills, reduce the financial burden on SWMEs, taxpayers, and the cost of the overall system of managing HHW, and lessen the environmental and public health risk posed by improperly disposed of HHW, the Secretary of Natural Resources shall convene the Working Group on Household Hazardous Waste to recommend

how best to manage and fund HHW in the State.

(11) If the Working Group on Household Hazardous Waste fails to provide recommendations, the State shall implement a program to require the manufacturers of household products containing a hazardous substance to implement a stewardship organization to collect household products containing a hazardous substance free of charge to the public.

Sec. 2. AGENCY OF NATURAL RESOURCES WORKING GROUP ON
HOUSEHOLD HAZARDOUS WASTE

(a) The Secretary of Natural Resources shall convene the Working Group on Household Hazardous Waste to review alternatives for the management and funding of household hazardous waste collection in the State. It is the intent of the General Assembly that the Working Group will involve a representative group of stakeholders with interest in the management of household hazardous waste. On or before January 15, 2019, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy a report on agreement within the Working Group, or lack thereof, recommending how the State should manage and fund household hazardous waste. If agreement is reached, the report shall include:

(1) a review of the stewardship organization requirements of 10 V.S.A. chapter 164B, as enacted in Sec. 3 of this act, and make recommendations on how to efficiently and effectively implement the requirements in 10 V.S.A. chapter 164B including any changes necessary to implement or improve the chapter; and

(2) an evaluation of alternative methods for easing the financial burden to municipalities and providing convenient access for collection of household hazardous waste.

(b) As used in this section, “household hazardous waste” shall have the same meaning as set forth in 10 V.S.A. § 6602, and shall include waste from conditionally exempt generators.

Sec. 3. 10 V.S.A. chapter 164B is added to read:

CHAPTER 164B. COLLECTION AND MANAGEMENT OF
HOUSEHOLD HAZARDOUS PRODUCTS

§ 7181. DEFINITIONS

As used in this chapter:

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

(2) “Consumer product” means any product that is regularly used or

purchased to be used for personal, family, or household purposes.

(3)(A) “Covered household hazardous product” means a consumer product offered for retail sale that is contained in the receptacle in which the product is offered for retail sale, if the product has any of the following characteristics:

(i) The physical properties of the product meet the criteria for characteristic wastes under the federal Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580, as amended, including ignitability, corrosivity, reactivity, or toxicity as defined in 40 C.F.R. §§ 261.20-261.24.

(ii) The physical properties of the product meet the criteria for designation as a class 2, 3, 4, 5, 6, or 8 hazardous material, as defined in 49 C.F.R. part 173, by the U.S. Department of Transportation under the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 5101-5128, as amended.

(iii) The product is a marine pollutant as defined in 49 C.F.R. § 171.8.

(iv) The product is a hazardous waste under chapter 159 of this title or rules adopted under that chapter.

(B) “Covered product” does not mean:

(i) A primary battery or rechargeable battery.

(ii) A lamp that contains mercury.

(iii) A thermostat that contains mercury.

(iv) Architectural paint as that term is defined in section 6672 of this chapter.

(v) Covered electronic devices as that term is defined in section 7551 of this title.

(iv) A pharmaceutical drug.

(v) A pesticide regulated by the Secretary of Agriculture, Food and Markets.

(vi) Products that are intended to be rubbed, poured, sprinkled on, sprayed on, introduced into, or otherwise applied to the human body or any part of a human for cleansing, moisturizing, sun protection, beautifying, promoting attractiveness, or altering appearance, unless designated as a hazardous material or a hazardous waste by the Secretary of Natural Resources.

(4) “Covered entity” means any person who presents to a collection

facility that is included in an approved plan any number of covered household hazardous products.

(5) “Manufacturer” means a person who:

(A) manufactures or manufactured a covered household hazardous product under its own brand or label for sale in the State;

(B) sells in the State under its own brand or label a covered household hazardous product produced by another supplier;

(C) owns a brand that it licenses or licensed to another person for use on a covered household hazardous product sold in the State;

(D) imports into the United States for sale in the State a covered household hazardous product manufactured by a person without a presence in the United States;

(E) manufactures a covered household hazardous product for sale in the State without affixing a brand name; or

(F) assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (A) through (E) of this subdivision (5), provided that the Secretary may enforce the requirements of this chapter against a manufacturer defined under subdivisions (A) through (E) of this subdivision (5) if a person who assumes the manufacturer’s responsibilities fails to comply with the requirements of this chapter.

(6) “Program year” means the period from January 1 through December 31.

(7) “Retailer” means a person who sells a covered household hazardous product in the State through any means, including a sales outlet, a catalogue, the telephone, the Internet, or any electronic means.

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

(9) “Sell” or “sale” means any transfer for consideration of title or of the right to use by lease or sales contract a covered household hazardous product to a person in the State of Vermont. “Sell” or “sale” does not include the sale, resale, lease, or transfer of a used covered household hazardous product or a manufacturer’s wholesale transaction with a distributor or a retailer.

(10) “Stewardship organization” means an organization, association, or entity that has developed a system, method, or other mechanism that assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of covered household hazardous products.

§ 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCT;

STEWARDSHIP ORGANIZATION REGISTRATION

(a) Sale prohibited. Beginning on January 1, 2021, except as set forth under section 7188 of this title, a manufacturer of a covered household hazardous product shall not sell, offer for sale, or deliver to a retailer for subsequent sale a covered household hazardous product unless all the following have been met:

(1) The manufacturer is participating in a stewardship organization implementing an approved collection plan.

(2) The name of the manufacturer, the manufacturer's brand, and the name of the covered household hazardous product are submitted to the Agency of Natural Resources by a stewardship organization and listed on the stewardship organization's website as covered by an approved plan.

(3) The stewardship organization in which the manufacturer participates has submitted an annual report under section 7185 of this title.

(4) The stewardship organization in which the manufacturer participates has conducted a plan audit consistent with the requirements of subsection 7185(b) of this title.

(b) Stewardship organization registration requirements.

(1) Beginning on January 1, 2020 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary shall provide the registration form to a stewardship organization. The registration form shall include:

(A) a list of the manufacturers participating in the stewardship organization;

(B) a list of the brands of each manufacturer participating in the stewardship organization;

(C) a list of the covered household hazardous products of each manufacturer participating in the stewardship organization;

(D) the name, address, and contact information of a person responsible for ensuring the manufacturer's compliance with this chapter;

(E) a description of how the stewardship organization meets the requirements of subsection 7184(b) of this title, including any reasonable requirements for participation in the stewardship organization; and

(F) the name, address, and contact information of a person for a nonmember manufacturer to contact regarding how to participate in the stewardship organization to satisfy the requirements of this chapter.

(2) A renewal of a registration without changes may be accomplished through notifying the Agency of Natural Resources on a form provided by the Agency.

§ 7183. COLLECTION PLANS

(a) Collection plan required. Prior to July 1, 2020, a stewardship organization representing manufacturers of covered household hazardous products shall submit a collection plan to the Secretary for review.

(b) Collection plan; minimum requirements. Each stewardship plan shall include, at a minimum, all of the following requirements:

(1) A list of the manufacturers, brands, and products participating in the plan and a methodology for adding and removing manufacturers and notifying the Agency of new participants.

(2) Free collection of covered household hazardous products. The collection program shall provide for free collection from covered entities of covered household hazardous products. A stewardship organization shall accept all covered household hazardous products collected from a covered entity and shall not refuse the collection of a covered household hazardous product based on the brand or manufacturer of the covered household hazardous product. The collection program shall also provide for the payment of collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and equipment costs, maintenance, and labor.

(3) Convenient collection location. The stewardship organization shall develop a collection program that:

(A) allows all municipal collection programs and facilities to opt to be part of a collection plan;

(B) at a minimum, has not less than one collection program in each county, provided that stewardship organizations shall have until July 1, 2023 to establish permanent collection programs in counties that currently lack a program. Prior to establishment of a permanent collection program in a county that currently lacks a program, the stewardship organization shall hold at least four collection events per year for the collection of covered household hazardous products; and.

(C) maintains the current level of convenience provided by programs in operation prior to July 1, 2020 that are identified as collection programs under the plan.

(4) Public education and outreach. The collection plan shall include an education and outreach program that may include media advertising, retail

displays, articles in trade and other journals and publications, and other public educational efforts. The education and outreach program shall include a website to notify the public of the following:

(A) that there is a free collection program for covered household hazardous products;

(B) the location and hours of operation of collection points and how a covered entity can access this collection program;

(C) the special handling considerations associated with covered household hazardous products; and

(D) source reduction information for consumers to reduce leftover covered household products.

(5) Compliance with appropriate environmental standards. In implementing a collection plan, a stewardship organization shall comply with all applicable laws related to the collection, transportation, and disposal of hazardous waste. A stewardship organization shall comply with any special handling or disposal standards established by the Secretary for covered household hazardous products or for the collection plan of the manufacturer.

(6) Method of disposition. The plan shall describe how covered household hazardous products will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of covered household hazardous products under the plan shall use management activities that promote source reduction, reuse, recycling, energy recovery, and disposal. Collected covered household hazardous products shall be recycled when technically and economically feasible.

(7) Roles and responsibilities. A stewardship plan shall list all key participants in the covered household hazardous products collection chain, including;

(A) the name and location of the collection facilities accepting covered household hazardous products under the plan and the address and contact information for each facility;

(B) the name and contact information of the contractor responsible for transporting the covered household hazardous products; and

(C) the name and address of the recycling and disposal facilities where the covered household hazardous products collected are deposited.

(8) Participation rate. A stewardship plan shall include a collection participation rate as a performance goal for covered household hazardous products based on the participation rate determined by the number of total

participants in the collection plan during a program year divided by the total number of households in the State. If a stewardship organization does not meet its participation rate, the Secretary may require the stewardship organization to revise the collection plan to provide for one or more of the following additional public education and outreach, additional collection events, or additional hours of operation for collection sites.

(9) Plan funding. The plan shall describe how the stewardship organization will fund the implementation of the plan and collection under the plan including the costs for education and outreach, collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and equipment costs, maintenance, and labor. The plan must include how municipalities will be compensated for all costs associated with collection of covered household hazardous products.

(c) Term of collection plan. A collection plan approved by the Secretary under section 7187 of this title shall have a term not to exceed five years, provided that the manufacturer remains in compliance with the requirements of this chapter and the terms of the approved plan.

(d) Plan implementation. A stewardship organization shall implement a collection plan by no later than January 1, 2021.

§ 7184. STEWARDSHIP ORGANIZATIONS

(a) Participation in a stewardship organization. A manufacturer shall meet the requirements of this chapter by participating in a stewardship organization that undertakes the responsibilities under sections 7182, 7183, and 7185 of this title.

(b) Qualifications for a stewardship organization. To qualify as a stewardship organization under this chapter, an organization shall:

(1) commit to assume the responsibilities, obligations, and liabilities of all manufacturers participating in the stewardship organization;

(2) not create unreasonable barriers for participation in the stewardship organization; and

(3) maintain a public website that lists all manufacturers and manufacturers' brands and products covered by the stewardship organization's approved collection plan.

§ 7185. ANNUAL REPORT; PLAN AUDIT

(a) Annual report. On or before March 1, 2022, and annually thereafter, a stewardship organization of manufacturers of covered household hazardous products shall submit a report to the Secretary that contains all of the following:

(1) A description of the collection program.

(2) The volume or weight by hazard category of covered household hazardous products collected, the disposition of the collected covered household hazardous products, and the number of covered entities participating at each collection facility or collection event from which the covered household hazardous products were collected.

(3) An estimate of the weight or volume by hazard category of covered household hazardous products sold in the State in the previous calendar year by manufacturer participating in stewardship organization's collection plan. Sales data and other confidential business information provided under this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Confidential information shall be redacted from any final public report.

(4) A comparison of the plan's participation rate compared to actual participation rate and how the program will be improved if the participation rate goal was not met.

(5) A description of the methods used to reduce, reuse, collect, transport, recycle, and process the covered household hazardous products.

(6) The cost of implementing the stewardship plan including the costs of administration, collection, transportation, recycling, disposal, and education and outreach.

(7) A description and evaluation of the success of the education and outreach materials.

(8) Recommendations for any changes to the program.

(b) Plan audit. On or before March 1, 2026 and every five years thereafter, a stewardship organization of manufacturers of covered household hazardous products shall hire an independent third party to audit the plan and the plan's operation. The auditor shall examine the effectiveness of the program in collecting and disposing of covered household hazardous products. The auditor shall examine the cost-effectiveness of the program and compare it to that of collection programs for covered household hazardous products in other jurisdictions. The auditor shall make recommendations to the Secretary on ways to increase the program's efficacy and cost-effectiveness.

(c) Public posting. A stewardship organizations shall post a report or audit required under this section to the website of the stewardship organization.

§ 7186. ANTITRUST; CONDUCT AUTHORIZED

(a) Activity authorized. A manufacturer, group of manufacturers, or stewardship organization implementing or participating in an approved

stewardship plan under this chapter for the collection, transport, processing, and end-of-life management of covered household hazardous products is individually or jointly immune from liability for conduct under State laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1, to the extent that the conduct is reasonably necessary to plan, implement, and comply with the stewardship organization's chosen system for managing discarded covered household hazardous products.

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or stewardship organizations affecting the price of covered household hazardous product or any agreement restricting the geographic area in which or customers to whom covered household hazardous product shall be sold.

§ 7187. AGENCY RESPONSIBILITIES

(a) Review and approve collection plans. The Secretary shall review and approve or deny collection plans submitted under section 7183 of this title. The Secretary shall approve a collection plan if the Secretary finds that the plan:

(1) complies with the requirements of subsection 7183(a) of this title.

(2) provides adequate notice to the public of the collection opportunities available for covered household hazardous products.

(3) ensures that collection of covered household hazardous products will occur in an environmentally sound fashion that is consistent with the law or with any special handling requirements adopted by the Secretary.

(4) promotes the collection and disposal of covered household hazardous products.

(b) Plan amendment. The Secretary, in his or her discretion or at the request of a manufacturer or a stewardship organization, may require a stewardship organization to amend an approved plan. Plan amendments shall be subject to the public input provisions of subsection (c) of this section.

(c) Public input. The Secretary shall establish a process under which a collection plan for covered household hazardous products is available for public review and comment for 30 days prior to plan approval or amendment. In establishing such a process, the Secretary shall consult with interested persons, including manufacturers, environmental groups, wholesalers, retailers, municipalities, and solid waste districts.

(d) Registrations. The Secretary shall accept, review, and approve or deny

registrations required by this chapter. The Secretary may revoke a registration of a stewardship organization for actions that are unreasonable, unnecessary, or contrary to the requirements or the policy of this chapter.

(e) Supervisory capacity. The Secretary shall act in a supervisory capacity over the actions of a stewardship organization registered under this section. In acting in this capacity, the Secretary shall review the actions of the stewardship organization to ensure that they are reasonable, necessary, and limited to carrying out requirements of and policy established by this chapter.

(f) Special handling requirements. The Secretary may adopt, by rule, special handling requirements for the collection, transport, and disposal of covered household hazardous products.

§ 7188. RETAILER OBLIGATIONS

(a) Sale prohibited. Except as set forth under subsection (b) of this section, beginning on January 1, 2021, no retailer shall sell or offer for sale a covered household hazardous product unless the retailer has reviewed the stewardship organization website required in subsection 7184(b) of this title to determine that the manufacturer of the covered household hazardous product is implementing an approved collection plan or is a member of a stewardship organization.

(b) Inventory exception; expiration or revocation of manufacturer registration. A retailer shall not be responsible for an unlawful sale of a covered household hazardous product under this subsection if:

(1) the retailer purchased the covered household hazardous product prior to January 1, 2021; or

(2) the manufacturer's collection plan expired or was revoked, and the retailer took possession of the in-store inventory of covered household hazardous product prior to the expiration or revocation of the manufacturer's collection plan.

§ 7189. OTHER DISPOSAL PROGRAMS

A municipality or other public agency shall not require covered entities to use public facilities to dispose of covered household hazardous products to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their collection and disposal obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program collecting and disposing of covered household hazardous products in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or disposing of covered household hazardous products, provided that all other applicable laws are met.

§ 7190. RULEMAKING

The Secretary of Natural Resources may adopt rules to implement the requirements of this chapter.

Sec. 4. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF
REGISTRATION FEE FOR COVERED HOUSEHOLD
HAZARDOUS PRODUCTS

On or before January 15, 2021, the Secretary of Natural Resources shall submit to the House Committees on Ways and Means and on Natural Resources, Fish, and Wildlife and the Senate Committees on Finance and on Natural Resources and Energy a recommended fee for the registration of stewardship organizations under the covered household hazardous product program under 10 V.S.A. chapter 164B.

Sec. 5. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

* * *

(5) Paint (~~whether water-based~~ water-based or oil-based), oil-based; paint thinner_; paint remover_; stains_; and varnishes. This prohibition shall not apply to solidified ~~water-based~~ water-based paint in quantities of less than one gallon, nor shall this prohibition apply to solidified ~~water-based~~ water-based paint in quantities greater than one gallon if those larger quantities are from a waste stream that has been subject to an effective paint reuse program, as determined by the Secretary.

(6) Nickel-cadmium batteries, small sealed lead acid batteries, nonconsumer mercuric oxide batteries, and any other battery added by the Secretary by rule.

* * *

(8) Banned electronic devices. After January 1, 2011_; computers; peripherals; computer monitors; cathode ray tubes; televisions; printers; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; wireless telephones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (~~as used to charge electronic devices~~).

* * *

(12) Covered household hazardous products after January 1, 2021.

Sec. 6. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

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

* * *

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species; ~~and~~

(28) 30 V.S.A. § 255, relating to regional coordination to reduce greenhouse gases; and

(29) 10 V.S.A. chapter 164B, relating to collection and management of covered household hazardous products.

* * *

Sec. 7. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(U) chapter 168 (product stewardship for primary batteries and rechargeable batteries);₂

(V) chapter 164B (collection and management of covered household hazardous products).

(2) 29 V.S.A. chapter 11 (management of lakes and ponds).

(3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

* * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 6-1-2)

Reps. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Natural Resources; Fish; and Wildlife.

(Committee Vote: 6-4-1)

H. 777

An act relating to the Clean Water State Revolving Loan Fund

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

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

Sec. 1. 24 V.S.A. § 4751 is amended to read:

§ 4751. DECLARATION OF POLICY

It is hereby declared to be in the public interest to foster and promote timely expenditures by municipalities for water systems, ~~water pollution abatement and control facilities~~ clean water projects, and solid waste management, each of which is declared to be an essential governmental function when undertaken and implemented by a municipality. It is also declared to be in the public interest to promote expenditures for certain existing privately owned public water systems and certain privately owned ~~wastewater and public and potable water supply systems~~ to bring those systems into compliance with federal and State standards and to protect public health and the environment. Additionally, it is declared to be in the public interest to promote public-private partnerships and expenditures by private entities for clean water projects to protect and improve the quality of waters of the State.

Sec. 2. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(10) ~~“Privately owned wastewater system” means a privately owned wastewater system, that receives primarily domestic type wastes. [Repealed.]~~

(11) ~~“Water pollution abatement and control facilities”~~ “Clean water project” means “water pollution abatement and control facilities,” as defined in 10 V.S.A. § 1571, and such equipment, conveyances, and structural or nonstructural facilities owned or operated by a municipality, and natural resources projects that are needed for and appurtenant to the prevention,

management, treatment, storage, or disposal of stormwater, sewage, or waste, or that provide water quality benefits, including a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.

* * *

(17) “Natural resources project” means a project to protect, conserve, or restore natural resources, including the acquisition of easements and land, for the purpose of providing water quality benefits.

(18) “Sponsorship program” means an arrangement in which natural resources projects are paired with water pollution abatement and control facilities projects, as defined in 10 V.S.A. § 1571, for the purposes of water quality improvement. Under the sponsorship program, a municipality may obtain a loan for both a natural resources project and a water pollution abatement and control facilities project. The loan rate and terms shall be adjusted to forgive all or a portion of the natural resources project over the life of the loan. Only municipalities and non-profit organizations may receive funds under a sponsorship program.

Sec. 3. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans ~~to municipalities and State agencies~~ for planning and construction of ~~water pollution abatement and control facilities~~ clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

(2) The Vermont Pollution Control Revolving Fund, which shall be used to provide loans to municipalities and State agencies for planning and construction of ~~water pollution abatement and control facilities~~ clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way.

* * *

Sec. 4. 24 V.S.A. § 4754 is amended to read:

§ 4754. LOAN APPLICATION

A municipality may apply for a loan, the proceeds of which shall be used to

acquire, design, plan, construct, enlarge, repair, or improve a ~~publicly owned water pollution abatement and pollution control facility~~ a clean water project, public water supply systems as defined in subdivision 4752(9) of this title, or a solid waste handling and disposal facility, or certain privately owned ~~wastewater systems~~ clean water projects as described in section 4763 of this title, or to implement a related management program. In addition, the loan proceeds shall be used to pay the outstanding balance of any engineering planning advances made to the municipal applicant under this chapter and determined by the Secretary to be due and payable following construction of the improvements to be financed by the proceeds of the loan. The Bond Bank may prescribe any form of application or procedure required of a municipality for a loan hereunder. ~~Such~~ The application shall include such information as the Bond Bank shall deem necessary for the purpose of implementing this chapter.

Sec. 5. 24 V.S.A. § 4755(a) is amended to read:

(a) Except as provided by subsection (c) of this section, the Bond Bank may make loans to a municipality on behalf of the State for one or more of the purposes set forth in section 4754 of this chapter. Each of ~~such~~ the loans shall be made subject to the following conditions and limitations:

* * *

(4) Notwithstanding any other provisions of law, municipal legislative bodies may execute notes and incur debt on behalf of municipalities:

(A) with voter approval at a duly warned meeting, for amounts less than \$75,000.00; ~~or~~

(B) by increasing previously approved bond authorizations by up to \$75,000.00 to cover unanticipated project costs or the cost of directly and functionally related enhancements; or

(C) without voter approval, in an amount which does not exceed an amount to be forgiven or cancelled upon the completion of a natural resources project under the sponsorship program.

* * *

Sec. 6. 24 V.S.A. § 4758(a) is amended to read:

(a) Periodically, and at least annually, the Secretary shall prepare and certify to the Bond Bank a project priority list of those municipalities whose ~~publicly owned projects, or privately owned wastewater systems,~~ clean water projects are eligible for financing or assistance under this chapter. In determining financing availability for ~~water pollution abatement and control facilities~~ clean water projects under this ~~chapter~~ subchapter, the Secretary shall

apply the criteria adopted pursuant to 10 V.S.A. § 1628.

Sec. 7. 24 V.S.A. § 4763 is amended to read:

§ 4763. ~~LOANS FOR PRIVATELY-OWNED WASTEWATER SYSTEMS~~
TO MUNICIPALITIES FOR PRIVATELY OWNED CLEAN
WATER PROJECTS

(a) Where the ~~secretary~~ Secretary has determined that ~~the construction, repair, or replacement of a privately-owned wastewater system~~ a privately owned clean water project is the preferred alternative to abate or control a pollution problem ~~or to provide water quality benefits~~, a loan may be made to a municipality from the Vermont ~~environmental protection agency (EPA)~~ pollution control revolving fund Environmental Protection Agency Pollution Control Revolving Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) Guaranteed repayment of the loan will be based on a municipal bond, but actual repayment may be made with funds from the owner, as set forth in an agreement between the owner and the municipality.

(2) In all cases, there shall be a binding agreement between the owner and the municipality that provides for the proper operation and maintenance of the ~~privately-owned wastewater system~~ privately owned clean water project for at least the term of the loan.

(3) All conditions and limitations of section 4755 of this title apply to loans made under this section.

(4) No construction loan shall be made to a municipality under this subsection, nor shall any part of any revolving loan made under this subsection be expended until all of the following take place:

(A) The ~~secretary~~ Secretary certifies to the ~~bond bank~~ Bond Bank that all land use, subdivision, public building, and water supply and wastewater permits necessary to construct and operate ~~the any~~ improvements to be financed by the loan have been issued to the owner of the ~~privately-owned wastewater system~~ privately owned clean water project.

(B) The applicant municipality certifies to the ~~bond bank~~ Bond Bank that the ~~private system~~ owner has secured all ~~state~~ State and federal permits, licenses, and approvals necessary to construct and operate the ~~improvements~~ clean water project to be financed by the loan.

(C) The ~~secretary~~ Secretary certifies to the ~~bond bank~~ Bond Bank that the loan eligibility priority established under section 4758 of this title entitles the applicant municipality to immediate financing or assistance under

this chapter.

(D) The applicant municipality, in the case of applications by towns, cities, and incorporated villages, and with respect to all loans awarded after July 1, 1992, certifies to the ~~bond bank~~ Bond Bank that the project conforms to a duly adopted capital budget and program, consistent with chapter 117 of this title, for meeting the pollution control needs of the municipality.

(E) The applicant municipality, in the case of an application by a district, certifies to the ~~bond bank~~ Bond Bank that the project conforms to a capital budget and program duly adopted by the district in accordance with the provisions of its charter.

(b) The ~~bond bank~~ Bond Bank may make loans to a municipality for the preparation of final engineering plans and specifications for the construction of a ~~privately-owned wastewater system~~ privately owned clean water project or element of such a project in the same manner as set forth in subsection 4756(b) of this title.

Sec. 8. 24 V.S.A. § 4763a is redesignated to read:

§ 4763a. LOANS TO MUNICIPALITIES FOR PRIVATELY OWNED POTABLE WATER SUPPLIES

Sec. 9. 24 V.S.A. § 4763c is redesignated to read:

§ 4763c. LOANS TO MUNICIPALITIES FOR MUNICIPAL PUBLIC WATER SUPPLY SYSTEMS

Sec. 10. 24 V.S.A. chapter 120, subchapter 3 is redesignated to read:

Subchapter 3. Private Loans for Privately Owned Public Water Systems

Sec. 11. 24 V.S.A. chapter 120, subchapter 4 is added to read:

Subchapter 4. Private Loans for Clean Water Projects

§ 4780. ELIGIBILITY AND LOAN APPLICATION

(a) The Vermont Economic Development Authority (VEDA) is authorized to make loans on behalf of the State to private entities for a clean water project; provided, however, that no State funds are used. Such loans shall be issued and administered by VEDA pursuant to this subchapter.

(b) A private entity may apply to VEDA for a loan from the Vermont Environmental Protection Agency Pollution Control Revolving Fund, established in section 4753 of this title, for a clean water project. The loan proceeds shall be used to acquire, design, plan, construct, enlarge, repair, improve, or implement a clean water project. Loan proceeds shall not be used for operation and maintenance expenses or laboratory fees for monitoring.

(c) The Secretary and VEDA may prescribe any form of application or procedure for a loan hereunder, request from an applicant any information deemed necessary to implement this subchapter, and impose an application fee and an administrative fee determined reasonable and necessary to cover administrative costs. Fee proceeds shall be deposited in the administrative fee account established in subsection 4755(a) of this chapter.

§ 4782. CONDITIONS OF LOAN AGREEMENT

(a) VEDA may make loans to applicants on behalf of the State for one or more of the purposes set forth in subsection 4781(b) of this title. Each loan shall be made subject to the following conditions:

(1) The loan shall be evidenced by a note payable over a term not to exceed 30 years. Repayment shall commence not later than one year after completion of the project for which loan funds have been issued.

(2) The loan shall be secured with assets as determined by VEDA. VEDA may also require that the applicant assign all or a portion of any revenues from the clean water project as security for the loan or may require the establishment of a reserve fund.

(3) The rate of interest charged for loans shall be set by the State Treasurer, taking into consideration prevailing borrowing rates available to similarly situated applicants from private lenders and the administrative fees to be charged to applicants. VEDA, in cooperation with the Secretary, shall periodically recommend interest rates to be set by the State Treasurer that are the lowest practicable rates consistent with maintaining the long-term integrity of the Fund. The interest rate set by the State Treasurer may be less than the prevailing borrowing rates available to similarly situated applicants from private lenders, but not less than zero percent.

(b) The loan agreement shall specify the terms and conditions of the loan and its repayment by the applicant, as well as other terms and conditions determined necessary by the Secretary and VEDA.

(c) Disbursement of loan proceeds shall be based on certification to the Secretary and VEDA by the loan recipient demonstrating that the costs for which reimbursement is requested have been incurred and paid by the recipient. The recipient shall provide supporting evidence of payment upon the request of VEDA. Partial disbursements of loan proceeds shall be made not more frequently than monthly.

(d) Interim financing charges or short-term interest costs may constitute an allowable cost of a project for which a loan is extended, provided VEDA approved in advance the terms, conditions, interest rate, and other related matters concerning the financing or interest cost. In the event short-term

financing is unavailable to the applicant, VEDA may make interim loan disbursements not more frequently than monthly to the applicant and its general contractor as co-payees upon submission of a certified request for payment supported by actual invoices or other evidence satisfactory to VEDA of costs incurred.

(e) VEDA shall have the right prior to making any disbursement of the loan proceeds to require confirmation from an independent registered professional engineer that any work has been performed according to project plans and specifications approved by the Secretary.

(f) VEDA may require as part of the loan agreement that the applicant cause an audit of the project costs to be prepared and approved by VEDA prior to VEDA's making final payment of the loan amount.

(g) In the event of default, any amounts owed upon the loan shall be considered a debt for the purposes of 32 V.S.A. § 5932(4). VEDA may recover such debt pursuant to the setoff debt collection remedy established under 32 V.S.A. §§ 5933 and 5934.

§ 4783. QUALIFICATIONS FOR ELIGIBILITY; CERTIFICATION

No loan to an applicant shall be made under this subchapter until:

(1) The applicant has certified all of the following to VEDA:

(A) all State and federal permits and licenses necessary to undertake the project for which financing has been sought will be obtained prior to the expenditure of construction funds under the loan;

(B) the applicant has sufficient means to pay the principal and interest on the loans and to pay any anticipated costs of operating and maintaining the financed project;

(C) if the applicant is subject to the jurisdiction of the Public Utility Commission under 30 V.S.A §§ 102 and 203(6), the applicant has obtained the following approvals, if such approvals are necessary for the project, and has provided VEDA with copies of those approvals:

(i) the certificate of public good issued by the Public Utility Commission pursuant to 30 V.S.A. § 231 (public good) and 30 V.S.A. § 108 (approving the loan); and

(ii) the decision and order of the Public Utility Commission approving rates that are to be charged by the applicant.

(D) the municipality or municipalities in which the clean water project is located have provided a letter of support for the project.

(2) The Secretary has certified to VEDA that the applicant and the

project qualify for financing or assistance under section 4784 of this title and that the project has priority for receipt of financial assistance.

§ 4784. LOAN PRIORITIES

(a) The Secretary shall at least annually prepare and certify to VEDA a list of privately owned clean water projects, ranked in priority order, that are eligible for financial assistance under this subchapter.

(b) In determining financing ability for clean water projects under this subchapter, the Secretary shall apply the criteria adopted pursuant to 10 V.S.A. § 1628; provided, however:

(1) No privately owned clean water project authorized under this subchapter shall be prioritized above a municipal clean water project.

(2) No more than 20 percent of the funds identified in the annual State intended use plan (IUP) and allocated for clean water projects may be used for loans to privately owned clean water projects, unless there occurs a surplus of funds, in which case those funds may be used to fund additional privately owned clean water projects.

§ 4785. LIABILITY AGAINST DEFAULT

Under no circumstance shall the State become responsible for owning or operating a clean water project when the loan recipient defaults on a loan obligation or abandons the project.

§ 4786. ACTION FOR RECEIVERSHIP

Upon default of a loan, VEDA shall have the right to petition the Superior Court in the county in which the clean water project is located, or the Public Utility Commission for projects subject to the jurisdiction of the Commission, to appoint a receiver.

§ 4787. LOAN CONSOLIDATION

Loans, or the outstanding balance of loans, made for the purpose of preparing engineering plans for a project may be consolidated with any subsequent loans for construction.

* * * Sunset of Loans to Private Entities* * *

Sec. 12. SUSPENSION OF PRIVATE LOANS FOR CLEAN WATER PROJECTS

(a) Neither the Vermont Economic Development Authority (VEDA) nor the Secretary of Natural Resources shall accept, review, or act on any applications for loans to private entities under 24 V.S.A. chapter 120, subchapter 4 submitted after June 30, 2023. However, VEDA and the

Secretary shall continue to review and act on initial applications submitted on or before June 30, 2023, as well as any amendments to timely initial applications.

(b) It is the intent of the General Assembly that the private loans under 24 V.S.A. chapter 120, subchapter 4, the expansion of 24 V.S.A. chapter 120 to provide funding for natural resources projects, and the sponsorship program defined at 24 V.S.A. § 4752(18) shall all be reviewed during the 2023 legislative session.

* * * Technical Corrections * * *

Sec. 13. 24 V.S.A. § 4764 is amended to read:

§ 4764. PLANNING

(a) Engineering planning advance. A municipality or a combination of two or more municipalities desiring an advance of funds for engineering planning for public water supply systems, as defined in subdivision 4752(9) of this title, or improvements, or for ~~water pollution abatement and control facilities~~ clean water projects or improvements, may apply to the Department for an advance under this chapter. As used in this subsection, “engineering planning” may include source exploration, surveys, reports, designs, plans, specifications, or other engineering services necessary in preparation for construction of the types of systems or facilities referred to in this section.

* * *

Sec. 14. 24 V.S.A. § 4766 is amended to read:

§ 4766. AWARD OF ADVANCE

(a) The Department may award an engineering planning advance, as defined in section 4764 of this title, in an amount determined by standards established by the Department, and pursuant to the following:

(1) for public water supply systems, as defined in subdivision 4752(9) of this title, when it finds the same to be necessary in order to preserve or enhance the quality of water provided to the inhabitants of the municipality, or to alleviate an adverse public health condition, or to allow for orderly development and growth of the municipality, except that no funds may be awarded until the Department determines that the applicant has complied with the provisions of 10 V.S.A. § 1676a, unless such funds are solely for the purpose of determining the effect of the proposed project on agriculture; or

(2) for planning of ~~water pollution abatement and control facilities~~ clean water projects, in order to enable a municipality to comply with water quality standards established under 10 V.S.A. chapter 47.

* * *

Sec. 15. 10 V.S.A. § 1251(18) is amended to read:

§ 1251. DEFINITIONS

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

* * *

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

* * *

Sec. 16. 10 V.S.A. § 1259(j) is amended to read:

(j) No person shall discharge waste from hydraulic fracturing, as that term is defined in 29 V.S.A. § 503, into or from a pollution abatement facility, as that term is defined in section ~~1251~~ 1278 of this title.

Sec. 17. 10 V.S.A. § 1278 is amended to read:

§ 1278. OPERATION, MANAGEMENT, AND EMERGENCY RESPONSE

PLANS FOR POLLUTION ABATEMENT FACILITIES

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

(b) Planning requirement. Effective July 1, 2007, the Secretary of Natural Resources shall as part of a permit issued under section 1263 of this title, require a pollution abatement facility, as that term is defined in ~~section 1251~~ of this title section, to prepare and implement an operation, management, and emergency response plan for those portions of each pollution abatement facility that include the treatment facility, the sewage pumping stations, and the sewer line stream crossing. As used in this section, “pollution abatement facility” means municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State.

(c) Collection system planning. As of July 1, 2010, the Secretary of

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

* * *

Sec. 18. 10 V.S.A. § 1622 is amended to read:

§ 1622. ELIGIBLE PROJECTS

As used in this subchapter, eligible project costs for water pollution abatement and control facilities projects shall include equipment, conveyances, and structural or nonstructural facilities needed for and appurtenant to the prevention, management, treatment, storage, or disposal of sewage, waste, or stormwater, and the associated costs, including planning and design costs, necessary to construct the improvements, including costs to acquire land for the project.

Sec. 19. 24 V.S.A. § 4771(a) is amended to read:

(a) VEDA may make loans to applicants on behalf of the State for one or more of the purposes set forth in subsection 4770(b) of this title. Each such loan shall be made subject to the following conditions:

* * *

(4) The rate of interest charged for loans shall be set by the State Treasurer, taking into consideration prevailing borrowing rates available to similarly situated applicants from private lenders and administrative fees to be charged to applicants. VEDA, in cooperation with the Secretary, shall periodically recommend interest rates to be set by the State Treasurer which are the lowest practicable rates consistent with maintaining the long-term integrity of the Fund. The interest rate set by the State Treasurer may be less than the prevailing borrowing rates available to similarly situated applicants from private lenders, but not less than zero percent.

(5)(A) Notwithstanding subdivision (4) of this subsection, a privately owned nonprofit community type system may qualify for a 30-year loan term at an interest rate, plus administrative fee, to be established by the Secretary of Natural Resources ~~which~~ that shall be no more than three percent or less than minus three percent, provided that the applicant system meets the income level and annual household user cost requirements of a disadvantaged municipality as defined in subdivision 10 V.S.A. § 1571(9)(A), and at least 80 percent of

the residential units served by the water system is continuously occupied by local residents and at least 80 percent of the water produced is for residential use.

(B) [Repealed.]

(C) If the Secretary determines that a privately owned nonprofit community type system qualifies for a loan under this subdivision, the Secretary shall certify the loan term and interest rate to VEDA. In no instance shall the annual interest rate, plus an administrative fee, be less than is necessary to achieve an annual household user cost equal to one percent of the median household income of the applicant water system computed in the same manner as prescribed in subdivision ~~10 V.S.A. § 1624(b)(2)(B)~~ 4763c(b)(2) of this title.

Sec. 20. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 9-0-2)

Rep. Feltus of Lyndon, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Corrections and Institutions.

(Committee Vote: 11-0-0)

H. 780

An act relating to the inspection of amusement rides

Rep. Lawrence of Lyndon, for the Committee on Agriculture and Forestry, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds \$7 million a year. Vermont fairs generate over \$85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) "Amusement ride" means a portable mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for the purposes of this chapter, amusement ride shall also include bungee jumping.~~

(2) "Operator" or "owner" means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) "Certificate" or "certificate of operation" means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the ~~Secretary of State~~ Agency of Agriculture, Food and Markets has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Agency not fewer than 30 business days before an amusement ride is operated in this State.

~~(c)~~ The ~~Secretary of State~~ Agency shall issue a "certificate of operation" ~~no not fewer later~~ than 15 business days before the amusement ride is ~~first~~ operated in the State, if the owner or operator submits ~~all~~ the following:

* * *

~~(e)~~(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Agency. A certificate of operation shall identify the ride's:

- (1) name and model;
- (2) serial number;
- (3) passenger capacity; and
- (4) recommended maximum speed.

~~(d)~~(e) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride kept at the office of the amusement ride operator.

(f) The Agency shall:

(1) determine the manner and format of the certificate of operation and any forms to be used to apply for the certificate of operation;

(2) make any forms available on the Agency website;

(3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;

(4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A portable amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector;

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subsection (a); or

(iii) in a manner that the Agency of Agriculture, Food and Markets determines is equivalent to the certifications pursuant to subdivision (i) or (ii) of this subsection (a); and

(B) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the applicable standards determined by:

(A) the National Association of Amusement Ride Safety Officials;

(B) the Amusement Industry Manufacturers and Suppliers International; or

(C) another organization that the Agency determines is equivalent to the National Association of Amusement Ride Safety Officials or the

Amusement Industry Manufacturers and Suppliers International.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Agency within 15 business days following the date of inspection.

(2) An adhesive sticker shall be affixed to the ride or the ride shall be stamped or otherwise marked in a manner that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(c) A ride shall be inspected by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Agency promptly upon request; and

(3) keep a paper or electronic copy of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. OPERATIONS OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; and

(3) be in attendance at all times that the ride is operating; and

(4) exercise good judgement and act in a responsible and safe manner while operating an amusement ride.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgement and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all written and verbal warnings and directions from ride operators or owners.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 11-0-0)

Rep. Young of Glover, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Agriculture and Forestry and when further amended as follows:

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds \$7 million a year. Vermont fairs generate over \$85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) "Amusement ride" means a portable mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for the purposes of this chapter, amusement ride shall also include bungee jumping.~~

(2) "Operator" or "owner" means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) "Certificate" or "certificate of operation" means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the Secretary of State has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Secretary of State not fewer than 30 business days before an amusement ride is operated in this State.

~~(c) The Secretary of State shall issue a "certificate of operation" no later not fewer than 15 business days before the amusement ride is first operated in the State, if the owner or operator submits all the following:~~

* * *

~~(e)(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Secretary of State. A certificate of operation shall identify the ride's:~~

- (1) name and model;
- (2) serial number;
- (3) passenger capacity; and
- (4) recommended maximum speed.

~~(d)(e) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride kept at the office of the amusement ride operator.~~

(f) The Secretary of State shall:

- (1) determine the manner and format of the certificate of operation and any forms to be used to apply for the certificate of operation;
- (2) make any forms available on the Secretary of State's website;

(3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;

(4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A portable amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector;

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subsection (a); or

(iii) in a manner that the Secretary of State determines is equivalent to the certifications pursuant to subdivision (i) or (ii) of this subsection (a); and

(B) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the American Society for Testing and Materials (ASTM) current standards for inspecting and auditing amusement rides and devices.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Secretary of State within 15 business days following the date of inspection.

(2) An adhesive sticker shall be affixed to the ride or the ride shall be stamped or otherwise marked in a manner that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(c) A ride shall be inspected by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Secretary of State promptly upon request;

(3) keep a paper or electronic copy of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator; and

(4) operate, maintain, and inspect all rides in compliance with ASTM current standards for ownership, operation, maintenance, and inspection of amusement rides and devices.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. OPERATIONS OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; ~~and~~

(3) be in attendance at all times that the ride is operating; and

(4) exercise good judgement and act in a responsible and safe manner while operating an amusement ride.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgement and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all written and verbal warnings and directions from ride operators or owners.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

and that after passage the title of the bill be amended to read: “An act relating to portable rides at agricultural fairs, field days, and other similar events”

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

H. 785

An act relating to housing and affordability

Rep. Sheldon of Middlebury, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(13) “Potable water supply facilities” means municipal water sources, water treatment plants, structures, pipe lines, storage facilities, pumps, and attendant facilities necessary to develop a source of water and to treat and convey it in proper quantity and quality for public use within a municipality has the same meaning as in 10 V.S.A. § 1972.

* * *

(17) “Designer” means a person authorized to design wastewater systems and potable water supplies as identified in 10 V.S.A. § 1975.

Sec. 2. 24 V.S.A. § 4753 is amended to read:

§ 4753. REVOLVING LOAN FUNDS; AUTHORITY TO SPEND; REPORT

(a) There is hereby established a series of special funds to be known as:

* * *

(10) The Vermont Wastewater and Potable Water Revolving Loan Fund, which shall be used to provide loans to individuals, in accordance with section 4763b of this title, for the design and construction of repairs to or replacement of wastewater systems and potable water supplies when the wastewater system or potable water supply is a failed system or supply as defined in 10 V.S.A. § 1972, or when a designer demonstrates that the wastewater system or potable water supply has a high probability of failing. The amount of up to \$275,000.00 from the fees collected pursuant to 3 V.S.A. § 2822(j)(4) shall be deposited on an annual basis into this Fund at the beginning of each fiscal year to ensure a minimum balance of available funds of \$275,000.00 exists for each

fiscal year.

* * *

Sec. 3. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER
SYSTEMS AND FAILED POTABLE WATER SUPPLIES

(a) Notwithstanding any other provision of law, when the wastewater system or potable water supply serving only ~~one single-family residence on its own lot~~ single-family and multifamily residences either meets the definition of a failed supply or system in 10 V.S.A. § 1972 or is demonstrated by a designer to have a high probability of failing, the Secretary of Natural Resources may lend monies to ~~the owner of the residence~~ an owner of one or more of the residences from the Vermont Wastewater and Potable Water Revolving Loan Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) ~~loans a loan~~ may only be made to households with an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) ~~loans a loan~~ may only be made to households where the recipient of the loan resides in the residence an owner who resides in one of the residences served by the failed supply or system on a year-round basis;

(3) ~~loans a loan~~ may only be made if the owner of the residence to an owner who has been denied financing for the repair, replacement, or construction due to involuntary disconnection by at least one other financing entity;

(4) when the failed supply or system also serves residences owned by persons other than the loan applicant, a loan may only be made for an equitable share of the cost to repair or replace the failed supply or system that is determined through agreement of all of the owners of residences served by the failed system or supply;

(5) no construction loan shall be made to an individual under this subsection, nor shall any part of any revolving loan made under this subsection be expended, until all of the following take place:

(A) the Secretary of Natural Resources determines that if a wastewater system and potable water supply permit is necessary for the design and construction of the project to be financed by the loan, the permit has been issued to the owner of the failed system or supply; and

(B) the individual applying for the loan certifies to the Secretary of

Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

~~(5)~~(6) all funds from the repayment of loans made under this section shall be deposited into the Vermont Wastewater and Potable Water Revolving Loan Fund.

(b) The Secretary of Natural Resources shall establish standards, policies, and procedures as necessary for the implementation of this section. The Secretary may establish criteria to extend the payment period of a loan or to waive all or a portion of the loan amount.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

(Committee Vote: 10-0-1)

Rep. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development.

(Committee Vote: 10-0-1)

Rep. Keenan of St. Albans City, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Commerce and Economic Development.

(Committee Vote: 11-0-0)

H. 897

An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

(Rep. Sharpe of Bristol will speak for the Committee on Education.)

Rep. Juskiewicz of Cambridge, for the Committee on Appropriations, recommends the bill ought to pass when amended as follows:

First: In Sec. 1, Findings, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read:

(f) The General Assembly finds that:

(1) students who require additional support would be better served if supervisory unions adopted the best practices recommended in the Delivery of Services Report;

(2) the State's current reimbursement model of funding special education serves as an impediment to adopting these best practices, largely due

to the constraint on the use of funds and the misalignment with the policy priorities of serving students who require additional support across the general and special education service-delivery systems;

(3) the census-based model of funding for students who require additional support would enable supervisory unions to adopt the best practices recommended in the Delivery of Services Report, largely due to the flexibility in how the funds could be used by supervisory unions and the alignment with the policy priorities; and

(4) the census-based model of funding will result, over time, in cost containment for special education services, which will be realized through lower property tax rates or the ability for localities to use funds for other educational purposes.

Second: In Sec. 4, 16 V.S.A. chapter 101, by striking out in 16 V.S.A. § 2967 in its entirety and inserting in lieu thereof a new § 2967 to read:

§ 2967. AID PROJECTION; ~~STATE SHARE~~

(a) On or before December 15, the Secretary shall publish an estimate, by supervisory union and its member districts ~~to the extent they anticipate of their anticipated~~ reimbursable special education expenditures under this chapter, ~~of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in for~~ the ensuing school year.

(b) ~~The total expenditures made by the State in any fiscal year pursuant to this chapter shall be 60 percent of the statewide total special education expenditures of funds that are not derived from federal sources. Special~~ As used in this section, special education expenditures shall include:

(1) costs eligible for grants and reimbursements under ~~sections 2961 through 2963a~~ section 2962 of this title;

(2) costs for services for persons who are visually impaired and persons who are deaf and hard of hearing;

(3) costs for the interdisciplinary team program;

(4) costs for regional specialists in multiple disabilities;

(5) funds expended for training and programs to meet the needs of students with emotional or behavioral problems under subsection 2969(c) of this title; and

(6) funds expended for training under subsection 2969(d) of this title.

Third: In Sec. 9, Census-based Funding Advisory Group, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) Powers and duties. The Advisory Group shall:

(1) advise the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;

(2) advise the Agency of Education and supervisory unions on the implementation of this act;

(3) recommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act; and

(4) consider the State's special education maintenance of fiscal support requirements under federal law and supervisory unions' maintenance of effort requirements under federal law and recommend to the General Assembly and the Agency of Education options that may allow State and local special education spending in a manner that complies with these requirements while containing costs.

Fourth: In Sec. 9, Census-based Funding Advisory Group, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) to read:

(h) Appropriation. Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of \$6,400.00 is appropriated for fiscal year 2018 from the Education Fund to the Agency of Education to provide funding for the purposes set forth in this section.

Fifth: In Sec. 11, Education Weighting Report, in subsection (c), by striking out "February 15, 2019" and inserting in lieu thereof "March 15, 2019"

Sixth: In Sec. 11, Education Weighting Report, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read:

(e) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of \$300,000.00 is appropriated for fiscal year 2018 from the Education Fund to the Agency of Education to provide funding for the purposes set forth in this section. The Agency of Education shall contract with a contractor with expertise in Vermont's education funding system to assist the Agency in producing the study required by this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this subsection.

Seventh: By striking out Sec. 12, Consulting services on the delivery of special education services, and its reader assistance, in their entirety and inserting in lieu thereof a new Sec. 12 with reader assistance, to read:

* * * Training and Technical Assistance on the Delivery of Special

Education Services * * *

Sec. 12. TRAINING AND TECHNICAL ASSISTANCE ON THE DELIVERY OF SPECIAL EDUCATION SERVICES

(a) The Agency of Education shall, for the 2018-2019, 2019-2020, and 2020-2021 school years, assist supervisory unions to expand and improve their delivery of services to students who require additional supports in accordance with the report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” delivered to the Agency of Education in November 2017 from the District Management Group. This assistance shall include the training of teachers and staff and technical assistance.

(b) The sum of \$200,000.00 is appropriated from federal funds that are available under the Individuals with Disabilities Education Act for fiscal year 2019 to the Agency of Education, which the Agency shall administer in accordance with this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020 and 2021 the amount of \$200,000.00 from federal funds that are available under the Individuals with Disabilities Education Act for administration in accordance with this section.

(c) The Agency of Education shall present to the General Assembly on or before December 15 in 2019, 2020, and 2021 a report describing what changes supervisory unions have made to expand and improve their delivery of services to students who require additional supports and describing the associated delivery challenges. The Agency shall share each report with all supervisory unions.

(Committee Vote 10-1-0)

Rep. Donovan of Burlington, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Appropriations and when further amended as follows:

First: In Sec. 9, Census-based Funding Advisory Group, by striking out subsection (h) in its entirety and inserting in lieu thereof a new subsection (h) to read:

(h) Appropriation. The sum of \$6,400.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for the purposes set forth in this section.

Second: By striking the reader assistance preceding Sec. 10 in its entirety and inserting in lieu thereof a new reader assistance to read:

* * * Report on Methods to Further the Quality and Equity of Educational Outcomes for Students * * *

Third: By striking out Sec. 11 in its entirety and inserting in lieu thereof a

new Sec. 11 to read:

Sec. 11. REPORT ON METHODS TO FURTHER THE QUALITY AND EQUITY OF EDUCATIONAL OUTCOMES FOR STUDENTS

(a) The Agency of Education, in consultation with the Secretary of Human Services, the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont-National Education Association, shall consider and make recommendations on the following:

(1) Methods, other than the use of per pupil weighting factors, that would further the quality and equity of educational outcomes for students.

(2) The criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including each of the following:

(A) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(B) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(C) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and if the modification would further the quality and equity of educational outcomes for students.

(D) Whether to add any weighting factors, including a school district population density factor and a factor for students who attend regional career technical education centers, and if so, why the weighting factor should be added and if the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education shall consider the practices of other states, information from the National Conference of State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(3) The criteria to be applied by the State Board of Education in its rulemaking process for increasing the amount of educational support grants paid by the State to supervisory unions in order to provide additional financial support to supervisory unions with relatively high costs due to the number of students who require additional support or the nature of the services required. The criteria shall include the qualification requirements for the adjustment and the manner in which the adjustment should be applied. In making this recommendation, the Agency of Education shall consider the report entitled "Study of Vermont State Funding for Special Education" issued in December 2017 by the University of Vermont Department of Education and Social

Services.

(b) On or before March 15, 2019, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

(c) The Agency of Education shall have the technical assistance of the Joint Fiscal Office and the Office of Legislative Council.

(d) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of \$300,000.00 is appropriated for fiscal year 2018 from the Education Fund to the Agency of Education to provide funding for the purposes set forth in this section. The Agency of Education shall contract with a contractor with expertise in Vermont's education funding system to assist the Agency in producing the study required by this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this subsection.

(Committee Vote: 10-0-1)

H. 917

An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

(Rep. Murphy of Fairfax will speak for the Committee on Transportation.)

Rep. Helm of Fair Haven, for the Committee on Appropriations, recommends the bill ought to pass when amended as follows:

By adding a new section after Sec. 5 to be Sec. 5a and a reader assistance thereto to read as follows:

* * * Maintenance Program and District Leveling * * *

Sec. 5a. MAINTENANCE PROGRAM AND DISTRICT LEVELING;

SPENDING AUTHORITY

(a) As used in this section, "TDI" refers to Champlain VT, LLC d/b/a TDI New England and "TDI Agreement" refers to the lease option agreement entered into between TDI and the State on July 17, 2015.

(b) Authorized spending in fiscal year 2019 for the Statewide District Leveling activity in the Program Development—Paving Program is reduced by \$2,400,000.00 in transportation funds and increased by \$2,400,00.00 in federal funds.

(c) Authorized spending in fiscal year 2019 for operating expenses in the

Maintenance Program is reduced by \$1,600,000.00 in transportation funds.

(d) If TDI makes a payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or pursuant to a renegotiation of the TDI Agreement, the Secretary shall allocate the amount of the payment received to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(e) If TDI makes no payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or a renegotiation thereof or if a payment made by TDI is insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary shall allocate any unreserved surplus in the Transportation Fund as of the end of fiscal year 2018 to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(f)(1) Subject to subdivision (2) of this subsection, and notwithstanding 32 V.S.A. § 706, if the contingent allocations directed in subsections (d) and (e) of this section do not occur or are insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary of Administration, after consulting with the Secretary of Transportation, is authorized to transfer balances of fiscal year 2019 Transportation Fund appropriations within the Agency to the extent required to restore the reduction in spending authority made in subsections (b) and (c) of this section, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the balances transferred.

(2) An appropriation may be transferred pursuant to subdivision (1) of this subsection only if the monies are not needed for a project:

(A) because the project has been delayed due to permitting, right-of-way, or other unforeseen issues; or

(B) because of cost savings generated by the project.

(3) In making any appropriation transfer authorized under this section, the Secretary of Administration shall avoid, to the extent possible, any reductions in appropriations to the town programs described in 19 V.S.A. § 306. Any reductions to these town programs shall not affect the timing of reimbursements to towns for projects or delay any projects or grants and shall be replaced in the affected appropriations in fiscal year 2020.

(Committee Vote 11-0-0)

Favorable

H. 404

An act relating to Medicaid reimbursement for long-acting reversible contraceptives

Rep. Christensen of Weathersfield, for the Committee on Health Care, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

Rep. Toll of Danville, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

H. 911

An act relating to changes in Vermont's personal income tax and education financing system.

(Rep. Ancel of Calais will speak for the Committee on Ways and Means.)

Rep. Sharpe of Bristol, for the Committee on Education, recommends the bill ought to pass.

(Committee Vote: 9-2-0)

Rep. Juskiewicz of Cambridge, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 9-2-0)

H. 913

An act relating to boards and commissions.

(Rep. Gannon of Wilmington will speak for the Committee on Government Operations.)

Rep. Dakin of Colchester, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

H. 920

An act relating to the authority of the Agency of Digital Services.

(Rep. Carr of Brandon will speak for the Committee on Energy and Technology.)

Rep. Dakin of Colchester, for the Committee on Appropriations, recommends the bill ought to pass.

(Committee Vote: 11-0-0)

S. 169

An act relating to nonresident clergy authorized to solemnize marriages

Rep. Devereux of Mount Holly, for the Committee on Government Operations, recommends that the bill ought to pass in concurrence.

(Committee Vote: 9-0-2)

(For text see Senate Journal January 12, 2018)

S. 291

An act relating to the annual town meeting of the unified towns and gores of Essex County and to the appraisers and supervisors of all unorganized towns and gores

Rep. Devereux of Mount Holly, for the Committee on Government Operations, recommends that the bill ought to pass in concurrence.

(Committee Vote: 8-0-3)

(For text see Senate Journal January 23, 24, 2018)

Ordered to Lie

H. 167

An act relating to alternative approaches to addressing low-level illicit drug use.

Pending Question: Shall the House concur in the Senate proposal of amendment?

H. 219

An act relating to the Vermont spaying and neutering program.

Pending Question: Shall the House concur in the Senate proposal of amendment?

S. 103

An act relating to the regulation of toxic substances and hazardous materials.

Pending Question: Shall the ouse concur in the Senate proposal of amendment to the House proposal of amendment??

S. 267

An act relating to timing of a decree nisi in a divorce proceeding.

Pending Question: Second reading?

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of resolutions, see Addendum to House Calendar and Senate Calendar of March 15, 2018.

H.C.R. 272

House concurrent resolution honoring Manchester Fire Chief Philip Bourn for his laudable public service

H.C.R. 273

House concurrent resolution honoring Brendan J. Whittaker of Brunswick for his years of insightful leadership in the State, municipal, and religious sectors

H.C.R. 274

House concurrent resolution in memory of Gordon E. Tallman of Hyde Park

H.C.R. 275

House concurrent resolution congratulating William Busier of Essex on his 100th birthday

H.C.R. 276

House concurrent resolution commemorating the 100th anniversary of the Wayside Restaurant in Berlin

H.C.R. 277

House concurrent resolution congratulating the 2018 Milton High School Yellowjackets Division II boys' championship indoor track and field team

H.C.R. 278

House concurrent resolution honoring those who care for, educate, and advocate for young Vermonters and designating March 14, 2018 as Early Childhood Day at the State House

S.C.R. 21

Senate concurrent resolution congratulating the Woodstock Stoners on winning the 2017 Maine-iac 'Spiel curling championship