

House Calendar

Thursday, May 03, 2018

121st DAY OF THE ADJOURNED SESSION

House Convenes at 1:30 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Action Postponed Until May 3, 2018

S. 267 An act relating to timing of a decree nisi in a divorce proceeding...	2447
Rep. LaLonde et al. Amendment.....	2447

NEW BUSINESS

Third Reading

S. 175 An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.....	2449
---	------

S. 206 An act relating to business consumer protection for point-of-sale equipment leases.....	2449
---	------

Favorable with Amendment

S. 197 An act relating to liability for toxic substance exposures or releases	2449
Rep. Morris for Judiciary	

S. 222 An act relating to miscellaneous judiciary procedures.....	2452
Rep. Jessup for Judiciary	

Senate Proposal of Amendment

S. 92 An act relating to interchangeable biological products	2461
---	------

S. 203 An act relating to systemic improvements of the mental health system	2463
--	------

NOTICE CALENDAR

Favorable with Amendment

S. 94 An act relating to promoting remote work	2465
Rep. Botzow for Commerce and Economic Development	
Rep. Keenan for Appropriations.....	2479

S. 105 An act relating to consumer justice enforcement	2479
Rep. Colburn for Judiciary	

S. 150 An act relating to automated license plate recognition systems.....	2481
Rep. Burditt for Judiciary	
S. 179 An act relating to community justice centers	2482
Rep. Shaw for Corrections and Institutions	
S. 180 An act relating to the Vermont Fair Repair Act	2486
Rep. Myers for Commerce and Economic Development	
Rep. Keenan for Appropriations.....	2488
S. 234 An act relating to adjudicating all teenagers in the Family Division, except those charged with a serious violent felony	2488
Rep. Grad for Judiciary	
Rep. Keefe for Human Services	2503
Rep. Hooper of Montpelier for Appropriations.....	2504
S. 260 An act relating to funding the cleanup of State waters	2504
Rep. Deen for Natural Resources, Fish, and Wildlife	
Rep. Ancel for Ways and Means	2520
Rep. Feltus for Appropriations	2525
S. 262 An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access	2527
Rep. Donahue for Health Care	
S. 273 An act relating to miscellaneous law enforcement amendments	2533
Rep. Harrison for Government Operations	
Rep. Fagan for Appropriations	2543

Senate Proposal of Amendment

H. 526 Regulating notaries public	2549
H. 780 Portable rides at agricultural fairs, field days, and other similar events	2550
H. 859 Requiring municipal corporations to affirmatively vote to retain ownership of lease lands.....	2571
H. 895 Legislative review of certain report requirements.....	2573
H. 923 Capital construction and State bonding budget adjustment	2575

Ordered to Lie

H. 219 The Vermont spaying and neutering program.....	2597
--	------

Action Postponed Indefinitely

H. 167 Alternative approaches to addressing low-level illicit drug use.....	2597
--	------

Consent Calendar

- H.C.R. 361** Congratulating the 2017 West Rutland High School Golden Horde Division IV girls' championship softball team 2597
- H.C.R. 362** Congratulating the Migrant Justice organization on the progress achieved with its Milk with Dignity Program 2597
- H.C.R. 363** Honoring Vermont high school students who have achieved fluency in world languages other than English, and welcoming the establishment of a Vermont Seal of Biliteracy 2598
- H.C.R. 364** Congratulating the Clemmons family of Charlotte and it's A Sense of Place project on winning a National Creative Placemaking Fund grant. 2598
- H.C.R. 365** Congratulating Cadence Wheeler of Springfield on his jumping achievements at State and New England indoor track and field championship meets 2598
- H.C.R. 366** Honoring former South Burlington Fire Captain Gary Rounds for his exemplary municipal public service 2598
- H.C.R. 367** Commemorating the 80th Anniversary of the Castleton Colonial Day Historic House Tour..... 2598
- H.C.R. 368** Congratulating the 2018 Essex High School Vermont-NEA Scholars' Bowl championship team..... 2598
- H.C.R. 369** Congratulating Carl Fung on winning the 2017 national LEGO REBRICK SuperBots contest..... 2598
- H.C.R. 370** Congratulating the Essex Junction all-stars Little League Baseball team on winning the 2017 Vermont State championship..... 2598
- H.C.R. 371** Designating Wednesday, June 27, 2018 as Post-Traumatic Stress Injury Awareness Day 2598
- H.C.R. 372** Congratulating the 2018 Vermont History Day winners 2598
- H.C.R. 373** Congratulating the Health Care & Rehabilitation Services of Southeastern Vermont on its 50th anniversary 2599
- H.C.R. 374** Congratulating Tessa Napolitano of Burlington on winning the 2018 Elks New England Regional Hoop Shoot for her age group 2599
- H.C.R. 375** Congratulating Ellie Whalen of Rutland Town on winning the 2018 Elks New England Regional Hoop Shoot for her age group 2599
- H.C.R. 376** Congratulating the 2017 Oxbow Union High School Olympians Division III championship girls' softball team and honoring Coach Robin Wozny on the completion of her outstanding high school coaching career 2599

H.C.R. 377 Congratulating Alice Bennett of Bennington on her 100th birthday	2599
H.C.R. 378 Congratulating Honorary Shaftsbury Fire Chief Charles O. Becker on 70 years of exemplary service	2599
H.C.R. 379 Congratulating William Collins on 40 years of outstanding service as a Bennington Rescue Squad Emergency Medical Technician.....	2599
H.C.R. 380 In memory of former Georgia Justice of the Peace Charles Aubrey Thweatt	2599
H.C.R. 381 Designating the week of May 7, 2018 as Women’s Lung Health Week.....	2599
H.C.R. 382 Recognizing the 2017 Miss Vermont’s Outstanding Teen Jenna Lawrence’s work on behalf of Alzheimer’s public awareness and eradication	2599
H.C.R. 383 Congratulating the Hinesburg Fire Department on its 75th anniversary	2600
H.C.R. 384 Recognizing the importance of forests and forestry-related industries in Vermont in commemoration of Arbor Day	2600
H.C.R. 385 In memory of Bellows Falls educator and civic leader Francis X. Coyne.....	2600
H.C.R. 386 Congratulating Wilson House in East Dorset on its 30th anniversary	2600
H.C.R. 387 Congratulating Miss Vermont 2017 Erin Connor of Bridport	2600
S.C.R. 23 Senate concurrent resolution in memory of Gertrude Martha Hodge of Topsham.....	2600

ORDERS OF THE DAY

ACTION CALENDAR

Action Postponed Until May 3, 2018

S. 267

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

Pending Action: Shall the report of the committee on Judiciary be substituted by the Amendment offered by Rep. LaLonde, et al.?

Amendment to be offered by Reps. Lalonde of South Burlington, Colburn of Burlington, Jessup of Middlesex, Morris of Bennington, Conquest of Newbury and Grad of Moretown to S. 267

Move to substitute for the report of the Committee on Judiciary by striking all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 13 V.S.A. § 9 is amended to read:

§ 9. ATTEMPTS

(a) ~~A Attempts; generally. Except as provided in subsection (d) of this section, a person who attempts to commit an offense and does an act toward the commission thereof, but by reason of being interrupted or prevented fails in the execution of the same, shall be punished as herein provided unless other express provision is made by law for the punishment of the attempt. If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, human trafficking, aggravated human trafficking, aggravated sexual assault, or sexual assault, a person shall be punished as the offense attempted to be committed is by law punishable.~~

(b) Felonies. If the offense attempted to be committed is a felony other than those set forth in subsection ~~(a)~~(d) of this section, a person shall be punished by the less severe of the following punishments:

(1) imprisonment for not more than 10 years or fined not more than \$10,000.00, or both; or

(2) as the offense attempted to be committed is by law punishable.

(c) Misdemeanors. If the offense attempted to be committed is a misdemeanor, a person shall be imprisoned or fined, or both, in an amount not to exceed one-half the maximum penalty for which the offense so attempted to be committed is by law punishable.

(d) Serious violent felonies.

(1) If the offense attempted to be committed is murder, aggravated murder, kidnapping, arson causing death, human trafficking, aggravated human trafficking, aggravated sexual assault, or sexual assault, the penalty shall not exceed the maximum penalty for the offense attempted to be committed, but any presumptive or mandatory minimum penalty applicable to the offense attempted to be committed shall not apply to an attempt to commit that offense.

(2) Notwithstanding subsection (a) of this section, a person is guilty of an attempt to commit an offense under this subsection if, with the purpose of committing the offense, he or she performs any act that is a substantial step toward the commission of the offense. A “substantial step” is conduct strongly corroborative of the actor’s intent to complete the commission of the offense and that advances beyond mere preparation.

(3) Conduct shall not be held to constitute a substantial step under subdivision (2) of this subsection unless it is strongly corroborative of the actor’s criminal purpose. Without negating the sufficiency of other conduct, the following, if strongly corroborative of the actor’s criminal purpose, shall not be held insufficient as a matter of law:

(A) lying in wait, searching for, or following the contemplated victim of the crime;

(B) enticing or seeking to entice the contemplated victim of the crime to go to the place contemplated for the commission of the crime;

(C) reconnoitering the place contemplated for the commission of the crime;

(D) unlawfully entering a structure, vehicle, or enclosure contemplated for the commission of the crime;

(E) possessing materials to be employed in the commission of the crime that are:

(i) specially designed for such unlawful use; or

(ii) that can serve no lawful purpose under the circumstances;

(F) possessing, collecting, or fabricating of materials to be employed in the commission of the crime, at or near the place contemplated for its commission, if such possession, collection, or fabrication serves no lawful purpose of the actor under the circumstances; or

(G) soliciting an innocent agent to engage in conduct constituting an element of the crime.

(4) Defenses.

(A) It is no defense to a prosecution under this subsection (d) that the offense attempted was, under the actual attendant circumstances, factually or legally impossible of commission, if such offense could have been committed had the attendant circumstances been as the actor believed them to be.

(B) It shall be an affirmative defense to a charge under this subsection (d) that the actor abandoned his or her effort to commit the crime or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose. The establishment of such a defense does not affect the liability of an accomplice who did not join in such abandonment or prevention. Renunciation of criminal purpose is not voluntary if it is motivated, in whole or in part, by circumstances, not present or apparent at the inception of the actor's course of conduct, that increase the probability of detection or apprehension or that make more difficult the accomplishment of the criminal purpose. Renunciation is not complete if it is motivated by a decision to postpone the criminal conduct until a more advantageous time or to transfer the criminal effort to another but similar objective or victim.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to attempts"

NEW BUSINESS

Third Reading

S. 175

An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums

S. 206

An act relating to business consumer protection for point-of-sale equipment leases

Favorable with Amendment

S. 197

An act relating to liability for toxic substance exposures or releases

Rep. Morris of Bennington, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 12 V.S.A. chapter 219 is added to read:

CHAPTER 219. MEDICAL MONITORING DAMAGES

§ 7201. DEFINITIONS

As used in this chapter:

(1) “Disease” means any disease, ailment, or adverse physiological or chemical change linked with exposure to a toxic substance.

(2) “Exposure” means ingestion, inhalation, contact with the skin or eyes, or any other physical contact.

(3) “Facility” means all contiguous land, structures, other appurtenances, and improvements on the land where toxic substances are manufactured, processed, used, or stored. A facility may consist of several treatment, storage, or disposal operational units. A facility shall not include land, structures, other appurtenances, and improvements on the land owned by a municipality.

(4) “Farming” shall have the same meaning as in 10 V.S.A. § 6001.

(5) “Large user of toxic substances” means, at the time of the release, the owner or operator of a facility that employs 10 or more employees, has a Standard Industrial Classification (SIC) Code, and manufactures, processes, or otherwise uses, exclusive of sales or distribution, more than 1,000 pounds of one or more, or a combination of, toxic substances per year.

(6) “Medical monitoring damages” means the cost of medical tests or procedures and related expenses incurred for the purpose of detecting latent disease resulting from exposure.

(7) “Pesticide” shall have the same meaning as in 6 V.S.A. § 1101.

(8) “Release” means any intentional or unintentional, permitted or unpermitted, act or omission that allows a toxic substance to enter the air, land, surface water, or groundwater.

(9) “Sport shooting range” shall have the same meaning as in section 5227 of this title.

(10)(A) “Toxic substance” means any substance, mixture, or compound that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive

Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound; or

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159; or

(vi) the substance, when released, can be shown by expert testimony to pose a potential threat to human health or the environment.

(B) “Toxic substance” shall not mean:

(i) a pesticide when applied consistent with good practice conducted in conformity with federal, State, and local laws, rules, and regulations and according to manufacturer’s instructions;

(ii) manure or nutrients applied to land by a person engaged in farming according to the requirements of 6 V.S.A. chapter 215; or

(iii) lead ammunition or components thereof discharged, used, or stored at a sport shooting range implementing a lead management plan approved by the Agency of Natural Resources.

§ 7202. MEDICAL MONITORING DAMAGES FOR EXPOSURE TO

TOXIC SUBSTANCES

(a) A person with or without a present injury or disease shall have a cause of action for medical monitoring damages against a large user of toxic substances who released a substance, mixture, or compound that meets the definition of toxic substance under section 7201 of this title and all of the following are demonstrated by a preponderance of the evidence:

(1) The person was exposed to the toxic substance at greater than normal background concentration levels;

(2) The exposure was the result of tortious conduct by the large user of toxic substances who released the toxic substance, including conduct that constitutes negligence, battery, strict liability, trespass, or nuisance;

(3) As a proximate result of the exposure, the person has a greater risk than the general public of contracting a latent disease. A person does not need to prove that the latent disease is certain or likely to develop as a result of the exposure.

(4) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if a physician would prescribe testing for the purpose of detecting or monitoring the latent disease.

(5) Medical tests or procedures exist to detect the latent disease.

(b) A court shall place the award of medical monitoring damages into a court-supervised program administered by a medical professional.

(c) If a court places an award of medical monitoring damages into a court-supervised program pursuant to subsection (b) of this section, the court shall also award to the plaintiff reasonable attorney's fees and other litigation costs reasonably incurred.

(d) Nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy available under statute or common law, including the right of any person to recover for damages related to the manifestation of a latent disease. The remedies in this chapter are in addition to those provided by existing statutory or common law.

(e) This section does not preclude a court from certifying a class action for medical monitoring damages.

Sec. 2. WEBSITE; LINKS TO LIST OF TOXIC SUBSTANCES

The Commissioner of Health shall maintain on the Department of Health website a link to each of the lists of substances, mixtures, or compounds referenced in the definition of "toxic substance" under 12 V.S.A. § 7201.

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 7-4-0)

(For text see Senate Journal March 14, 16, 20, 2018)

S. 222

An act relating to miscellaneous judiciary procedures

Rep. Jessup of Middlesex, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 8007(c) is amended to read:

(c) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. The assurance of discontinuance shall be simultaneously filed with the Attorney General and the Environmental Division. The Secretary or the Natural Resources Board shall post a final draft assurance of discontinuance to its website and shall provide a final draft assurance of discontinuance to a person upon request. When signed by the Environmental Division, the assurance shall become a judicial order. Upon motion by the Attorney General made within ~~40~~ 14 days ~~of~~ after the date the assurance is signed by the Division and upon a finding that the order is insufficient to carry out the purposes of this chapter, the Division shall vacate the order.

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

§ 1. RULES OF PLEADING, PRACTICE, AND PROCEDURE; FORMS

The Supreme Court is empowered to prescribe and amend from time to time general rules with respect to pleadings, practice, evidence, procedure, and forms for all actions and proceedings in all courts of this State. The rules thus prescribed or amended shall not abridge, enlarge, or modify any substantive rights of any person provided by law. The rules when initially prescribed or any amendments thereto, including any repeal, modification, or addition, shall take effect on the date provided by the Supreme Court in its order of promulgation, unless objected to by the ~~Joint~~ Legislative Committee on Judicial Rules as provided by this chapter. If objection is made by the ~~Joint~~ Legislative Committee on Judicial Rules, the initially prescribed rules in question shall not take effect until they have been reported to the General Assembly by the Chief Justice of the Supreme Court at any regular, adjourned, or special session thereof, and until after the expiration of 45 legislative days of that session, including the date of the filing of the report. The General Assembly may repeal, revise, or modify any rule or amendment thereto, and its action shall not be abridged, enlarged, or modified by subsequent rule.

Sec. 3. 12 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in sections 3 and 4 of this chapter:

(1) “Adopting authority” means the Chief Justice of the Supreme Court or the ~~administrative judge~~ Chief Superior Judge, where appropriate;

(2) “Court” means the Supreme Court, except in those instances where the statutes permit rules to be adopted by the ~~administrative judge~~ Chief Superior Judge, in which case, the word “court” means the ~~administrative judge~~; Chief Superior Judge.

* * *

Sec. 4. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a State's Attorney may summon a person who commits an offense to appear before Superior Court by a summons in such form as prescribed by the Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or State's Attorney and delivered to the person.

* * *

~~(d) A person who does not so appear in response to a summons for a traffic offense as defined in 23 V.S.A. § 2201 shall be fined not more than \$100.00. [Repealed.]~~

Sec. 5. 12 V.S.A. § 3125 is amended to read:

§ 3125. PAYMENT OF TRUSTEE'S CLAIM BY CREDITOR

When it appears that personal property in the hands of a person summoned as a trustee is mortgaged, pledged, or liable for the payment of a debt due to him or her, the court may allow the attaching creditor to pay or tender the amount due to the trustee, and he or she shall thereupon deliver such property, as ~~hereinbefore~~ provided in this subchapter, to the officer holding the execution.

Sec. 6. 12 V.S.A. § 3351 is amended to read:

§ 3351. ATTACHMENT, TAKING IN EXECUTION, AND SALE

Personal property not exempt from attachment, subject to a mortgage, pledge, or lien, may be attached, taken in execution, and sold as the property of the mortgagor, pledgor, or general owner, in the same manner as other personal property, except as ~~hereinafter~~ otherwise provided in this subchapter.

Sec. 7. 18 V.S.A. § 4245 is amended to read:

§ 4245. REMISSION OR MITIGATION OF FORFEITURE

(a) On petition filed within 90 days ~~of~~ after completion of a forfeiture proceeding, ~~the claims commission established in 32 V.S.A. § 931~~ a court that issued a forfeiture order pursuant to section 4244 of this title may order that the forfeiture be remitted or mitigated. The petition shall be sworn, and shall include all information necessary for its resolution or shall describe where such information can be obtained. Upon receiving a petition, the ~~claims commission~~ court shall investigate and may conduct a hearing if in its

judgment it would be helpful to resolution of the petition. The ~~claims commission~~ court shall either grant or deny the petition within 90 days.

(b) The ~~claims commission~~ court may remit or mitigate a forfeiture upon finding that relief should be granted to avoid extreme hardship or upon finding that the petitioner has a valid, good faith interest in the property which is not held through a straw purchase, trust, or otherwise for the benefit of another and that the petitioner did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law.

Sec. 8. 18 V.S.A. § 4474g(b) is amended to read:

(b) Prior to acting on an application for a Registry identification card, the Department shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary owner, principal, and financier.

Sec. 9. REPEAL

2017 Acts and Resolves No. 11, Sec. 60 (amending 32 V.S.A. § 5412) is repealed.

Sec. 10. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer a juvenile court diversion project for the purpose of assisting juveniles charged with delinquent acts. ~~Rules which were adopted by the Vermont Commission on the Administration of Justice to implement the juvenile court diversion project shall be adapted by the Attorney General to the programs and projects established under this section.~~ In consultation with the diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.

(b) The diversion ~~project~~ program administered by the Attorney General shall ~~encourage the development~~ support the operation of diversion ~~projects~~ programs in local communities through grants of financial assistance to, ~~or by contracting for services with,~~ municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of project ~~grants~~ funding.

* * *

(i) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 11. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion program in all counties. ~~The program shall be operated through the juvenile diversion project. The~~ In consultation with diversion programs, the Attorney General shall adopt ~~only such rules as are necessary to establish an adult court diversion program for adults~~ a policies and procedures manual, in compliance with this section.

* * *

(c) The program shall ~~encourage the development~~ support the operation of diversion programs in local communities through grants of financial assistance ~~to, or contracts for services with,~~ municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of program ~~grants~~ funding.

* * *

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The matter shall become confidential when notice is provided to the court. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the

information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the ~~Board~~ diversion program declines to accept the case;
- (B) the person declines to participate in diversion;
- (C) the ~~Board~~ diversion program accepts the case, but the person does not successfully complete diversion; or
- (D) the prosecuting attorney recalls the referral to diversion.

* * *

(5) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not ~~require~~ ~~or~~ establish the identity of individual participants are allowed).

* * *

(7)(A) ~~The~~ Irrespective of whether a record was expunged, the adult court diversion program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

- (i) name and date of birth;
- (ii) offense charged and date of offense;
- (iii) place of residence;
- (iv) county where diversion process took place; and
- (v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General, and directors of adult court diversion programs.

(C) Notwithstanding subdivision (B) of this subdivision (e)(7), the Attorney General shall, upon request, provide to a participant or his or her attorney sufficient documentation to show that the participant successfully completed diversion.

* * *

(g)(1) ~~Within 30 days of~~ after the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of

record of the court's intention to order the ~~sealing~~ expungement of all court files and records, law enforcement records other than entries in the adult court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the ~~sealing~~ expungement of the records. The court shall ~~seal~~ expunge the records if it finds:

~~(1)~~(A) two years have elapsed since the successful completion of the adult diversion program by the participant and the dismissal of the case by the State's Attorney;

~~(2)~~(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; ~~and~~

~~(3)~~(C) rehabilitation of the participant has been attained to the satisfaction of the court; and

(D) the participant does not owe restitution related to the case under a contract executed with the Restitution Unit.

(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing this subsection (g).

~~(h) Upon~~ Except as otherwise provided in this section, upon the entry of an order ~~sealing such~~ expunging files and records under this section, the

proceedings in the matter ~~under this section~~ shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

(i) ~~Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein. [Repealed.]~~

(j) The process of automatically ~~sealing~~ expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records ~~sealed~~ expunged. Sealing Expungement shall occur if the requirements of subsection (g) of this section are met.

* * *

(k) ~~Subject to the approval of the~~ The Attorney General, in consultation with the Vermont Association of Court Diversion Programs, may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.

(l) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. USE OF VIDEO

(a) Except as provided by subsection (b) of this section, proceedings governed by Rules 5 and 10 of the Vermont Rules of Criminal Procedure and chapter 229 of this title shall be in person and on the record, and shall not be performed by video conferencing or other electronic means until the Defender General and the Executive Director of the Department of Sheriffs and State's Attorneys execute a joint certification that the video conferencing program in use by the court at the site where the proceeding occurs adequately ensures attorney-client confidentiality and the client's meaningful participation in the proceeding.

(b) A proceeding at which subsection (a) of this section applies may be performed by video conferencing if counsel for the defendant or a defendant not represented by counsel consents.

Sec. 13. 13 V.S.A. § 2301 is amended to read:

§ 2301. MURDER-DEGREES DEFINED

Murder committed by means of poison, or by lying in wait, or by ~~wilful~~ willful, deliberate, and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, sexual assault, aggravated sexual assault, kidnapping, robbery, or burglary; shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

Sec. 14. 15 V.S.A. § 554 is amended to read:

§ 554. DECREES NISI

(a) A decree of divorce from the bonds of matrimony in the first instance; shall be a decree nisi and shall become absolute at the expiration of ~~three months~~ 90 days from the entry thereof but, in its discretion, the court ~~which that~~ that grants the divorce may fix an earlier date upon which the decree shall become absolute. If one of the parties dies prior to the expiration of the nisi period, the decree shall be deemed absolute immediately prior to death.

(b) Either party may file any post-trial motions under the Vermont Rules of Civil Procedure. The time within which any such motion shall be filed shall run from the date of entry of the decree of divorce and not from the date the nisi period expires. The court shall retain jurisdiction to hear and decide the motion after expiration of the nisi period. A decree of divorce shall constitute a civil judgment under the Vermont Rules of Civil Procedure.

(c) If the stated term at which the decree nisi was entered has adjourned when a motion is filed, the presiding judge of the stated term shall have power to hear and determine the matter and make new decree therein as fully as the court might have done in term time; but, in the judge's discretion, the judge may strike off the decree and continue the cause to the next stated term.

Sec. 15. 18 V.S.A. § 4230f(f) is amended to read:

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver or to a registered caregiver who provides marijuana to a registered patient pursuant to chapter 86 of this title.

Sec. 16. 20 V.S.A. § 3903 is amended to read:

§ 3903. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

(a) [Repealed.]

(b) Animal intake. An animal shelter or rescue organization ~~under this chapter shall not accept an animal unless the person transferring the animal to the shelter provides~~ as defined by section 3901 of this title shall make every effort to collect the following information about an animal it accepts: the name and address of the person transferring the animal and, if known, the name of the animal, its vaccination history, and other information concerning the background, temperament, and health of the animal.

(c) Nonprofit status. A rescue organization under this chapter shall be recognized and approved as a nonprofit organization under 26 U.S.C. § 501(c)(3).

(d) Immunity from liability. Notwithstanding section 3901a of this title, any animal shelter or rescue organization assisting law enforcement in an animal cruelty investigation or seizure that, in good faith, provides care and treatment to an animal involved in the investigation or seizure shall not be held liable for civil damages by the owner of the animal unless the actions of the shelter or organization constitute gross negligence.

Sec. 17. EARNED GOOD TIME; REPORT

On or before November 15, 2018, the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State's Attorneys, and the Defender General, shall report to the Senate and House Committees on Judiciary, the Senate Committee on Institutions, and the House Committee on Corrections and Institutions on the advisability and feasibility of reinstating a system of earned good time for persons under the supervision of the Department of Corrections.

Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 15 shall take effect on July 2, 2018.

(Committee vote: 11-0-0)

(For text see Senate Journal March 14, 2018)

Senate Proposal of Amendment

S. 92

An act relating to interchangeable biological products

The Senate concurs in the House proposal of amendment with the following proposals of amendment thereto:

First: In Sec. 1, 18 V.S.A. § 4601, in subdivision (5)(A), before the semicolon, by inserting as may be reflected in the U.S. Food and Drug

Administration's Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations (the Purple Book)

Second: In Sec. 8, 18 V.S.A. § 4636, in subdivision (a)(1), following “in this State”, by inserting for major medical health insurance

Third: In Sec. 9, 18 V.S.A. § 4635, in subdivision (b)(1), by striking out subdivision (C) in its entirety and inserting in lieu thereof a new subdivision (C) to read as follows:

(C)(i) Each health insurer with more than 5,000 covered lives in this State for major medical health insurance shall create annually a list of 10 prescription drugs on which its health insurance plans spend significant amounts of their premium dollars and for which the cost to the plans, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, or both, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the health insurer considers to be specialty drugs. The health insurer shall rank the drugs on the list from those with the greatest increase in net cost to those with the smallest increase and indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both.

(ii) Each health insurer creating a list pursuant to subdivision (i) of this subdivision (b)(1)(C) shall provide to the Office of the Attorney General the percentage by which the net cost to its plans increased over the applicable period or periods for each drug on the list, as well as the insurer's total expenditure, net of rebates and other price concessions, for each drug on the list during the most recent calendar year. Information provided to the Office of the Attorney General pursuant to this subdivision (b)(1)(C)(ii) is exempt from public inspection and copying under the Public Records Act and shall not be released.

Fourth: In Sec. 9, 18 V.S.A. § 4635, in subdivision (b)(2), in the first sentence, prior to “this subsection”, by inserting subdivisions (1)(A), (B), and (C)(i) of

Fifth: In Sec. 9, 18 V.S.A. § 4635, in subsection (e), prior to “this section”, by inserting subdivision (c)(1)(B) of

Sixth: By adding a reader assistance heading and a new section to be Sec. 11a to read as follows:

* * * Working Group on Prescription Drug Cost Savings

and Price Transparency * * *

Sec. 11a. WORKING GROUP ON PRESCRIPTION DRUG COST SAVINGS AND PRICE TRANSPARENCY; REPORT

(a) The Secretary of Human Services or designee shall convene a working group comprising one representative each from the Department of Vermont Health Access, the Green Mountain Care Board, the Vermont Board of Pharmacy, the Vermont Association of Chain Drug Stores, the Vermont Pharmacists Association, the Vermont Retail Druggists, Bi-State Primary Care Association, and the Vermont Association of Hospitals and Health Systems to investigate and analyze prescription drug pricing throughout the prescription drug supply chain in order to identify opportunities for savings for Vermont consumers and other payers and for increasing prescription drug price transparency at all levels of the supply chain, including manufacturers, wholesalers, pharmacy benefit managers, health insurers, pharmacies, and consumers.

(b) On or before November 15, 2018, the working group shall provide its findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare.

(For House Proposal of Amendment see House Journal April 18, 2018)

S. 203

An act relating to systemic improvements of the mental health system

The Senate concurs in the House proposal of amendment with the following proposals of amendment thereto:

First: In Sec. 1, legislative intent, in subdivision (b)(1), after “capacity” and before the semicolon, by inserting the phrase and which may be State operated and in subdivision (b)(2), after the word “State” and before the semicolon, by inserting the following: , including consideration of maintaining the current State-owned Vermont Psychiatric Care Hospital as an acute inpatient facility

Second: By striking out the reader assistance heading before Sec. 4 and inserting in lieu thereof:

* * * Waiver of Certificate of Need Requirements * * *

Third: By striking out Sec. 4 in its entirety and inserting in lieu thereof as follows:

Sec. 4. WAIVER OF CERTIFICATE OF NEED REQUIREMENTS

Notwithstanding any provisions of 18 V.S.A. chapter 221, subchapter 5 to the contrary:

(1) the implementation of renovations at the Brattleboro Retreat as authorized in the fiscal year 2019 capital budget adjustment bill shall not be considered a “new health care project” for which a certificate of need is required; and

(2) the proposal by the University of Vermont Health Network to expand psychiatric inpatient capacity at the Central Vermont Medical Center campus shall be exempt from the requirement to secure a conceptual development phase certificate of need pursuant to 18 V.S.A. § 9434(c).

Fourth: By striking out Sec. 8 in its entirety and inserting in lieu thereof the following:

Sec. 8. RATES OF PAYMENTS TO DESIGNATED AND
SPECIALIZED SERVICE AGENCIES

The community-based services provided by designated and specialized service agencies are a critical component of Vermont’s health care system. The ability to recruit and retain qualified employees is necessary for delivery of mental health services. In recognition of the importance of the designated and specialized service agencies, the Agency of Human Services shall:

(1) Conduct ongoing financial, service delivery, and quality review processes, which shall consider changes in operating costs over time, caseload trends, changes in programs and practices, geographic differences in labor markets, and the fiscal health of each designated and specialized service agency. The review shall inform payment rates, the performance grant processes, and payment reform work by drawing upon and combining current review processes and not creating duplicate or redundant reporting processes for either the Agency or the designated and specialized service agencies.

(2) On or before January 15, 2019, present a proposal, in conjunction with the Green Mountain Care Board and the designated and specialized service agencies, for providing the designated and specialized service agency budgets to the Board for informational purposes for its work on health care system costs to the House Committees on Appropriations, on Health Care, and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare. The presentation shall be consistent with the long-term goals of payment reform to address the potential for a review process of the designated and specialized service agency budgets by the Board as part of an integrated health care system.

Fifth: In Sec. 9, amending 2017 Acts and Resolves No. 82, Sec. 3(c), by striking out the third sentence and inserting in lieu thereof the following:

The evaluation process shall include an examination as to whether the principles for mental health care reform in 18 V.S.A. § 7251 are reflected in the current mental health system, and if not, where system gaps exist.

Sixth: In Sec. 10, report; institutions for mental disease, by striking out subdivision (1) and inserting in lieu thereof the following:

(1) a status update that shall provide possible solutions considered as part of the State's response to the Centers for Medicare and Medicaid Services' requirement to begin reducing federal Medicaid spending due on or before November 15, 2018; and

(For House Proposal of Amendment see House Journal April 24, 25, 2018)

NOTICE CALENDAR

Favorable with Amendment

S. 94

An act relating to promoting remote work

Rep. Botzow of Pownal, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

* * * ThinkVermont Innovation Initiative * * *

Sec. 1. THINKVERMONT INNOVATION INITIATIVE

(a) Purpose.

(1) The ThinkVermont Innovation Initiative is created to respond to the growth needs of Vermont small businesses with 20 or fewer employees by funding innovative strategies that accelerate small business growth and meet the project criteria specified in this section.

(2) The Initiative shall enable the State to invest in projects with grants that can be accessed more quickly and with fewer restrictions than traditional federal initiatives.

(b) Process; grant distribution.

(1) The Secretary of Commerce and Community Development, in consultation with the Vermont Economic Progress Council shall:

(A) adopt a schedule and process for accepting, reviewing, and approving grant proposals on a competitive basis;

(B) distribute grants across geographic areas of the State; and

(C) distribute grants across diverse industries, sectors, and business types, including for-profit and nonprofit organizations.

(2)(A) A grant shall provide funding in only one fiscal year.

(B) A recipient shall be eligible for a grant through the Initiative in not more than two fiscal years.

(c) Funding; matching requirements.

(1) The Secretary shall reserve not less than 10 percent of the funding through the Initiative for microgrants of not more than \$10,000.00.

(2) The Secretary shall require a grant recipient to provide matching funds for a grant as follows:

(A) for a microgrant reserved under subdivision (3) of this subsection, a funding match of 25 percent of the value of the grant; and

(B) for all other grants, a funding match of 100 percent of the value of the grant.

(d) Eligibility criteria. To be eligible for a grant, a project shall:

(1) provide workforce training that is not eligible for funding through another State or federal program and that serves an immediate employer need to fill one or more job vacancies;

(2) enable a business to attract, retain, or support remote workers in Vermont;

(3) establish or enhance a facility that attracts small companies or remote workers, or both, including generator and maker spaces, co-working spaces, remote work hubs, and innovation spaces, with special emphasis on facilities that promote colocation of nonprofit, for-profit, and government entities;

(4) enable or support deployment of broadband telecommunications connectivity;

(5) leverage economic development funding outside State government, including the federal New Market Tax Credit program and Small Business Innovation Research grants;

(6) support growth in Vermont's aerospace, aviation, or aviation technology sectors; or

(7) provide technical assistance to support small business growth.

(e) Outcomes; measures. The Secretary shall adopt measures to evaluate a grant to determine its impact, including job growth measured at one-, three-, and five-year intervals.

(f) Appropriation. In fiscal year 2019, the amount of \$400,000.00 is appropriated from the General Fund to the Agency of Commerce and Community Development to implement the ThinkVermont Innovation Initiative pursuant to this section.

* * * Promoting Remote Work, Maker, and Innovation Spaces * * *

Sec. 2. IMPROVING INFRASTRUCTURE AND SUPPORT FOR REMOTE WORK IN VERMONT; STUDY; REPORT

(a) The Secretary of Commerce and Community Development, in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services and other interested stakeholders, shall identify and examine the infrastructure improvements and other support needed to:

(1) enable workers and businesses to establish or enhance a remote presence in Vermont;

(2) build capacity throughout the State to increase access to maker spaces, co-working spaces, remote work hubs, and innovation spaces; and

(3) support the interconnection of current and future maker spaces, co-working spaces, remote work hubs, innovation spaces, and regional technical centers.

(b) On or before January 15, 2019, the Secretary shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a written report detailing his or her findings and recommendations.

Sec. 3. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

(a) The Secretary of Administration, in consultation with the Secretary of Commerce and Community Development and the Commissioner of Buildings and General Services, shall examine the potential for the State to establish remote worksites that are available for use by both State employees and remote workers in the private sector.

(b) The Secretary shall examine the feasibility of and potential funding models for the worksites, including the opportunity to provide at low- or no-cost co-working space within State buildings that is currently vacant or underutilized.

(c) On or before January 15, 2019, the Secretary shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs detailing his or her findings and any recommendations for legislative action.

Sec. 4. BROADBAND AVAILABILITY FOR REMOTE WORKERS

On or before January 15, 2019, the Director of Telecommunications and Connectivity, in consultation with the Agency of Commerce and Community Development, shall submit with the annual report required by 30 V.S.A. § 202e findings and recommendations concerning:

(1) the current availability of broadband service in municipal downtown centers that do, or could at reasonable cost, support one or more co-working spaces or similar venues for remote workers and small businesses; and

(2) strategies for expanding and enhancing broadband availability for such spaces.

* * * Municipalities; Village Center Designation; Electronic Filings * * *

Sec. 5. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation ~~every five~~ four years ~~after issuance or renewal~~ and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

* * *

Sec. 6. 24 V.S.A. § 2793a is amended to read:

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(d) The State Board shall review a village center designation every ~~five~~ eight years and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community

applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the village center no longer meets the standards for designation established in subsection (a) of this section, it may take any of the following actions:

* * *

Sec. 7. 24 V.S.A. § 2793b is amended to read:

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

* * *

(d) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a new town center designation every five four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. The State Board may adjust the schedule of review under this subsection to coincide with the review of a related growth center. If at any time the State Board determines the new town center no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

* * *

Sec. 8. 24 V.S.A. § 4345b is amended to read:

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

(a)(1) Prior to exercising the authority granted under this section, a regional planning commission shall:

(A) draft bylaws specifying the process for entering into, method of withdrawal from, and method of terminating service agreements with municipalities; and

(B) hold one or more public hearings within the region to hear from interested parties and citizens regarding the draft bylaws.

(2) At least 30 days prior to any hearing required under this subsection, notice of the time and place and a copy of the draft bylaws, with a request for comments, shall be delivered to the chair of the legislative body of each municipality within the region, which may be done electronically, provided the sender has proof of receipt. The regional planning commission shall make copies available to any individual or organization requesting a copy.

* * *

Sec. 9. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered physically or electronically with proof of receipt; or sent by certified mail, return receipt requested, to each of the following:

(1) the chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the Department of Housing and Community Development within the Agency of Commerce and Community Development;

(4) business, conservation, low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned; and

(5) the Agency of Natural Resources and the Agency of Agriculture, Food and Markets.

* * *

(e) The regional planning commission may make revisions to the proposed plan or amendment at any time not less than 30 days prior to the final public hearing held under this section. If the proposal is changed, a copy of the proposed change shall be delivered; physically or electronically with proof of receipt or by certified mail, return receipt requested, to the ~~chairperson~~ chair of the legislative body of each municipality within the region, and to any individual or organization requesting a copy, at least 30 days prior to the final hearing.

* * *

Sec. 10. 24 V.S.A. § 4352 is amended to read:

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE;

ENHANCED ENERGY PLANNING

* * *

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall

include a public hearing noticed at least 15 days in advance by direct mail or electronically with proof of receipt to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination in writing within two months ~~of~~ after the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

* * *

Sec. 11. 24 V.S.A. § 4384 is amended to read:

§ 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING
COMMISSION

* * *

(e) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment and the written report shall be delivered physically or electronically with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following:

(1) the ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in an abutting municipality, to the clerk of that municipality;

(2) the executive director of the regional planning commission of the area in which the municipality is located;

(3) the ~~department of housing and community affairs~~ Department of Housing and Community Development within the ~~agency of commerce and community development~~ Agency of Commerce and Community Development; and

(4) business, conservation, ~~low-income~~ low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.

* * *

Sec. 12. 24 V.S.A. § 4385 is amended to read:

§ 4385. ADOPTION AND AMENDMENT OF PLANS; HEARING BY
LEGISLATIVE BODY

* * *

(c) A plan of a municipality or an amendment thereof shall be adopted by a majority of the members of its legislative body at a meeting which is held after the final public hearing. If, however, at a regular or special meeting of the voters duly warned and held as provided in 17 V.S.A. chapter 55, a municipality elects to adopt or amend municipal plans by Australian ballot, that procedure shall then apply unless rescinded by the voters at a regular or special meeting similarly warned and held. If the proposed plan or amendment is not adopted so as to take effect within one year ~~of~~ after the date of the final hearing of the planning commission, it shall be considered rejected by the municipality. Plans and amendments shall be effective upon adoption, ~~and~~ Copies of newly adopted plans and amendments shall be provided to the regional planning commission and to the ~~commissioner of housing and community affairs~~ Commissioner of Housing and Community Development within 30 days of after adoption, which may be done electronically, provided the sender has proof of receipt. If a municipality wishes its plan or plan amendment to be eligible for approval under the provisions of section 4350 of this title, it shall request approval. The request for approval may be before or after adoption of the plan by the municipality, at the option of the municipality.

* * *

Sec. 13. 24 V.S.A. § 4424 is amended to read:

§ 4424. SHORELANDS; RIVER CORRIDOR PROTECTION AREAS;
FLOOD OR HAZARD AREA; SPECIAL OR FREESTANDING
BYLAWS

(a) Bylaws; flood and other hazard areas; river corridor protection. Any municipality may adopt freestanding bylaws under this chapter to address particular hazard areas in conformance with the municipal plan or, for the purpose of adoption of a flood hazard area bylaw, a local hazard mitigation plan approved under 44 C.F.R. § 201.6. Such freestanding bylaws may include the following, which may also be part of zoning or unified development bylaws:

(1) Bylaws to regulate development and use along shorelands.

(2) Bylaws to regulate development and use in flood areas, river corridor protection areas, or other hazard areas. The following shall apply if flood or other hazard area bylaws are enacted:

* * *

(D)(i) Mandatory provisions. Except as provided in subsection (c) of this section, all flood and other hazard area bylaws shall provide that no permit

for new construction or substantial improvement shall be granted for a flood or other hazard area until after both the following:

(I) A copy of the application is mailed or delivered by the administrative officer or by the appropriate municipal panel to the Agency of Natural Resources or its designee, which may be done electronically, provided the sender has proof of receipt.

(II) Either 30 days have elapsed following the mailing or the Agency or its designee delivers comments on the application.

(ii) The Agency of Natural Resources may delegate to a qualified representative of a municipality with a flood hazard area bylaw or ordinance or to a qualified representative for a regional planning commission the Agency's authority under this subdivision (a)(2)(D) to review and provide technical comments on a proposed permit for new construction or substantial improvement in a flood hazard area. Comments provided by a representative delegated under this subdivision (a)(2)(D) shall not be binding on a municipality.

* * *

Sec. 14. 24 V.S.A. § 4441 is amended to read:

§ 4441. PREPARATION OF BYLAWS AND REGULATORY TOOLS;

AMENDMENT OR REPEAL

* * *

(e) At least 15 days prior to the first hearing, a copy of the proposed bylaw, amendment, or repeal and the written report shall be delivered physically or electronically with proof of receipt; or mailed by certified mail, return receipt requested, to each of the following:

(1) The ~~chairperson~~ chair of the planning commission of each abutting municipality, or in the absence of any planning commission in a municipality, the clerk of that abutting municipality.

(2) The executive director of the regional planning commission of the area in which the municipality is located.

(3) The ~~department of housing and community affairs~~ Department of Housing and Community Development within the ~~agency of commerce and community development~~ Agency of Commerce and Community Development.

* * *

Sec. 15. 24 V.S.A. § 4445 is amended to read:

§ 4445. AVAILABILITY AND DISTRIBUTION OF DOCUMENTS

Current copies of plans, bylaws, and capital budgets and programs shall be available to the public during normal business hours in the office of the clerk of any municipality in which those plans, bylaws, or capital budgets or programs have been adopted. The municipality shall provide all final adopted bylaws, amendments, or repeals to the regional planning commission of the area in which the municipality is located and to the ~~department of housing and community affairs~~ Department of Commerce and Community Development, which may be done electronically, provided the sender has proof of receipt.

* * *

* * * Wastewater and Potable Water Lending * * *

Sec. 16. 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. 17. 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. 18. 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~~ a loan may only be made to ~~households with an owner with a household~~ an owner with a household income equal to or less than 200 percent of the State average median household income;

(2) ~~loans a loan~~ 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~~ 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.

* * * Rural Economic Development Districts * * *

Sec. 19. 24 V.S.A. § 5704 is amended to read:

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

(a) Governing board. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of a district shall be vested in a governing board, except as otherwise specifically provided in this chapter.

(b) Composition. The ~~first~~ governing board of the district shall consist of ~~four to eight~~ members appointed in equal numbers by the legislative bodies of the underlying municipalities. ~~It~~ The board shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing and removing members to the ~~permanent governing~~ board, including nonvoting, at-large board members. The bylaws shall require that ~~a majority of the board shall be appointed annually by~~ the legislative bodies of the underlying municipalities appoint board members and fill board member vacancies. Board members appointed by the underlying municipalities may appoint additional, nonvoting, at-large board members and fill at-large board member vacancies. Board members, including at-large members, are not required to be residents of an underlying municipality. However, a majority of the board shall be residents of an underlying municipality. Board members shall serve staggered, three-year terms, and shall be eligible to serve successive terms. ~~The legislative bodies of the municipalities in which the district is located shall fill board vacancies, and may remove board members at will. At-large board members shall serve one-year terms, and shall be eligible to serve successive terms.~~ Any bylaws developed by the governing board under this subsection shall be submitted for approval to the legislative bodies of the municipalities within the district and shall be considered duly adopted 45 days ~~from~~ after the date of submission, provided none of the legislative bodies disapprove ~~of~~ the bylaws.

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. ~~Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted.~~ The board shall elect from among its members a chair, vice chair, clerk, and treasurer. The board shall establish the fiscal year of the district and shall adopt rules of parliamentary procedure. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

(d) Annual and special meetings. Unless otherwise established by the voters, the annual district meeting shall be held on the second Monday in January and shall be warned by the clerk or, in the clerk's absence or neglect, by a member of the board. Special meetings shall be warned in the same manner on application in writing by five percent of the voters of the district. A warning for a district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted.

(e) Annual report. The district shall report annually to the legislative bodies and the citizens of the municipalities in which the district is located on the results of its activities in support of economic growth, job creation, improved community efficiency, and any other benefits incident to its activities.

(f) Definition. For purposes of this section and section 5709 of this chapter, after a district has been established pursuant to section 5702 of this chapter, "voter" means a board member or subscriber or customer of a service provided by the district. "Voter" does not mean an at-large board member unless the vote is taken at an annual or special meeting and the at-large board member is a subscriber or customer of a service provided by the district.

Sec. 20. 24 V.S.A. § 5705 is amended to read:

§ 5705. OFFICERS

(a) Generally. ~~The district~~ board shall elect at its first meeting and at each annual meeting thereafter a chair, vice chair, clerk, and treasurer, who shall hold office until the next annual meeting and until others are elected. The board may fill a vacancy in any office.

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) Vice chair. During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair, and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities given to or imposed upon the chair. During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its members an acting vice chair who shall have the powers and be subject to all the responsibilities given to or imposed upon the vice chair.

(d) Clerk. The clerk shall keep a record of the meetings, votes, and proceedings of the district for the inspection of its inhabitants.

(e) Treasurer. The treasurer of the district shall be ~~appointed~~ elected by the board, and shall serve at its pleasure. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When warrants are authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment made. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. Upon the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to his or her successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 7-0-4)

(For text see Senate Journal March 23, 2018)

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)

S. 105

An act relating to consumer justice enforcement

Rep. Colburn of Burlington, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT ACT; STANDARD-FORM CONTRACTS

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM

CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims take place in an inconvenient venue. As used in this subdivision, "inconvenient venue" includes for State law claims a place other than the state in which the individual resides or the contract was consummated, and for federal law claims a place other than the federal judicial district where the individual resides or the contract was consummated. Inconvenient venue shall not include the State or federal judicial district in which the individual suffered injury during the performance of the contract.

(2) A waiver of the individual's right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual's right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State's courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code.

(1) In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(2) When a party claims or it appears to the court that the contract or any clause within the contract is unconscionable, the parties shall be afforded a reasonable opportunity to present evidence regarding its commercial setting, purpose, and effect to aid the court in making a determination.

(c) Severability. If a court finds that a standard-form contract contains an unconscionable term, the court shall:

(1) so limit the application of the unconscionable term or the clause containing that term as to avoid any illegal or unconscionable result; or

(2) refuse to enforce the entire contract or the specific part, clause, or provision containing the unconscionable term.

(d) Unfair and deceptive act and practice.

(1) In an underlying legal dispute between the drafting and non-drafting parties in which the drafting party seeks to enforce one or more terms identified in subsection (a) of this section, and upon a finding that such terms are actually unconscionable, the court may also find that the drafting party has thereby committed an unfair and deceptive practice in violation of section 2453 of this title and may order up to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(2) Each term the drafting party seeks to enforce that is found by the court to be actually unconscionable may constitute a separate violation of this section.

(e) Limitation on applicability. This section shall not apply to contracts to which one party is:

(1) regulated by the Vermont Department of Financial Regulation; or

(2) a financial institution as defined by 8 V.S.A. § 11101(32).

Sec. 2. EFFECTIVE DATE

This act shall take effect on October 1, 2019.

(Committee vote: 7-4-0)

(For text see Senate Journal February 13, 2018)

S. 150

An act relating to automated license plate recognition systems

Reps. Burditt of West Rutland, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. EXTENSION OF SUNSET

Subsection (b) of 2013 Acts and Resolves No. 69, Sec. 3, as amended by 2015 Acts and Resolves No. 32, Sec. 1, as further amended by 2016 Acts and Resolves No. 169, Sec. 6, is further amended to read:

(b) Secs. 1–2 of this act, 23 V.S.A. §§ 1607 and 1608, shall be repealed on July 1, ~~2018~~ 2019.

Sec. 2. AUTOMATED LICENSE PLATE RECOGNITION SYSTEMS;

AUDITOR EXAMINATION OF COMPLIANCE

(a) On or before January 15, 2019, with respect to data collected by Automated License Plate Recognition (ALPR) systems, the Auditor of Accounts (Auditor) shall:

(1) examine requests for “historical data” as defined in 23 V.S.A. § 1607 that resulted in a release of historical data to the requester from July 1, 2016 through June 30, 2018 by the Vermont Intelligence Center (VIC), and shall examine such additional records as may be required, to enable the Auditor to determine whether the request and the release complied with requirements of 23 V.S.A. § 1607(c)(2); and

(2) submit a written report to the House and Senate Committees on Judiciary and on Transportation summarizing the findings of the examination required under this subsection.

(b) Notwithstanding any exemption under the Public Records Act (PRA) or other provision of State law to the contrary, a public agency shall release to the Auditor records that the Auditor may need in order to conduct the examination required under subsection (a) of this section. After receiving any record that is exempt from public inspection and copying under the PRA, the Auditor shall have the authority and the obligation to assert the PRA exemption if the Auditor receives a request to inspect or copy the record.

Sec. 3. 23 V.S.A. § 1607(e) is amended to read:

(e) Oversight; rulemaking.

(1) The Department of Public Safety, in consultation with the Department of Motor Vehicles, shall establish a review process to ensure that information obtained through use of ALPR systems is used only for the

purposes permitted by this section. The Department of Public Safety shall report the results of this review annually on or before January 15 to the Senate and House Committees on Judiciary and on Transportation. The report shall contain the following information based on prior calendar year data:

(A) the total number of ALPR units being operated by government agencies in the State, the number of such units that are stationary, and the number of units submitting data to the statewide ALPR database;

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(No Senate Amendments)

S. 179

An act relating to community justice centers

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

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

Sec. 1. 28 V.S.A. § 107 is amended to read:

§ 107. OFFENDER AND INMATE RECORDS; CONFIDENTIALITY;

EXCEPTIONS; CORRECTIONS

(a)(1) The Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 defining what are “offender and inmate records;” ~~as that phrase is produced or acquired by the Department.~~

(2) As used in this section, the phrase “offender and inmate records” means the records defined under the rule required under subdivision (1) of this subsection.

(b) Offender and inmate records ~~maintained by the Department~~ are exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the Department:

(1) Shall release or permit inspection of such records if required under federal or State law, including 42 U.S.C. §§ 10805 and 10806 (Protection and Advocacy Systems).

(2) Shall release or permit inspection of such records pursuant to a court order for good cause shown or, in the case of an offender or inmate seeking records relating to him or her in litigation, in accordance with discovery rules.

(3) Shall release or permit inspection of such records to a State or federal prosecutor as part of a criminal investigation pursuant to a court order issued ex parte if the court finds that the records may be relevant to the investigation. The information in the records may be used for any lawful purpose but shall not otherwise be made public.

(4) Shall release or permit inspection of such records to the Department for Children and Families for the purpose of child protection, unless otherwise prohibited by law.

(5) Shall release or permit inspection of ~~designated~~ specific categories or types of offender and inmate records to specific persons, or to any person, in accordance with ~~rules~~ a rule that the Commissioner shall adopt pursuant to 3 V.S.A. chapter 25, provided that the Commissioner shall redact any information that may compromise the safety of any person, or that is required by law to be redacted, prior to releasing or permitting inspection of such records under the ~~rules~~ rule. ~~The Commissioner shall authorize release or inspection of offender and inmate records under these rules~~ rule shall provide for disclosure of a category or type of record in either of the following circumstances:

(A) ~~When~~ when the public interest served by disclosure of a record outweighs the privacy, security, or other interest in keeping the record confidential; or

(B) ~~To~~ in order to provide an offender or inmate access to offender and inmate records relating to him or her ~~if access is not otherwise guaranteed under this subsection, unless providing such access would reveal information that, unless:~~

(i) the category or type of record is confidential or exempt from disclosure under a law other than this section; or

(ii) providing access would unreasonably interfere with the Department's ability to perform its functions, including unreasonable interference due to the staff time or other cost associated with providing a category or type of record; or

(iii) providing access may compromise the health, safety, security, or rehabilitation of the offender or inmate or of another person.

(c)(1) The rules may specify circumstances under which the Department Unless otherwise provided in this section or required by law, the rule required under subdivision (b)(5) of this section:

(A) shall specify the categories or types of records to be disclosed and to whom they are to be disclosed, and shall not provide for any exceptions to disclosure of records that fall within these categories or types except for redactions required by law;

(B) shall specify which categories or types of records relating to an offender or inmate shall be provided to the offender or inmate as a matter of course and which shall be provided only upon request;

(C) may limit the offender's or inmate's access to include only records produced or acquired in the year preceding the date of the request;

(D) may limit the number of requests by an offender or inmate that will be fulfilled per calendar year, as long as provided that the Department fulfills at least one request two requests by the offender or inmate per calendar year excluding any release of records ordered by a court, and at least one additional request in the same calendar year limited to records not in existence at the time of the original request or not within the scope of the original request. The rules also;

(E) may specify circumstances when the an offender's or inmate's right of access will be limited to an inspection overseen by an agent or employee of the Department;

(F) may provide that the Department has no obligation to provide an offender or inmate a record previously provided if he or she still has access to the record. The rules; and

(G) shall reflect the Department's obligation not to withhold a record in its entirety on the basis that it contains some confidential or exempt content, to redact such content, and to make the redacted record available.

(2) The Department shall provide records available to an offender or inmate under the rule free of charge, except that if the offender or inmate is responsible for the loss or destruction of a record previously provided, the Department may charge him or her for a replacement copy at \$0.01 per page.

~~(e)~~(d) Notwithstanding the provisions of 1 V.S.A. chapter 5, subchapter 3 (Public Records Act) that govern the time periods for a public agency to respond to a request for a public record and rights of appeal, the Commissioner shall adopt a rule pursuant to 3 V.S.A. chapter 25 governing response and appeal periods and appeal rights in connection with a request by an offender or inmate to access records relating to him or her maintained by the Department. The rule shall provide for a final exhaustion of administrative appeals no later than 45 days from the Department's receipt of the initial request.

~~(d)~~(e) An offender or inmate may request that the Department correct a fact in a record maintained by the Department that is material to his or her rights or

status, except for a determination of fact that resulted from a hearing or other proceeding that afforded the offender or inmate notice and opportunity to be heard on the determination. The rule required under subsection ~~(e)~~(d) of this section shall reference that requests for such corrections are handled in accordance with the Department's grievance process. If the Department issues a final decision denying a request under this subsection, the offender or inmate may appeal the decision to the Civil Division of the Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. The Court shall not set aside the Department's decision unless it is clearly erroneous.

Sec. 2. REPEAL

In 2016 Acts and Resolves No. 137, Sec. 7, as amended by 2017 Acts and Resolves No. 78, Sec. 10, subsections (b)–(e) and (g) hereby are repealed.

Sec. 3. EFFECTIVE DATE; TRANSITION PROVISION

(a) This act shall take effect on passage.

(b) Prior to the Commissioner of Corrections' (Commissioner) adopting a rule pursuant to the rulemaking mandates of 28 V.S.A. § 107(a) and (b)(5) as amended in Sec. 1 of this act, the Department of Corrections (Department) shall keep confidential "offender and inmate records" as defined in Department policies or directives in effect prior to the effective date of the rule, except that the Department:

(1) shall apply the exceptions to the confidentiality of offender and inmate records that exist under 28 V.S.A. § 107(b)(1)–(4);

(2) shall apply the exceptions to the confidentiality of offender and inmate records that exist under directives, policies, and practices adopted by the Department prior to the effective date of the rule, and in so doing shall apply the redaction requirements of 28 V.S.A. § 107(b)(5) as amended in Sec. 1 of this act; and

(3) may rely upon the limitations on offender and inmate access to records, and the provisions related to charging for copies of such records, in 28 V.S.A. § 107(c)(1)(C)–(F) and (c)(2) as amended in Sec. 1 of this act.

(c) On or before September 15, 2018, the Commissioner shall prefile rules with the Interagency Committee on Administrative Rules in accordance with the rulemaking requirements of 28 V.S.A. § 107, as amended in Sec. 1 of this act. The Commissioner shall update the Joint Legislative Justice Oversight Committee on the status of its efforts to adopt the rules at the Oversight Committee's first meeting on or after September 15, 2018.

and that after passage the title of the bill be amended to read: "An act relating to offender and inmate records"

(Committee vote: 10-0-1)

(For text see Senate Journal February 2, 2018)

S. 180

An act relating to the Vermont Fair Repair Act

Rep. Myers of Essex, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

Sec. 1. FINDINGS

The General Assembly finds:

(1) The repair of modern electronic products, even for such minor repairs as replacing a battery or screen, often becomes difficult or impossible due to manufacturers' limitation of access to information or parts to effect those repairs.

(2) Manufacturers may limit access to only those customers who are under warranty; may refuse access for owners of older models; and may refuse to stock or sell parts at fair and reasonable prices. Consequently, consumers are often left with few options other than to buy new.

(3) Modern repairs involve electronics. Repairing those electronics requires information, parts, firmware access, and tooling specifications from the product designers.

(4) The knowledge and tools to repair and refurbish consumer electronic products should be distributed as widely and freely as the products themselves. In contrast to centralized manufacturing, reuse must be broadly distributed to achieve economies of scale.

(5) Many manufacturers have made commitments to sustainability, repair, and reuse, and the innovation economy of Vermont and the United States has had many positive economic and environmental impacts. Legislation that further promotes extending the lifespan of consumer electronic products can create jobs and benefit the environment.

(6) As demonstrated by Massachusetts's experience with a right to repair initiative concerning automobiles in 2014, which resulted in a compromise between manufacturers and independent repair providers to adopt a voluntary nationwide approach for providing diagnostic codes and repair data available in a common format by the 2018 model year, legislative action to

secure a right to repair can achieve positive benefits for manufacturers, independent businesses, and consumers.

Sec. 2. RIGHT TO REPAIR TASK FORCE; REPORT

(a) Creation. There is created the Right to Repair Task Force.

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

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

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

(3) the Attorney General or designee;

(4) the Secretary of Commerce and Community Development or designee; and

(5) the Secretary of Digital Services or designee.

(c) Stakeholder engagement. The Task Force shall solicit testimony and participation in its work from representatives of relevant stakeholders, including authorized and independent repair providers, and business and consumer groups with an interest in consumer electronic products.

(d) Powers and duties. The Task Force shall review and consider the following issues relating to potential legislation designed to secure the right to repair consumer electronic products, including personal electronic devices such as cell phones, tablets, and computers:

(1) the scope of products to include;

(2) economic costs and benefits, including economic development and workforce opportunities;

(3) effects on the cost and availability to consumers of new and used consumer electronic products in the marketplace, including diminished availability of refurbished products for secondary users;

(4) environmental and economic costs of electronic waste;

(5) legal issues, including intellectual property and trade secrets, potential for alignment or conflict with federal law, and litigation risks;

(6) privacy and security features in electronic products; and

(7) any other issues the Task Force considers relevant and necessary to accomplish its work.

(e) Assistance. The Task Force shall have the administrative, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office. Relevant agencies and departments within State government shall provide their technical and other expertise upon request of the Task Force.

(f) Report. On or before January 15, 2019, the Task Force shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development with its findings and any recommendations for legislative action, including specific findings and recommendations concerning personal electronic devices such as cell phones, tablets, and computers.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Task Force to occur on or before August 15, 2018.

(2) The legislative members of the Task Force shall serve as co-chairs.

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

(4) The Task Force shall cease to exist on January 15, 2019.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 8-0-3)

(For text see Senate Journal March 14, 2018)

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: 10-0-1)

S. 234

An act relating to adjudicating all teenagers in the Family Division, except those charged with a serious violent felony

Rep. Grad of Moretown, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 1. 33 V.S.A. § 5101a is added to read:

§ 5101a. JUVENILE JUSTICE LEGISLATIVE FINDINGS

(a) The General Assembly finds and declares as public policy that an effective juvenile justice system: protects public safety; connects youths and young adults to age-appropriate services that reduce the risk of reoffense; and, when appropriate, shields youths from the adverse impact of a criminal record.

(b) In order to accomplish these goals, the system should be based on the implementation of data-driven evidence-based practices that offer a broad range of alternatives, such that the degree of intervention is commensurate with the risk of reoffense.

(c) High-intensity interventions with low-risk offenders not only decrease program effectiveness, but are contrary to the goal of public safety in that they increase the risk of recidivism. An effective youth justice system includes pre-charge options that keep low-risk offenders out of the criminal justice system altogether.

* * * Expungement * * *

Sec. 2. 13 V.S.A. § 7609 is added to read:

§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN
INDIVIDUAL 18-21 YEARS OF AGE

(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18-21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution has been paid in full.

(b) Exceptions.

(1) A criminal record that includes both qualifying and nonqualifying offenses shall not be eligible for expungement pursuant to this section.

(2) The Vermont Crime Information Center shall retain a special index of sentences for sex offenses that require registration pursuant to chapter 167, subchapter 3 of this title. This index shall only list the name and date of birth of the subject of the expunged files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the expungement. The special index shall be confidential and shall be accessed only by the Director of the Vermont Crime Information Center and an individual designated for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a.

Sec. 3. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

* * *

(d)(1) The court ~~may~~ shall keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to ~~section 7602 or 7603 of this title~~ this chapter. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case ~~or by the court if the court finds that inspection of the documents is necessary to serve the interest of justice~~. The Administrative Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) All other court documents in a case that are subject to an expungement order shall be destroyed.

(5) The Court Administrator shall establish policies for implementing this subsection.

(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that “NO RECORD EXISTS.”

Sec. 4. 33 V.S.A. § 3309 is added to read:

§ 3309. COMPLIANCE WITH THE JUVENILE JUSTICE AND
DELINQUENCY PREVENTION ACT

The Department for Children and Families, within the Agency of Human Services, is the State agency designated for supervising the preparation and administration of the Juvenile Justice and Delinquency Prevention Act State Plan and is also designated as the State agency responsible for monitoring and data collection for purposes of compliance with the Juvenile Justice and Delinquency Prevention Act.

Sec. 5. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The Family Division of the Superior Court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

* * *

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child ~~who has been adjudicated delinquent with a pending delinquency~~ may be extended until six months beyond the child's 19th birthday if the child was 16 or 17 years of age when he or she committed the offense.

(B) In no case shall custody of a child 18 years of age or older be retained by or transferred to the Commissioner for Children and Families.

(C) Jurisdiction over a child in need of care or supervision shall not be extended beyond the child's 18th birthday.

(D) [Repealed.]

* * *

* * * Juvenile Delinquency Proceedings * * *

Sec. 6. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

(a) Preliminary hearing. A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a

child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing. Counsel for the child shall be assigned prior to the preliminary hearing.

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(3) If a charge is brought in the Family Division, the risk level result shall be provided to the child's attorney. ~~Except on agreement of the parties, the results shall not be provided to the court until after a merits finding has been made.~~

~~(c) Counsel for the child shall be assigned prior to the preliminary hearing.~~ Referral to diversion. Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice. If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(d) Guardian ad litem. At the preliminary hearing, the court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's parent, guardian, or custodian. On its own motion or motion by the child's

attorney, the court may appoint a guardian ad litem other than a parent, guardian, or custodian.

(e) Admission; denial. At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the court may proceed directly to disposition, provided that the juvenile, the custodial parent, the State's Attorney, the guardian ad litem, and the Department agree.

(f) Conditions. The court may order the child to abide by conditions of release pending a merits or disposition hearing.

Sec. 7. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under 18 years of age at the time the offense charged was alleged to have been committed and the offense charged is ~~a misdemeanor, that court shall forthwith transfer the case to the Family Division of the Superior Court under the authority of this chapter~~ an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant ~~was under 18 years of age at the time a felony offense not specified in subsection 5204(a) of this title was alleged to have been committed, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act~~ had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

* * *

* * * Youthful Offender Proceedings * * *

Sec. 8. 33 V.S.A. § 5280 is amended to read:

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER

PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

(d) Within 15 days after the commencement of a youthful offender proceeding pursuant to subsection (a) of this section, the youth shall be offered a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and needs screenings. The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the Family Division shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days.

(1) The Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney.

(2) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk and needs screening may be used in subsequent proceedings.

(e) If a youth presents a low to moderate risk to reoffend based on the results of the risk and needs screening, the State's Attorney shall refer a youth directly to court diversion unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice. If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed

satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.

Sec. 9. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) ~~Within 30 days after the case is transferred to the Family Division or a youthful offender petition is filed in the Family Division, youth has completed the risk and needs screening pursuant to section 5280 of this title, unless the court extends the period for good cause shown, the Department for Children and Families shall file a report with the Family Division of the Superior Court.~~

* * *

Sec. 10. 33 V.S.A. § 5285(d) is amended to read:

(d) If a youth's status as a youthful offender is revoked and the case is transferred to the Criminal Division pursuant to subdivision (c)(2) of this section, the court shall hold a sentencing hearing and impose sentence. Unless it serves the interest of justice, the case shall not be transferred back to the Family Division pursuant to section 5203 of this title. When determining an appropriate sentence, the court may take into consideration the youth's degree of progress toward or regression from rehabilitation while on youthful offender status. The Criminal Division shall have access to all Family Division records of the proceeding.

Sec. 11. 33 V.S.A. § 5801 is amended to read:

§ 5801. WOODSIDE JUVENILE REHABILITATION CENTER

(a) The Woodside Juvenile Rehabilitation Center in the town of Essex shall be operated by the Department for Children and Families as a residential treatment facility that provides in-patient psychiatric, mental health, and substance abuse services in a secure setting for adolescents who have been adjudicated or charged with a delinquency or criminal act.

(b) The total capacity of the facility shall not exceed 30 beds.

(c) The purpose or capacity of the Woodside Juvenile Rehabilitation Center shall not be altered except by act of the General Assembly following a study recommending any change of use by the Agency of Human Services.

(d) No person who has reached his or her 18th birthday may be placed at Woodside. Notwithstanding any other provision of law, a person under ~~the age of 18 years of age~~ may be placed at Woodside, provided that he or she meets the admissions criteria for treatment as established by the Department for Children and Families. Any person already placed at Woodside may voluntarily continue receiving treatment at Woodside beyond his or her 18th birthday, provided that he or she continues to meet the criteria established by

the Department for continued treatment. The Commissioner shall ensure that a child placed at Woodside has the same or equivalent due process rights as a child placed at Woodside in its previous role as a detention facility prior to the enactment of this act.

Sec. 12. DEPARTMENT FOR CHILDREN AND FAMILIES; EXPANDING JUVENILE JURISDICTION; REPORT

(a) The Department for Children and Families, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Court Administrator, and the Commissioner of Corrections, shall:

(1) consider the implications, including necessary funding, of expanding juvenile jurisdiction under 33 V.S.A. chapter 52 to encompass 18- and 19-year-olds beginning in fiscal year 2021;

(2) on or before November 1, 2018, report to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Committee on the status and plan for the expansion, including necessary funding and specific milestones related to operations and policy; and

(3) provide status update reports to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Committee on or before November 1, 2019 and November 1, 2020.

(b) The Joint Legislative Justice Oversight Committee and Joint Legislative Child Protection Committee shall review the November 1, 2018 report, the plan for expansion, the necessary funding and the subsequent status reports as required by subsection (a) of this section to determine whether adequate funding and supports are in place to implement the expansion of juvenile jurisdiction to encompass 18- and 19-year-olds in accordance with the effective dates of this act. To the extent that inadequate funding and supports are available for the expansion, the Committees shall, on or before December 1, 2018, December 1, 2019, and December 1, 2021, recommend legislation to address the inadequacies or amend the timeline for the rollout of the expansion.

* * * Effective July 1, 2020 * * *

Sec. 13. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in section 5203 of this title; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed a ~~misdemeanor~~ any offense other than those specified in subsection 5204(a) of this title before attaining ~~18~~ 19 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

~~(e) Any proceeding concerning a child who is alleged to have committed a felony offense other than those specified in subsection 5204(a) of this title before attaining 18 years of age shall originate in the Family Division of the Superior Court provided that jurisdiction may be transferred in accordance with this chapter. [Repealed.]~~

(f) If the State requests that custody of the child be transferred to the Department, a temporary care hearing shall be held as provided in subchapter 3 of this chapter.

(g) A petition may be withdrawn by the State's Attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.

Sec. 14. 33 V.S.A. § 5202 is amended as follows:

§ 5202. ORDER OF ADJUDICATION; NONCRIMINAL

(a)(1) An order of the Family Division of the Superior Court in proceedings under this chapter shall not:

(A) be deemed a conviction of crime;

(B) impose any civil disabilities sanctions ordinarily resulting from a conviction; or

(C) operate to disqualify the child in any civil service application or appointment.

(2) Notwithstanding subdivision (1) of this subsection, an order of delinquency in proceedings ~~transferred under subsection 5203(b) of this title,~~

where the offense charged in the initial criminal proceedings was concerning a child who is alleged to have committed a violation of those sections of Title 23 specified in subdivision 23 V.S.A. § 801(a)(1); shall be an event in addition to those specified therein, enabling the Commissioner of Motor Vehicles to require proof of financial responsibility under 23 V.S.A. chapter 11.

(b) The disposition of a child and evidence given in a hearing in a juvenile proceeding shall not be admissible as evidence against the child in any case or proceeding in any other court except after a subsequent conviction of a felony in proceedings to determine the sentence.

Sec. 15. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~18~~ 19 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~18~~ 19 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the

Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 16. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~48~~ 19 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to

adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

* * *

* * * Effective July 1, 2022 * * *

Sec. 17. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in subsection (c) of this section; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

* * *

Sec. 18. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~19~~ 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 19. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR
COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~19~~ 20 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

* * *

* * * Appropriation * * *

Sec. 20. FUNDING

To the extent the sum of \$200,000.00 is appropriated in fiscal year 2019 from the General Fund to the Department for Children and Families, the Department shall prepare for the expansion of services to juvenile offenders 18 and 19 years of age pursuant to 33 V.S.A. chapters 52 and 52A beginning in fiscal year 2021, and shall carry forward any unexpended funds.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 4 (compliance with the juvenile justice and delinquency prevention act), 5 (jurisdiction), 7 (transfer from other courts), and 20 (funding) shall take effect on passage.

(b) Secs. 1–3, 6, and 8–12 shall take effect on July 1, 2018.

(c) Secs. 13–16 shall take effect on July 1, 2020.

(d) Secs. 17–19 shall take effect on July 1, 2022.

(Committee vote: 10-0-1)

(For text see Senate Journal February 23, 2018)

Rep. Keefe of Manchester, for the Committee on Human Services, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary and when further amended as follows:

that the House propose to the Senate that the bill be amended by striking out Sec. 12 (Department for Children and Families; expanding juvenile jurisdiction; report) in its entirety and inserting in lieu thereof the following:

Sec. 12. DEPARTMENT FOR CHILDREN AND FAMILIES; EXPANDING JUVENILE JURISDICTION; REPORT

(a) The Department for Children and Families, in consultation with the Department of State’s Attorneys and Sheriffs, the Office of the Defender General, the Court Administrator, and the Commissioner of Corrections, shall:

(1) consider the implications, including necessary funding, of expanding juvenile jurisdiction under 33 V.S.A. chapter 52 to encompass persons 18 and 19 years of age beginning in fiscal year 2021;

(2) on or before November 1, 2018, report to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Oversight Committee on the status and plan for the expansion, including necessary funding, measures necessary to avoid a negative impact on the State’s child protection response, and specific milestones related to operations and policy, including:

(A) identification of and a timeline for structural and systemic changes within the juvenile justice system for the Family Division, the Department for Children and Families, the Department of Corrections, the Department of State’s Attorneys and Sheriffs, and the Office of the Defender General;

(B) an operations and business plan that defines benchmarks, including possible changes to resource allocations; and

(C) a clearly defined path for geographic consistency and court alternatives and training needs; and

(3) provide status update reports to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Oversight

Committee on or before November 1, 2019, November 1, 2020, and November 1, 2021.

(b) The Joint Legislative Justice Oversight Committee and Joint Legislative Child Protection Oversight Committee shall review the November 1, 2018 report, the plan for expansion, the necessary funding, and the subsequent status reports as required by subsection (a) of this section to determine whether adequate funding and supports are in place to implement the expansion of juvenile jurisdiction to encompass persons 18 and 19 years of age in accordance with the effective dates of this act, and shall:

(1) on or before December 1, 2019, December 1, 2020, and December 1, 2021, issue findings as to whether the milestones identified in subdivision (a)(2) of this section related to operations and policy have been met and whether an appropriate funding plan has been developed; and

(2) on or before December 1, 2018, December 1, 2019, December 1, 2020, and December 1, 2021, recommend legislation to amend the timeline for the rollout of the expansion unless adequate funding and supports for the expansion are available and milestones related to policy and operations have been met.

(Committee Vote: 11-0-0)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Judiciary and Human Services.

(Committee Vote: 11-0-0)

S. 260

An act relating to funding the cleanup of State waters

Rep. Deen of Westminister, for the Committee on Natural Resources; Fish; and Wildlife, recommends that the House propose to the Senate that 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:

* * * Clean Water Working Group * * *

Sec. 1. FINDINGS

The General Assembly finds that for the purposes of this section and Secs. 2-4 of this act:

(1) Within Vermont there are 7,100 miles of rivers and streams and 812 lakes and ponds of at least five acres in size.

(2) Currently, over 350 waters or water segments in the State do not meet water quality standards, are at risk of not meeting water quality standards, or are altered due to the presence of aquatic nuisances.

(3) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64, an act relating to improving the quality of State waters (Act 64), for the purpose, among others, of providing mechanisms, staffing, and financing necessary for the State to achieve and maintain compliance with the Vermont Water Quality Standards for all State waters.

(4) Act 64 directed the State Treasurer to recommend to the General Assembly a long-term mechanism for financing water quality improvement in the State, including proposed revenue sources for water quality improvement programs.

(5) The State Treasurer submitted a Clean Water Report in January 2017 that included:

(A) an estimate that over 20 years it would cost \$2.3 billion to achieve compliance with water quality requirements;

(B) a projection that revenue available for water quality over the 20-year period would be approximately \$1.06 billion, leaving a 20-year total funding gap of \$1.3 billion;

(C) an estimate of annual compliance costs of \$115.6 million, which, after accounting for projected revenue, would leave a funding gap of \$48.5 million to pay for the costs of compliance with the first tier of federal and State water quality requirements; and

(D) a financing plan to provide more than \$25 million annually in additional State funds for water quality programs.

(6) After determining that a method to achieve equitable and effective long-term funding methods to support clean water efforts in Vermont was necessary, the General Assembly established in 2017 Acts and Resolves No. 73, Sec. 26 the Working Group on Water Quality Funding to develop draft legislation to accomplish this purpose.

(7) The Act 73 Working Group did not recommend a long-term funding method to support clean water efforts in Vermont and instead recommended that the General Assembly maintain a Capital Bill clean water investment of \$15 million a year through fiscal years 2020 and 2021.

(8) In the years beyond fiscal year 2021, the Act 73 Working Group acknowledged that capital funds would need to be reduced to \$10 to \$12 million a year and that additional revenues would need to be raised.

(9) The U.S. Environmental Protection Agency (EPA) in a letter to the General Assembly stated that it is important for the State of Vermont to establish a long-term revenue source to support water quality improvement in order to comply with the accountability framework of the Lake Champlain Total Maximum Daily Load plan.

(10) To ensure that the State has sufficient funds to clean and protect the State's waters so that they will continue to provide their integral and inherent environmental and economic benefits, the State should require a Clean Water Working Group to recommend to the General Assembly draft legislation to establish equitable and effective long-term funding methods to support clean water efforts in Vermont.

(11) If the General Assembly does not enact a recommendation of the Clean Water Working Group, the State shall implement a water quality revenue occupancy surcharge to support water quality improvement.

Sec. 2. CLEAN WATER WORKING GROUP

(a) Creation. There is created the Clean Water Working Group to recommend to the General Assembly how to establish an equitable and effective long-term funding method to:

(1) fund the necessary water quality programs and projects that will remediate, improve, and protect the quality of the waters of the State;

(2) coordinate water quality funding in the State;

(3) plan for the water quality funding needs of the State; and

(4) ensure accountability of the State's efforts to clean up impaired waters, maintain or achieve the Vermont Water Quality Standards in all waters, and prevent the future degradation of waters.

(b) Membership. The Clean Water Working Group shall be composed of the following ten members:

(1) the Secretary of Natural Resources or designee;

(2) the Secretary of Agriculture, Food and Markets or designee;

(3) the Commissioner of Taxes or designee;

(4) one representative of a municipality in the State that has a stormwater utility or other water quality funding mechanism, to be appointed by the Speaker of the House;

(5) one representatives of a municipality in the State that does not have a stormwater utility or other water quality funding mechanism, to be appointed by the Committee on Committees;

(6) one representative of a business interest located in the State, to be appointed by the Governor;

(7) a representative of the hospitality or tourism industry in the State, to be appointed by the Speaker of the House;

(8) a representative of a regional planning commission, natural resource conservation district, or regional or statewide watershed organization, to be appointed by the Committee on Committees;

(9) a person with expertise in financial lending or investment, to be appointed by the Governor; and

(10) a farmer, to be appointed by the Speaker of the House.

(c) Powers and duties. The Clean Water Working Group shall recommend to the General Assembly:

(1) whether the State should establish an independent authority or implement other alternatives to coordinate and fund water quality programs and projects across State government;

(2) a description of the structure, powers, duties, and feasibility of the independent authority or alternative mechanism recommended under subdivision (1) of this subsection;

(3) a funding plan for water quality programs and projects in the State that includes priorities for funding water quality programs in the State and that will sufficiently fund the following State obligations:

(A) federally required or State-required cleanup plans for individual waters or water segments, such as total maximum daily load plans;

(B) the requirements of 2015 Acts and Resolves No. 64; and

(C) the Agency of Natural Resources' Combined Sewer Overflow Rule;

(4) one or more funding alternatives that are sufficient to implement the financing plan for water quality recommended under subdivision (3) of this subsection, including how each recommended funding alternative revenue source shall be implemented, assessed, and collected; and

(5) whether the State Treasurer's estimate of State funding needs in the Clean Water Report in January 2017 should be revised or updated due to economic conditions or due to the need to reflect the most effective measures to improve water quality.

(d) Assistance. The Clean Water Working Group shall have the administrative, technical, and legal assistance of the Agency of Natural Resources and the Agency of Agriculture, Food and Markets and the fiscal assistance of the Department of Taxes. The Working Group shall also be entitled to seek financial, technical, and scientific input or services from the Office of the State Treasurer, the Agency of Transportation, the Vermont Center for Geographic Information Services, and the Agency of Commerce and Community Development. The Working Group may seek the input or

assistance of regional planning commissions, natural resources conservation districts, and statewide and regional watershed organizations.

(e) Report. On or before January 15, 2019, the Clean Water Working Group shall submit to the General Assembly draft legislation that addresses the issues set forth under subsection (c) of this section.

(f) Meetings.

(1) The Secretary of Natural Resources shall call the first meeting of the Clean Water Working Group to occur on or before August 1, 2018.

(2) The Clean Water Working Group shall select a chair or co-chairs from among its members at its first meeting.

(3) A majority of the membership of the Clean Water Working Group shall constitute a quorum.

(4) The Clean Water Working Group shall cease to exist on June 1, 2019.

(g) Compensation. Members of the Clean Water Working Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be paid from the budget of the Agency of Administration.

* * * Water Quality Occupancy Surcharge * * *

Sec. 3. 32 V.S.A. § 9241a is added to read:

§ 9241a. WATER QUALITY OCCUPANCY SURCHARGE

(a) In addition to the tax on the rent of each occupancy imposed in section 9241 of this title, an operator shall collect a water quality occupancy surcharge of \$2.00 per room for each night of occupancy. The surcharge shall be in addition to any tax assessed under section 9241 of this title.

(b) The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388.

(c) The provisions of this chapter relating to the imposition, collection, remission, and enforcement of the meals and rooms tax imposed in section 9241 of this title shall apply to the water quality occupancy surcharge imposed in this section.

* * * Clean Water Fund * * *

Sec. 4. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the “Clean Water Fund” to be administered by the Secretary of Administration. The Fund shall

consist of:

(1) ~~revenues dedicated for deposit into the Fund by the General Assembly, including from~~ the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a; ~~and~~

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) revenues from the Water Quality Occupancy Surcharge established under 32 V.S.A. § 9241a; and

(4) other revenues dedicated for deposit into the Fund by the General Assembly.

(b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and any earnings shall remain in the Fund from year to year.

* * * Clean Water Fund Board * * *

Sec. 5. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation.

(1) There is created the Clean Water Fund Board ~~which~~ that shall recommend to the Secretary of Administration ~~expenditures~~;

(A) appropriations from the Clean Water Fund; and

(B) clean water projects to be funded by capital appropriations.

(2) The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee;

(5) the Secretary of Transportation or designee; and

(6) two members of the public who are not legislators, one of whom shall represent a municipality subject to the municipal separate storm sewer

system (MS4) permit and one of whom shall represent a municipality that is not subject to the MS4 permit, appointed as follows:

(A) the Speaker of the House shall appoint the member from an MS4 municipality; and

(B) the Committee on Committees shall appoint the member who is not from an MS4 municipality.

(c) Officers; committees; rules.

~~(1) The Clean Water Fund Board shall annually elect a chair from its members~~ Secretary of Administration shall serve as the Chair of the Board. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

(d) Powers and duties of the Clean Water Fund Board. The Clean Water Fund Board shall have the following powers and authority:

(1) The Clean Water Fund Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment. The recommendations of the Clean Water Fund Board shall be open to inspection and copying under the Public Records Act, and the Clean Water Fund Board shall submit to the Senate Committees on Appropriations, on Finance, on Agriculture, and on Natural Resources and Energy and the House Committees on Appropriations, on Ways and Means, on Agriculture and Forestry, and on Natural Resources, Fish, and Wildlife a copy of any recommendations provided to the Governor.

(2) The Clean Water Fund Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(3) The Clean Water Fund Board shall:

(A) establish a process by which watershed organizations, State agencies, and other interested parties may propose water quality projects or programs for financing from the Clean Water Fund;

(B) develop an annual revenue estimate and proposed budget for the Clean Water Fund;

(C) establish measures for determining progress and effectiveness of expenditures for clean water restoration efforts;

(D) issue the annual Clean Water Investment Report required under section 1389a of this title; ~~and~~

(E) solicit, consult with, and accept public comment from organizations interested in improving water quality in Vermont regarding recommendations under this subsection (d) for the allocation of funds from the Clean Water Fund; and

(F) establish a process under which a watershed organization, State agency, or other interested party may propose that a water quality project or program identified in a watershed basin plan receive funding from the Clean Water Fund.

(e) Priorities.

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

(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);

(B) funding to projects that address sources of water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(C) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(E) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;

(F) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy;

(G) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices; ~~and~~

(H) funding to municipalities for the establishment and operation of stormwater utilities; and

(I) investment in watershed basin planning, water quality project identification screening, water quality project evaluation, and conceptual plan development of water quality projects.

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

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide ~~for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non point sources of pollution in the State~~ investment in all watersheds of the State based on the needs identified in watershed basin plans.

(f) Assistance. The Clean Water Fund Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

(g) Terms; appointed members. Members who are appointed to the Clean Water Fund Board shall be appointed for terms of four years, except initial appointments shall be made such that the member appointed by the Speaker shall be appointed for a term of two years. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

* * * Coordinated Water Quality Grants; Performance Grants * * *

Sec. 6. COORDINATED WATER QUALITY GRANTS

The Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall coordinate prior to awarding water quality grants or funding in order to maximize the water quality benefit or impact of funded projects in a watershed planning basin. When grants are issued, the Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall, when allowed by law, authorize funds or identify other funding opportunities that may be used to support capacity to implement projects in the watershed basin.

Sec. 7. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forestry, on Natural Resources ~~and Energy, and on Fish, Wildlife and Water Resources, Fish, and Wildlife~~, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(G) develop, in consultation with the regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, ~~contract with a regional planning commission or~~ negotiate and issue performance grants to the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection in a manner consistent with the authority of regional planning commissions under 24 V.S.A. chapter 117 and the authority of the natural resources conservation districts under chapter 31 of this title. When ~~contracting~~ negotiating a scope of work with a regional planning commission or the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or produce a basin plan, the Secretary may require the ~~regional planning commission~~ Vermont Association of Planning and Development Agencies or the Natural Resources Conservation Council to:

(A) conduct any of the activities required under subdivision (2) of this subsection (d);

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations ~~to~~ better to meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure ~~most effective~~ cost-effective use of State and federal funds.

* * * Lakes in Crisis * * *

Sec. 8. 10 V.S.A. chapter 47, subchapter 2A is added to read:

Subchapter 2A. Lake in Crisis

§ 1310. DESIGNATION OF LAKE IN CRISIS

(a) The Secretary of Natural Resources (Secretary) shall review whether a lake in the State should be designated as a lake in crisis upon the Secretary's own motion or upon petition of 15 or more persons or a selectboard of a municipality in which the lake or a portion of the lake is located.

(b) The Secretary shall designate a lake as a lake in crisis if, after review under subsection (a) of this section, the Secretary determines that:

(1) the lake or segments of the lake have been listed as impaired;

(2) the condition of the lake will cause:

(A) a potential harm to the public health; and

(B) a risk of damage to the environment or natural resources; and

(3) a municipality in which the lake or a portion of the lake is located has reduced the valuation of real property due to the condition of the lake.

§ 1311. STATE RESPONSE TO A LAKE IN CRISIS

(a) Adoption of crisis response plan. When a lake is declared in crisis, the Secretary shall within 90 days after the designation of the lake in crisis issue a comprehensive crisis response plan for the management of the lake in crisis in order to improve water quality in the lake or to mitigate or eliminate the potential harm to public health or the risk of damages to the environment or natural resources. The Secretary shall coordinate with the Secretary of Agriculture, Food and Markets and the Secretary of Transportation in the development of the crisis response plan. The crisis response plan may require implementation of one or both of the following in the watershed of the lake in crisis:

(1) water quality requirements necessary to address specific harms to public health or risks to the environment or natural resources; or

(2) implementation of or compliance with existing water quality requirements under one or more of the following:

(A) water quality requirements under chapter 47 of this title, including requiring a property owner to obtain a permit or implement best management practices for the discharge of stormwater runoff from any size of impervious surfaces if the Secretary determines that the treatment of the discharge of stormwater runoff is necessary to reduce the adverse impacts to water quality of the discharge or stormwater on the lake in crisis;

(B) agricultural water quality requirements under 6 V.S.A. chapter 215, including best management practices under 6 V.S.A. § 4810 to reduce runoff from the farm; or

(C) water quality requirements adopted under section 1264 of this section for stormwater runoff from municipal or State roads.

(b) Public hearing. The Secretary shall hold at least one public hearing in the watershed of the lake in crisis and shall provide an opportunity for public notice and comment for a proposed lake in crisis response plan.

(c) Term of designation. A lake shall remain designated as in crisis under this section until the Secretary determines that the lake no longer satisfies the criteria for designation under subsection (b) of this section.

(d) Agency cooperation and services. All other State agencies shall cooperate with the Secretary in responding to the lake in crisis, and the Secretary shall be entitled to seek technical and scientific input or services from the Agency of Agriculture, Food and Markets, the Agency of Transportation, or other necessary State agencies.

§ 1312. LAKE IN CRISIS ORDER

The Secretary, after consultation with the Secretary of Agriculture, Food and Markets, may issue a lake in crisis order as an administrative order under chapter 201 of this title to require a person to:

(1) take an action identified in the lake in crisis response plan;

(2) cease or remediate any acts, discharges, site conditions, or processes contributing to the impairment of the lake in crisis;

(3) mitigate a significant contributor of a pollutant to the lake in crisis; or

(4) conduct testing, sampling, monitoring, surveying, or other analytical operations required to determine the nature, extent, duration, or severity of the potential harm to the public health or a risk of damage to the environment or natural resources.

§ 1313. ASSISTANCE

(a) A person subject to a lake in crisis order shall be eligible for technical and financial assistance from the Secretary to be paid from the Lake in Crisis Response Program Fund. The Secretary shall adopt by procedure the process for application for assistance under this section.

(b) State financial assistance awarded under this section shall be in the form of a grant. An applicant for a State grant shall pay at least 35 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 35 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded.

(c) A grant awarded under this section shall comply with all terms and conditions for the issuance of State grants.

§ 1314. FUNDING OF STATE RESPONSE TO A LAKE IN CRISIS

(a) Initial response. Upon designation of a lake in crisis, the Secretary may, for the purposes of the initial response to the lake in crisis, expend up to \$50,000.00 appropriated to the Agency of Natural Resources from the Clean Water Fund for authorized contingency spending.

(b) Long-term funding. In the subsequent budget submitted to the General Assembly under 32 V.S.A. § 701, the Secretary of Administration shall propose appropriations to the Lake in Crisis Response Program Fund to implement fully the crisis response plan for the lake in crisis, including recommended appropriations from one or more of the following:

(1) the Clean Water Fund established under section 1389 of this title;

(2) the Vermont Housing and Conservation Trust Fund established under section 312 of this title;

(3) capital funds and other monies available from the Secretary of Agriculture, Food and Markets for water quality programs or projects;

(4) capital funds and other monies available from the Secretary of Natural Resources for water quality programs or projects; and

(5) General Fund appropriations.

§ 1315. LAKE IN CRISIS RESPONSE PROGRAM FUND

(a) There is created a special fund known as the Lake in Crisis Response Program Fund to be administered by the Secretary of Natural Resources. The Fund shall consist of:

(1) funds that may be appropriated by the General Assembly; and

(2) other gifts, donations, or funds received from any source, public or private, dedicated for deposit into the Fund.

(b) The Secretary shall use monies deposited in the Fund for the Secretary's implementation of a crisis response plan for a lake in crisis and for financial assistance under section 1313 of this title to persons subject to a lake in crisis order.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3) and (4), interest earned by the Fund and the balance of the Fund at the end of the fiscal year shall be carried forward in the Fund and shall not revert to the General Fund.

Sec. 9. LAKE CARMI; LAKE IN CRISIS

The General Assembly declares Lake Carmi as a lake in crisis under 10 V.S.A. chapter 47, subchapter 2A. The crisis response plan for Lake Carmi shall include implementation of runoff controls.

Sec. 10. 10 V.S.A. § 8003(a) is amended to read:

(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:

- (1) 10 V.S.A. chapter 23, relating to air quality;
- (2) 10 V.S.A. chapter 32, relating to flood hazard areas;
- (3) 10 V.S.A. chapters 47 and 56, relating to water pollution control, water quality standards, ~~and~~ public water supply, and lakes in crisis;

* * *

Sec. 11. 10 V.S.A. § 8503(a) is amended to read:

(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:
 - (A) chapter 23 (air pollution control);
 - (B) chapter 50 (aquatic nuisance control);
 - (C) chapter 41 (regulation of stream flow);
 - (D) chapter 43 (dams);
 - (E) chapter 47 (water pollution control; lakes in crisis);

* * *

* * * ANR Report on Future Farming Practices * * *

Sec. 12. AGENCY OF AGRICULTURE, FOOD AND MARKETS
REPORT ON FARMING PRACTICES IN VERMONT

(a) The Nutrient Management Commission convened by the Secretary of Agriculture, Food and Markets as a requirement of the U.S. Environmental Protection Agency's approved implementation plan for the Lake Champlain total maximum daily load plan shall review whether and how to revise farming practices in Vermont in a manner that mitigates existing environmental

impacts while maintaining economic viability. In conducting its review, the Commission shall consider whether and how to:

(1) revise farming practice to improve or build healthy soils;

(2) reduce agriculturally based pollution in areas of high pollution, stressed, or impaired waters;

(3) establish a carrying capacity or maximum number of livestock that the land used for nutrient application on a farm can support without contribution of nutrients to a water;

(4) provide financial and technical support to facilitate the transition by farms to less-polluting practices through one or more of the following:

(A) cover cropping;

(B) reduced tillage or no tillage;

(C) accelerated implementation of best management practices (BMPs);

(D) evaluation of the effectiveness of using riparian buffers in excess of 25 feet;

(E) increased use of direct manure injection;

(F) crop rotations to build soil health, including limits on the planting of continuous corn;

(G) elimination or reduction of the use of herbicides in the termination of cover crops; and

(H) diversification of dairy farming.

(b) On or before January 15, 2019, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry any recommendation of the Nutrient Management Commission regarding any of the farming practices or subject areas listed under subdivisions (a)(1)–(4) of this section.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES; IMPLEMENTATION

This act shall take effect on passage, except that Secs. 3–5 (water quality occupancy surcharge) shall take effect on January 1, 2020.

(Committee vote: 7-1-1)

(For text see Senate Journal March 21, 2018)

Rep. Ancel of Calais, 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 and when further amended as follows:

bill be amended as follows:

First: By striking out Secs. 1-4 in their entirety and inserting in lieu thereof the following new Secs. 1-4b:

* * * Clean Water Funding * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Within Vermont there are 7,100 miles of rivers and streams and 812 lakes and ponds of at least five acres in size.

(2) Currently, over 350 waters or water segments in the State do not meet water quality standards, are at risk of not meeting water quality standards, or are altered due to the presence of aquatic nuisances.

(3) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64, an act relating to improving the quality of State waters (Act 64), for the purpose, among others, of providing mechanisms, staffing, and financing necessary for the State to achieve and maintain compliance with the Vermont Water Quality Standards for all State waters.

(4) Act 64 directed the State Treasurer to recommend to the General Assembly a long-term mechanism for financing water quality improvement in the State, including proposed revenue sources for water quality improvement programs.

(5) The State Treasurer submitted a Clean Water Report in January 2017 that included:

(A) an estimate that over 20 years it would cost \$2.3 billion to achieve compliance with water quality requirements;

(B) a projection that revenue available for water quality over the 20-year period would be approximately \$1.06 billion, leaving a 20-year total funding gap of \$1.3 billion;

(C) an estimate of annual compliance costs of \$115.6 million, which, after accounting for projected revenue, would leave a funding gap of \$48.5 million to pay for the costs of compliance with the first tier of federal and State water quality requirements; and

(D) a financing plan to provide more than \$25 million annually in additional State funds for water quality programs.

(6) After determining that a method to achieve equitable and effective long-term funding methods to support clean water efforts in Vermont was necessary, the General Assembly established in 2017 Acts and Resolves No. 73, Sec. 26 the Working Group on Water Quality Funding to develop draft legislation to accomplish this purpose.

(7) The Act 73 Working Group did not recommend a long-term funding method to support clean water efforts in Vermont and instead recommended that the General Assembly maintain a Capital Bill clean water investment of \$15 million a year through fiscal years 2020 and 2021.

(8) In the years beyond fiscal year 2021, the Act 73 Working Group acknowledged that capital funds would need to be reduced to \$10 to \$12 million a year and that additional revenues would need to be raised.

(9) The U.S. Environmental Protection Agency (EPA) in a letter to the General Assembly stated that it is important for the State of Vermont to establish a long-term revenue source to support water quality improvement in order to comply with the accountability framework of the Lake Champlain Total Maximum Daily Load plan.

(10) The General Assembly should in this act establish the necessary long-term revenue sources to support water quality improvement and should encourage the Executive Branch and other interested parties to propose additional or alternative revenue sources sufficient to achieve the State goals for water quality improvement.

* * * Rooms and Meals Tax * * *

Sec. 2. 32 V.S.A. § 9241 is amended to read:

§ 9241. IMPOSITION OF TAX

(a) An operator shall collect a tax of nine and one quarter percent of the rent of each occupancy.

(b) An operator shall collect a tax on the sale of each taxable meal at the rate of nine and one quarter percent of each full dollar of the total charge and on each sale for less than one dollar and on each part of a dollar in excess of a full dollar in accordance with the following formula:

\$0.01-0.11	\$0.01
0.12-0.22	0.02
0.23-0.33	0.03
0.34-0.44	0.04
0.45-0.55	0.05

0.56-0.66	0.06
0.67-0.77	0.07
0.78-0.88	0.08
0.89-1.00	0.09
<u>0.01-0.11</u>	<u>0.01</u>
<u>0.12-0.22</u>	<u>0.02</u>
<u>0.23-0.32</u>	<u>0.03</u>
<u>0.33-0.43</u>	<u>0.04</u>
<u>0.44-0.54</u>	<u>0.05</u>
<u>0.55-0.65</u>	<u>0.06</u>
<u>0.66-0.76</u>	<u>0.07</u>
<u>0.77-0.86</u>	<u>0.08</u>
<u>0.87-1.00</u>	<u>0.09</u>

* * *

Sec. 3. 32 V.S.A. § 9242(c) is amended to read:

(c) A tax of nine and one-quarter percent of the gross receipts from meals and occupancies and 10 percent of the gross receipts from alcoholic beverages, exclusive of taxes collected pursuant to section 9241 of this title, received from occupancy rentals, taxable meals, and alcoholic beverages by an operator, is hereby levied and imposed and shall be paid to the State by the operator as herein provided. Every person required to file a return under this chapter shall, at the time of filing the return, pay the Commissioner the taxes imposed by this chapter as well as all other monies collected by him or her under this chapter; provided, however, that every person who collects the taxes on taxable meals and alcoholic beverages according to the tax bracket schedules of section 9241 of this title shall be allowed to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter as compensation for the keeping of prescribed records and the proper account and remitting of taxes.

* * * Unclaimed Beverage Container Deposits * * *

Sec. 4. 10 V.S.A. § 1530 is added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; ESCHEATS

(a) As used in this section, “deposit initiator” means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person

within the State.

(b) A deposit initiator shall open a separate interest-bearing account in a Vermont branch of a financial institution to be known as the deposit transaction account. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(c) Beginning on October 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.

(d) Beginning on January 1, 2020, and quarterly thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding quarter. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

(1) the balance of the account at the beginning of the preceding quarter;

(2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;

(3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;

(4) the amount of refund payments made from the deposit transaction account in the preceding quarter;

(5) any income earned on the deposit transaction account in the preceding quarter;

(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and

(7) any additional information required by the Commissioner of Taxes.

(e)(1) On or before January 1, 2020, and quarterly thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:

(A) income earned on amounts on the account during that quarter; and

(B) the total amount of refund value paid out by the deposit initiator for beverage containers during that quarter.

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the funds that are or should be in the deposit initiator's deposit transaction account. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the funds in the deposit initiator's deposit transaction action are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection (e) in the preceding 12 months less amounts paid to the initiator pursuant to this subdivision (2) during that same 12-month period.

(f) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

* * * Clean Water Fund; General Fund; * * *

Sec. 4a. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the "Clean Water Fund" to be administered by the Secretary of Administration. The Fund shall consist of:

(1) ~~revenues dedicated for deposit into the Fund by the General Assembly, including from~~ the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a; ~~and~~

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the amount equal to the increase from nine percent to nine and one-quarter percent of the rooms tax imposed by 32 V.S.A. § 9241(a) and the

revenue from the increase from nine percent to nine and one-quarter percent of the meals tax imposed by 32 V.S.A. § 9241(b);

(4) the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title; and

(5) other revenues dedicated for deposit into the Fund by the General Assembly.

* * *

Sec. 4b. 32 V.S.A. § 435 is amended to read:

§ 435. GENERAL FUND

(a) There is established the General Fund which shall be the basic operating fund of the State. The General Fund shall be used to finance all expenditures for which no special revenues have otherwise been provided by law.

(b) The General Fund shall be composed of revenues from the following sources:

(1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;

* * *

(7) Meals and rooms taxes levied pursuant to chapter 225 of this title less the amount deposited in the Clean Water Fund under 10 V.S.A. § 1388;

* * *

Second: By striking out Sec. 13 in its entirety and inserting in lieu thereof a new Sec. 13 to read as follows:

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 2–3 (rooms and meals tax), 4a (Clean Water Fund), and 4b (General Fund) shall take effect on January 1, 2020.

(Committee Vote: 7-3-1)

Rep. Feltus of Lyndon, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Natural Resources; Fish; and Wildlife and Ways and Means and when further amended as follows:

in Sec. 8, 10 V.S.A. chapter 47, subchapter 2A, in § 1314, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Long-term funding. Annually, the Secretary of Natural Resources shall present to the House and Senate Committees on Appropriations a multi-year

plan for the funding of all lakes designated in crisis under this subchapter. Based on the multi-year plan, the Secretary of Administration annually shall recommend to the House and Senate Committees on Appropriations recommended appropriations to the Lake in Crisis Response Program Fund for the subsequent fiscal year.

(Committee Vote: 11-0-0)

S. 262

An act relating to miscellaneous changes to the Medicaid program and the Department of Vermont Health Access

Rep. Donahue of Northfield, for the Committee on Health Care, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Medicaid for Working Persons with Disabilities * * *

Sec. 1. 33 V.S.A. § 1902 is amended to read:

§ 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

(a) In determining whether a person is medically indigent, the Secretary of Human Services shall prescribe and use an income standard and requirements for eligibility ~~which~~ that will permit the receipt of federal matching funds under Title XIX of the Social Security Act.

(b) Workers with disabilities whose income is less than 250 percent of the federal poverty level shall be eligible for Medicaid. The income also must not exceed the Medicaid protected income level for one or the Supplemental Security Income (SSI) payment level for two, whichever is higher, after disregarding ~~all~~ the earnings of the working individual with disabilities, ~~any~~ including Social Security disability insurance benefits, and including Social Security retirement benefits converted automatically from Social Security Disability Insurance (SSDI), if applicable; any veteran's disability benefits; and, if the working individual with disabilities is married, all income of the spouse. Earnings of the working individual with disabilities shall be documented by evidence of Federal Insurance Contributions Act tax payments, Self-Employment Contributions Act tax payments, or a written business plan approved and supported by a third-party investor or funding source. The resource limit for this program shall be \$10,000.00 for an individual and \$15,000.00 for a couple at the time of enrollment in the program. Assets attributable to earnings made after enrollment in the program shall be disregarded.

* * * Eligibility for Health Vermonters and VPharm * * *

Sec. 2. 2013 Acts and Resolves No. 79, Sec. 53(d), as amended by 2014 Acts

and Resolves No. 179, Sec. E.307, 2015 Acts and Resolves No. 58, Sec. E.307, 2016 Acts and Resolves No. 172, Sec. E.307.3, and 2017 Acts and Resolves No. 85, Sec. E.307, is further amended to read:

(d) Secs. 31 (Healthy Vermonters) and 32 (VPharm) shall take effect on January 1, 2014, except that the Agency of Human Services may continue to calculate household income under the rules of the Vermont Health Access Plan after that date if the system for calculating modified adjusted gross income for the Healthy Vermonters and VPharm programs is not operational by that date, but not later than ~~December 31, 2018~~ the implementation of Vermont's Integrated Eligibility system.

* * * Increasing Income Threshold for Dr. Dynasaur Premiums * * *

Sec. 3. 33 V.S.A. § 1901(c) is amended to read:

(c) The Secretary may charge a monthly premium, in amounts set by the General Assembly, per family for pregnant women and children eligible for medical assistance under Sections 1902(a)(10)(A)(i)(III), (IV), (VI), and (VII) of Title XIX of the Social Security Act, whose family income exceeds ~~185~~ 195 percent of the federal poverty level, as permitted under section 1902(r)(2) of that act. Fees collected under this subsection shall be credited to the State Health Care Resources Fund established in section 1901d of this title and shall be available to the Agency to offset the costs of providing Medicaid services. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the General Assembly.

* * * Provider Taxes * * *

Sec. 4. 33 V.S.A. § 1958 is amended to read:

§ 1958. APPEALS

(a) Any health care provider may submit a written request to the Department for reconsideration of the determination of the assessment within 20 days of notice of the determination. The request shall be accompanied by written materials setting forth the basis for reconsideration. If requested, the Department shall hold a hearing within ~~20~~ 90 days from the date on which the reconsideration request was received. The Department shall mail written notice of the date, time, and place of the hearing to the health care provider at least ~~10~~ 30 days before the date of the hearing. On the basis of the evidence submitted to the Department or presented at the hearing, the Department shall reconsider and may adjust the assessment. Within 20 days ~~of~~ following the hearing, the Department shall provide notice in writing to the health care provider of the final determination of the amount it is required to pay based on any adjustments made by it. Proceedings under this section are not subject to the requirements of 3 V.S.A. chapter 25.

* * *

Sec. 5. 33 V.S.A. § 1959(a)(3) is amended to read:

(3) Ambulance agencies shall remit the assessment amount to the Department annually on or before ~~March 31, beginning with March 31, 2017~~ June 1.

* * * Medicaid; Asset Verification * * *

Sec. 6. 33 V.S.A. § 403 is added to read:

§ 403. FINANCIAL INSTITUTIONS TO FURNISH INFORMATION

(a) As used in this section:

(1) “Bank” shall have the same meaning as in 8 V.S.A. § 11101.

(2) “Broker-dealer” shall have the same meaning as in 9 V.S.A. § 5102.

(3) “Credit union” shall have the same meaning as in 8 V.S.A. § 30101.

(4) “Financial institution” means any financial services provider, including a bank, credit union, broker-dealer, investment advisor, mutual fund, or investment company.

(5) “Investment advisor” shall have the same meaning as in 9 V.S.A. § 5102.

(6) “Mutual fund” shall have the same meaning as in 8 V.S.A. § 3461.

(b) A financial institution, when requested by the Commissioner of Vermont Health Access, shall furnish to the Commissioner or to an agent of the Department of Vermont Health Access information in the possession of the financial institution with reference to any person or his or her spouse who is applying for or is receiving assistance or benefits from the Department of Vermont Health Access. The Department of Vermont Health Access shall issue instructions to the financial institution detailing the nature of the request and the information necessary to satisfy the request.

(c) A financial institution shall not be subject to criminal or civil liability for actions taken in accordance with subsection (b) of this section.

Sec. 7. ASSET VERIFICATION; NOTICE TO APPLICANTS AND BENEFICIARIES

(a)(1) Each application for assistance under the Medicaid Long-Term Care or Medicaid for the Aged, Blind, and Disabled program shall contain a form of authorization, executed by the applicant or beneficiary, granting authority for the Department of Vermont Health Access and its agents to obtain financial information about the applicant’s or beneficiary’s assets from financial institutions in order to verify the applicant’s or beneficiary’s eligibility for the

applicable program. The Department or its agent shall obtain the applicant's or beneficiary's authorization prior to requesting his or her financial information from any financial institution.

(2) The Department of Vermont Health Access shall collaborate with the Office of the Health Care Advocate to ensure that applicants to and beneficiaries of the Medicaid Long-Term Care and Medicaid for the Aged, Blind, and Disabled programs receive notice written in plain and accessible language explaining the Department's electronic asset verification system.

(b) In the event that the financial information of an applicant's or beneficiary's spouse is required in order to determine the applicant's or beneficiary's eligibility for the Medicaid Long-Term Care or Medicaid for the Aged, Blind, and Disabled program, the Department of Vermont Health Access shall provide written notice regarding the asset verification process to the spouse and shall obtain the spouse's written authorization for the Department and its agents to obtain his or her financial information from financial institutions prior to requesting the spouse's financial information from any financial institution. The Department may determine an applicant or beneficiary to be ineligible for Medicaid if the applicant's or beneficiary's spouse refuses to provide, or revokes, his or her consent.

Sec. 8. 33 V.S.A. § 404 is added to read:

§ 404. STATE AGENCIES TO FURNISH INFORMATION

(a) Any governmental official or agency in the State, when requested by the Department of Vermont Health Access, shall furnish to the Department information in the official's or agency's possession with reference to aid given or money paid or to be paid to any person or person's spouse who is applying for or is receiving assistance or benefits from the Department of Vermont Health Access.

(b) The Commissioner of Taxes, when requested by the Commissioner of Vermont Health Access, and unless otherwise prohibited by federal law, shall compare the information furnished by an applicant or recipient of assistance with the State income tax returns filed by such person and shall report his or her findings to the Commissioner of Vermont Health Access. Each application for assistance shall contain a form of consent, executed by the applicant, granting permission to the Commissioner of Taxes to disclose such information to the Commissioner of Vermont Health Access.

(c) On the first day of each month, each unit of the Superior Court shall provide to the Commissioner of Vermont Health Access a list of all estates, including testate, intestate, and small estates, opened during the previous calendar month within the jurisdiction of that unit's Probate Division. The list shall contain the following information for each estate:

- (1) the decedent's full name;
- (2) the decedent's date of birth;
- (3) the decedent's date of death;
- (4) the docket number;
- (5) the date on which the estate was opened; and
- (6) the full name and contact information for the executor or administrator or his or her legal representative.

Sec. 9. RULEMAKING

The Vermont Supreme Court may promulgate rules under 12 V.S.A. § 1 to implement the provisions of Sec. 8, 33 V.S.A. § 404, of this act.

Sec. 10. 8 V.S.A. § 10204 is amended to read:

§ 10204. EXCEPTIONS

This subchapter does not prohibit any of the activities listed in this section. This section shall not be construed to require any financial institution to make any disclosure not otherwise required by law. This section shall not be construed to require or encourage any financial institution to alter any procedures or practices not inconsistent with this subchapter. This section shall not be construed to expand or create any authority in any person or entity other than a financial institution.

* * *

(26) Disclosure of information sought by the Department of Vermont Health Access or its agents pursuant to the Department's authority and obligations under 33 V.S.A. § 403.

* * * Maximum Out-of-Pocket Prescription Drug Limit for Bronze Plans * * *

Sec. 11. 2016 Acts and Resolves No. 165, Sec. 6(f), as amended by 2017 Acts and Resolves No. 25, Sec. 3, is further amended to read:

(f)(4) The Director of Health Care Reform in the Agency of Administration, in consultation with the Department of Vermont Health Access and the Office of Legislative Council, shall determine whether the Secretary of the U.S. Department of Health and Human Services has the authority under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152 (ACA), to waive annual limitations on out-of-pocket expenses or actuarial value requirements for bronze-level plans, or both. On or before October 1, 2016, the Director shall present information to the Health Reform Oversight Committee regarding the

authority of the Secretary of the U.S. Department of Health and Human Services to waive out-of-pocket limits and actuarial value requirements, the estimated costs of applying for a waiver, and alternatives to a waiver for preserving the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

~~(2) If the Director of Health Care Reform determines that the Secretary has the necessary authority, then on or before March 1, 2019, the Commissioner of Vermont Health Access, with the Director's assistance, shall apply for a waiver of the cost-sharing or actuarial value limitations, or both, in order to preserve the availability of bronze-level qualified health benefit plans that meet Vermont's out of pocket prescription drug limit established in 8 V.S.A. § 4089i.~~

Sec. 12. 33 V.S.A. § 1814 is added to read:

§ 1814. MAXIMUM OUT-OF-POCKET LIMIT FOR PRESCRIPTION

DRUGS IN BRONZE PLANS

(a)(1) Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Green Mountain Care Board may approve modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for one or more bronze-level plans.

(2) The Department of Vermont Health Access shall certify at least two standard bronze-level plans that include the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i, as long as the plans comply with federal requirements. Notwithstanding any provision of 8 V.S.A. § 4089i to the contrary, the Department may certify one or more bronze-level qualified health benefit plans with modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i.

(b)(1) For each individual enrolled in a bronze-level qualified health benefit plan for the previous two plan years who had out-of-pocket prescription drug expenditures that met the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for the most recent plan year for which information is available, the health insurer shall, absent an alternative plan selection or plan cancellation by the individual, automatically reenroll the individual in a bronze-level qualified health plan for the forthcoming plan year with an out-of-pocket prescription drug limit at or below the limit established in 8 V.S.A. § 4089i.

(2) Prior to reenrolling an individual in a plan pursuant to subdivision (1) of this subsection, the health insurer shall notify the individual of the insurer's intent to reenroll the individual automatically in a bronze-level qualified health plan for the forthcoming plan year with an out-of-pocket

prescription drug limit at or below the limit established in 8 V.S.A. § 4089i unless the individual contacts the insurer to select a different plan and of the availability of bronze-level plans with higher out-of-pocket prescription drug limits. The health insurer shall collaborate with the Department of Vermont Health Access and the Office of the Health Care Advocate as to the notification's form and content.

* * * Human Services Board; Fair Hearings * * *

Sec. 13. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

* * *

(e)(1) The Board shall give written notice of its decision to the person applying for fair hearing and to the Agency.

(2) Unless a continuance is requested or consented to by an aggrieved person, decisions and orders concerning Temporary Assistance to Needy Families (TANF) under 33 V.S.A. chapter 11, TANF-Emergency Assistance (TANF-EA) under Title IV of the Social Security Act, and medical assistance (Medicaid) under 33 V.S.A. chapter 19 shall be issued by the Board within 75 days of after the request for hearing.

(3) Notwithstanding any provision of subsection (c) or (d) or subdivision (1) of this subsection (e) to the contrary, in the case of an expedited Medicaid fair hearing, the Board shall delegate both its fact-finding and final decision-making authority to a hearing officer, and the hearing officer's written findings and order shall constitute the Board's decision and order in accordance with timelines set forth in federal law.

* * *

(h)(1) Notwithstanding subsections (d) and (f) of this section, the Secretary shall review all Board decisions and orders concerning TANF, TANF-EA, Office of Child Support Cases, Medicaid, and the Vermont Health Benefit Exchange. The Secretary shall:

(A) adopt a Board decision or order, except that the Secretary may reverse or modify a Board decision or order if:

(i) the Board's findings of fact lack any support in the record; or

(ii) the decision or order ~~implicates the validity or applicability of any Agency~~ misinterprets or misapplies State or federal policy or rule; and

(B) issue a written decision setting forth the legal, factual, or policy basis for reversing or modifying a Board decision or order.

* * *

(i) In the case of an appeal of a Medicaid covered service decision made by the Department of Vermont Health Access or any entity with which the Department of Vermont Health Access enters into an agreement to perform service authorizations that may result in an adverse benefit determination, the right to a fair hearing granted by subsection (a) of this section shall be available to an aggrieved beneficiary only after that individual has exhausted, or is deemed to have exhausted, the Department of Vermont Health Access's internal appeals process and has received a notice that the adverse benefit determination was upheld.

Sec. 14. APPEAL OF MEDICAID COVERED SERVICE DECISIONS;

FAIR HEARING; RULEMAKING

The Agency of Human Services shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing a process by which the Agency shall ensure that a Medicaid beneficiary who files a request for a fair hearing with the Human Services Board prior to exhausting the Department of Vermont Health Access's internal appeals process receives consideration by the Department as though the beneficiary had properly filed an internal appeal and, if the internal appeal results in an adverse determination, that the Department shall provide to the beneficiary appropriate assistance with filing a timely request for a fair hearing with the Human Services Board if the beneficiary wishes to do so.

* * * Repeal * * *

Sec. 15. REPEAL

33 V.S.A. § 2010 (actual price disclosure and certification of prescription drugs) is repealed.

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 5 (ambulance agency provider tax) shall take effect on passage and apply retroactively to January 1, 2018; and

(2) In Sec. 8, 33 V.S.A. § 404(c) (monthly list of new probate estates) shall take effect on October 1, 2018.

(Committee vote: 11-0-0)

(For text see Senate Journal March 21, 2018)

S. 273

An act relating to miscellaneous law enforcement amendments

Rep. Harrison of Chittenden, for the Committee on Government Operations, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

* * * Training * * *

Sec. 1. 20 V.S.A. § 2351 is amended to read:

§ 2351. CREATION AND PURPOSE OF COUNCIL

* * *

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ recruit and in-service training for law enforcement officers.

* * *

Sec. 2. 20 V.S.A. § 2351a is amended to read:

§ 2351a. DEFINITIONS

As used in this chapter:

(1) “Executive officer” means the highest-ranking law enforcement officer of a law enforcement agency.

(2) “Law enforcement agency” means the employer of a law enforcement officer.

(3) “Law enforcement officer” means an employee of the Vermont Police Academy as permitted under section 2356 of this chapter; a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor Control who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State’s Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; or a police officer appointed to the University of Vermont’s Department of Police Services.

* * *

Sec. 3. 20 V.S.A. § 2356 is added to read:

§ 2356. VERMONT POLICE ACADEMY; LAW ENFORCEMENT OFFICERS

(a) A person employed by the Vermont Police Academy who is certified as a law enforcement officer under this chapter and who maintains that certification shall be a law enforcement officer with statewide law enforcement authority.

(b) The ability of a person to be a certified law enforcement officer solely through his or her employment at the Vermont Police Academy pursuant to subsection (a) of this section shall not qualify that person for Group C membership in the Vermont State Retirement System.

Sec. 4. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, ~~and~~ of Fish and Wildlife, and of Mental Health;

(B) the Attorney General;

(C) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

(D) a member of the Vermont Police Association, elected by its membership; ~~and~~

~~(E) five additional members appointed by the Governor.~~

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association~~ a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(F) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(G) a law enforcement officer appointed by the President of the Vermont State Employees Association;

(H) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(I) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and

(J) three public members who shall not be law enforcement officers or current legislators or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.

* * *

Sec. 5. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in multiple regions of the State and shall strive to replace overnight courses with these regional trainings whenever possible.

(2) The Council may also offer the basic officer's course for ~~pre-service~~ preservice students and educational outreach courses for the public, including firearms safety and use of force.

* * *

Sec. 6. COUNCIL; REPORT ON TRAINING ALTERNATIVES

On or before January 15, 2019, the Executive Director of the Vermont Criminal Justice Training Council shall report to the Senate and House Committees on Government Operations regarding the Council's identification and implementation of alternate routes to certification and its plan to replace some of its overnight law enforcement training requirements at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (Police Academy) with training in multiple regions of the State, in accordance with 20 V.S.A. § 2355 in Sec. 5 of this act. The report shall specifically address any budgetary implications of the provisions of Sec. 5. The report may be in verbal form.

Sec. 7. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(2) Level II certification.

* * *

(3) Level III certification.

* * *

(c)(1) All programs required by this section shall be approved by the Council.

(2) The Council shall structure its programs so that an officer certified as a Level II law enforcement officer may complete additional training in block steps in order to transition to Level III certification, without such an officer needing to restart the certification process.

(3) Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

* * *

Sec. 8. 20 V.S.A. § 2361 is amended to read:

§ 2361. ADDITIONAL TRAINING

(a) Nothing in this chapter prohibits any State law enforcement agency, department, or office or any municipality or county of the State from providing additional training beyond basic training to its personnel where no certification is requested of or required by the Council or its Executive Director.

(b) ~~The head of a State agency, department, or office, a municipality's chief of police, or a sheriff~~ executive officer of a law enforcement agency may seek certification from the Council for any in-service training he ~~or~~ she, or his or her designee may provide to ~~his or her employees~~ law enforcement officers of his or her agency or of another agency, or both.

* * * Vermont State Retirement System; Group C Membership * * *

Sec. 9. LAW ENFORCEMENT STATE RETIREMENT BENEFITS
STUDY COMMITTEE; REPORT

(a) Creation. There is created the Law Enforcement State Retirement Benefits Study Committee to evaluate the requirements for membership in Group C of the Vermont State Retirement System (System) and to make recommendations to the General Assembly on any proposed changes to those requirements.

(b) Membership.

(1) The Committee shall be composed of the following 10 members:

(A) a current member of the House Committee on Appropriations, appointed by the Speaker;

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

(C) a current member of the House Committee on Government Operations, appointed by the Speaker;

(D) a current member of the Senate Committee on Government Operations, appointed by the Committee on Committees;

(E) the State Treasurer or designee;

(F) the Secretary of Administration or designee;

(G) the Commissioner of Human Resources or designee;

(H) the Commissioner of Public Safety or designee;

(I) the President of the Vermont State Employees' Association or designee; and

(J) the Executive Director of the Vermont Troopers' Association or designee.

(2) Any vacancy in membership shall be filled by the appointing authority for the remainder of the term.

(c) Powers and duties.

(1) Group C analysis. The Committee shall review the requirements for membership in Group C of the System as set forth in 3 V.S.A. § 455(a)(9)(B) and (11)(C) and shall review all current employee positions classified as Group C in order to perform the following analyses:

(A) whether the requirements for membership in Group C are appropriately tailored to provide the appropriate retirement benefit to the appropriate group of employees; and

(B) whether applicable federal requirements, including the provisions of the Age Discrimination in Employment Act, merit changes to the requirements of Group C.

(2) Retirement benefit recommendations. In accordance with its findings made pursuant to subdivision (1) of this subsection, the Committee shall make the following recommendations:

(A) whether any State employee positions currently in Group C should be reclassified to another group within the System, given the nature of the job duties performed by members in those positions;

(B) whether any State employee positions not currently in Group C should be reclassified into Group C, given the nature of the job duties performed by members in those positions; and

(C) whether the General Assembly should consider any revisions or enhancements to the retirement benefits for certain State employee positions that do not qualify for the current or recommended Group C requirements, if the Committee finds that the nature of the position and job duties performed merit such revisions.

(3) Actuarial analysis; appropriation.

(A)(i) The State Treasurer shall consult with an actuary in order to determine any financial impact on the System as a result of changes recommended under subdivision (2) of this subsection.

(ii) The amount of \$75,000.00 is appropriated to the Office of State Treasurer for any actuarial analysis performed under this subdivision (3).

(B) The Committee shall review the actuarial analysis performed by the State Treasurer and make any adjustments to its recommendations as it deems appropriate in light of the financial impact on the System.

(d) Assistance.

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

(2) The Offices of the State Treasurer and of the Attorney General, the Agency of Administration, the Department of Finance and Management, the Department of Human Resources, and the Agency of Digital Services shall provide support to the Committee as applicable.

(e) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur on or before September 15, 2018.

(2) The Committee shall select co-chairs from among its membership, one of whom shall be a member of the House and one of whom shall be a member of the Senate, serving in their capacity as a legislator.

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

(4) The Committee shall cease to exist on the date it submits its final report.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010. These payments shall be made from monies appropriated to the Agency of Administration.

(g) Reports.

(1) On or before January 15, 2019, the Committee shall provide a progress report to the House and Senate Committees on Government Operations and on Appropriations.

(2) The Committee shall submit its final report during the 2019-2020 biennium.

* * * Law Enforcement Advisory Board * * *

Sec. 10. LEAB; REPEAL FOR RECODIFICATION

24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

Sec. 11. 20 V.S.A. § 1818 is added to read:

§ 1818. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board is created within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. The Board shall review any matter that affects more than one law enforcement agency. The Board shall comprise the following members:

- (1) the Commissioner of Public Safety or designee;
 - (2) a member of the Chiefs of Police Association of Vermont appointed by the President of the Association;
 - (3) a member of the Vermont Sheriffs' Association appointed by the President of the Association;
 - (4) a representative of the Vermont League of Cities and Towns appointed by the Executive Director of the League;
 - (5) a member of the Vermont Police Association appointed by the President of the Association;
 - (6) the Attorney General or designee;
 - (7) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;
 - (8) the U.S. Attorney or designee;
 - (9) the Executive Director of the Vermont Criminal Justice Training Council;
 - (10) the Executive Director of the Vermont Troopers' Association or designee;
 - (11) a member of the Vermont Constables Association appointed by the President of the Association; and
 - (12) the President of the Vermont State Employees Association or designee.
- (b) The Board shall elect a chair and a vice chair, which positions shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair or a majority of the members. A quorum shall consist of seven members, and decisions of the Board shall require the approval of a majority of those members present and voting.
- (c) The Board shall undertake an ongoing formal process of reviewing law enforcement policies and practices with a goal of developing a comprehensive approach to providing the best services to Vermonters, given the monies available. The Board shall also provide educational resources to Vermonters about public safety challenges in the State.
- (d)(1) The Board shall meet at its discretion to develop policies and recommendations for law enforcement priority needs, including retirement benefits, recruitment of officers, training, homeland security issues, dispatching, and comprehensive drug enforcement.

(2) The Board shall present its findings and recommendations in brief summary form to the House and Senate Committees on Judiciary and on Government Operations annually on or before January 15.

Sec. 12. LEAB; RECODIFICATION DIRECTIVE

(a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory revision, the Office of Legislative Council shall revise accordingly any references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

(b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as previously codified shall be deemed to refer to 20 V.S.A. § 1818.

Sec. 13. LEAB; 2019 REPORT ON MUNICIPAL ACCESS TO LAW
ENFORCEMENT SERVICES AND ON AGENCY DATA
STANDARDS FOR RECORD SYSTEMS

As part of its annual report in the year 2019, the Law Enforcement Advisory Board shall:

(1) specifically recommend ways that towns can increase access to law enforcement services; and

(2) consult with the Vermont Crime Information Center, the Crime Research Group, and other interested stakeholders regarding the manner in which law enforcement agencies enter data into their systems of records of the commission of crimes and related information in order to recommend in the report how agencies can improve that data entry so that crime data is entered uniformly and in a manner that meets the Center's requirement to have a uniform system of crime records as set forth in 20 V.S.A. § 2053.

* * * State Dispatch Costs * * *

Sec. 14. DEPARTMENT OF PUBLIC SAFETY; REPORT ON EXISTING
STATE COSTS OF PROVIDING DISPATCH SERVICES

On or before October 1, 2018, the Commissioner of Public Safety shall provide to the House and Senate Committees on Government Operations the existing cost to the State of the Department of Public Safety providing dispatch services.

* * * Effective Dates and Implementation * * *

Sec. 15. EFFECTIVE DATES; IMPLEMENTATION

This act shall take effect on July 1, 2018, except:

(1) Sec. 5, amending 20 V.S.A. § 2355 (Council powers and duties) shall take effect on July 1, 2019, except that the requirement to adopt rules set

forth in subdivision (a)(1) of that section shall take effect on July 1, 2018 so that those rules are adopted on or before July 1, 2019; and

(2) Sec. 7, amending 20 V.S.A. § 2358 (minimum training standards; definitions) shall take effect on July 1, 2020.

(Committee vote: 10-0-1)

(For text see Senate Journal March 20, 2018)

Reps. Fagan of Rutland City, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Government Operations and when further amended as follows:

First: By striking out Sec. 4, 20 V.S.A. § 2352 (Council membership) in its entirety and inserting in lieu thereof Secs. 4 and 4a to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, ~~and of Fish and Wildlife, and of Mental Health;~~

(B) the Attorney General;

(C) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

(D) a member of the Vermont Police Association, elected by its membership; ~~and~~

~~(E) five additional members appointed by the Governor.~~

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association~~ a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(F) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(G) a law enforcement officer appointed by the President of the Vermont State Employees Association;

(H) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(I) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and

(J) three public members who shall not be law enforcement officers or current legislators or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.

(2) A member's term shall be three years.

* * *

(c) The public members of the Council set forth in subdivision (a)(1)(J) of this section shall be entitled to receive ~~no~~ per diem compensation ~~for their services,~~ but the other members of the Council shall not be entitled to such compensation; provided, however, that all members of the Council shall be allowed ~~their actual and necessary~~ entitled to receive reimbursement of expenses incurred in the performance of their duties. Per diem compensation and reimbursement of expenses under this subsection shall be made as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.

* * *

Sec. 4a. TRANSITIONAL PROVISION TO ADDRESS NEW COUNCIL MEMBERSHIP

Any existing member of the Vermont Criminal Justice Training Council who will serve on the Council under its new membership as set forth in Sec. 4 of this act may serve the remainder of his or her term in effect immediately prior to the effective date of Sec. 4.

Second: In Sec. 6 (Council; report on training alternatives), by striking out the last sentence of that section ("The report may be in verbal form.").

Third: By striking out Sec. 9 (Law Enforcement State Retirement Benefits Study Committee; report) in its entirety and inserting in lieu thereof the following:

Sec. 9. LAW ENFORCEMENT STATE RETIREMENT BENEFITS STUDY COMMITTEE; REPORT

(a) Creation. There is created the Law Enforcement State Retirement Benefits Study Committee to evaluate the requirements for membership in Group C of the Vermont State Retirement System (System) and to make recommendations to the General Assembly on any proposed changes to those requirements.

(b) Membership.

(1) The Committee shall be composed of the following 10 members:

(A) a current member of the House Committee on Appropriations, appointed by the Speaker;

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

(C) a current member of the House Committee on Government Operations, appointed by the Speaker;

(D) a current member of the Senate Committee on Government Operations, appointed by the Committee on Committees;

(E) the State Treasurer or designee;

(F) the Secretary of Administration or designee;

(G) the Commissioner of Human Resources or designee;

(H) the Commissioner of Public Safety or designee;

(I) the President of the Vermont State Employees' Association or designee; and

(J) the Executive Director of the Vermont Troopers' Association or designee.

(2) Any vacancy in membership shall be filled by the appointing authority for the remainder of the term.

(c) Powers and duties.

(1) Group C analysis. The Committee shall review the requirements for membership in Group C of the System as set forth in 3 V.S.A. § 455(a)(9)(B) and (11)(C) and shall review all current employee positions classified as Group C in order to perform the following analyses:

(A) whether the requirements for membership in Group C are appropriately tailored to provide the appropriate retirement benefit to the appropriate group of employees; and

(B) whether applicable federal requirements, including the provisions of the Age Discrimination in Employment Act, merit changes to the requirements of Group C.

(2) Retirement benefit recommendations. In accordance with its findings made pursuant to subdivision (1) of this subsection, the Committee shall make the following recommendations:

(A) whether any State employee positions currently in Group C

should be reclassified to another group within the System, given the nature of the job duties performed by members in those positions;

(B) whether any State employee positions not currently in Group C should be reclassified into Group C, given the nature of the job duties performed by members in those positions; and

(C) whether the General Assembly should consider any revisions or enhancements to the retirement benefits for certain State employee positions that do not qualify for the current or recommended Group C requirements, if the Committee finds that the nature of the position and job duties performed merits such revisions.

(3) Legal and IRS compliance consulting; appropriation. The amount of \$5,000.00 is appropriated to the Office of Treasurer for the purpose of contracting with a legal and Internal Revenue Service compliance consultant in order to assist the Committee with its powers and duties set forth in subdivisions (1) and (2) of this subsection.

(d) Assistance.

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

(2) The Offices of the State Treasurer and of the Attorney General, the Agency of Administration, the Department of Finance and Management, the Department of Human Resources, and the Agency of Digital Services shall provide support to the Committee as applicable.

(e) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Committee to occur as soon as practicable in fiscal year 2019.

(2) The Committee shall select co-chairs from among its membership, one of whom shall be a member of the House and one of whom shall be a member of the Senate, serving in their capacity as legislators.

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

(4) The Committee shall cease to exist on June 30, 2019.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six

meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Committee shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings. These payments shall be made from monies appropriated to the Agency of Administration.

(g) Reports. On or before January 15, 2019, the Committee shall report its findings and recommendations to the House and Senate Committees on Government Operations and on Appropriations.

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

H. 526

An act relating to regulating notaries public

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

Sec. 1. 26 V.S.A. chapter 103 is added to read:

CHAPTER 103. NOTARIES PUBLIC

Subchapter 1. General Provisions

§ 5301. SHORT TITLE

This chapter may be cited as the Uniform Law on Notarial Acts.

§ 5302. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 5303. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. § 7003(b).

§ 5304. DEFINITIONS

As used in this chapter:

(1) “Acknowledgment” means a declaration by an individual before a notary public that the individual has signed a record for the purpose stated in

the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(2) “Certificate” or “notarial certificate” means the part of, or attachment to, a notarized document that is completed by a notary public, bears the required information set forth in section 5367 of this chapter, and states the facts attested to or certified by the notary public in a particular notarization.

(3) “Commission term” means the two-year period commencing on February 1 and continuing through January 31 of the second year following the commencement of the term.

(4) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(5) “Electronic signature” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(6) “In a representative capacity” means acting as:

(A) an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(B) a public officer, personal representative, guardian, administrator, executor, trustee, or other representative, in the capacity stated in a record;

(C) an agent or attorney-in-fact for a principal; or

(D) an authorized representative of another in any other capacity.

(7)(A) “Notarial act” means an act, whether performed with respect to a tangible or an electronic record, that a notary public may perform under the law of this State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, attesting a signature, and noting a protest of a negotiable instrument.

(B) “Notarial act” does not include a corporate officer attesting to another corporate officer’s signature in the ordinary course of the corporation’s business.

(C) Nothing in this chapter shall be construed to require the use of a notary public to witness a signature that is allowed by law to be witnessed by an individual who is not a notary public.

(8) “Notarial officer” means a notary public or other individual authorized to perform a notarial act.

(9) “Notary public” means an individual commissioned to perform a notarial act by the Office.

(10) “Office” means the Office of Professional Regulation within the Office of the Secretary of State.

(11) “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic process, seal, or image or electronic information attached to or logically associated with an electronic record.

(12) “Person” means an individual, corporation, business trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(15) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

(16) “Stamping device” means:

(A) a physical device capable of affixing to or embossing on a tangible record an official stamp; or

(B) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

(17) “State” means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notary public, that a statement in a record is true.

§ 5305. EXEMPTIONS

(a) Generally.

(1) The persons set forth in subdivision (2) of this subsection, when acting within the scope of their official duties, are exempt from all of the requirements of this chapter, except for the requirements:

(A) to apply for a commission as set forth in section 5341(a), (b)(1)–(3), (c), (d), and (e) of this chapter; and

(B) unless exempted under subsection (c) of this section, to pay the fee set forth in section 5324 of this chapter:

(2)(A) Persons employed by the Judiciary, including judges, Superior Court clerks, court operations managers, Probate registers, case managers, docket clerks, assistant judges, county clerks, and after-hours relief from abuse contract employees.

(B) Persons employed as law enforcement officers certified under 20 V.S.A. chapter 151; who are noncertified constables; or who are employed by a Vermont law enforcement agency, the Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of Liquor Control, or for Children and Families, the Office of the Defender General, the Office of the Attorney General, or a State's Attorney or Sheriff.

(3) As used in subdivision (1) of this subsection, "acting within the scope of official duties" means that a person is notarizing a document that:

(A) he or she believes is related to the execution of his or her duties and responsibilities of employment or is the type of document that other employees notarize in the course of employment;

(B) is useful or of assistance to any person or entity identified in subdivision (2) of this subsection (a);

(C) is required, requested, created, used, submitted, or relied upon by any person or entity identified in subdivision (2) of this subsection (a);

(D) is necessary in order to assist in the representation, care, or protection of a person or the State;

(E) is necessary in order to protect the public or property;

(F) is necessary to represent or assist crime victims in receiving restitution or other services;

(G) relates to a Vermont or federal court rule or statute governing any criminal, postconviction, mental health, family, juvenile, civil, probate, Judicial Bureau, Environmental Division, or Supreme Court matter; or

(H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33 of the Vermont Statutes Annotated.

(b) Attorneys.

(1) Attorneys licensed and in good standing in this State are exempt from:

(A) the examination requirement set forth in subsection 5341(b) of this chapter; and

(B) the continuing education requirement set forth in section 5343 of this chapter.

(2) If a complaint of a violation of this chapter is filed in regard to a Vermont licensed attorney, the Office shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

(c) Fees. The following persons are exempt from the fee set forth in section 5324 of this chapter:

(1) a judge, clerk, or other court staff, as designated by the Court Administrator;

(2) State's Attorneys and their deputies and Assistant Attorneys General, public defenders, and their staff;

(3) justices of the peace and town clerks and their assistants; and

(4) State Police officers, municipal police officers, fish and game wardens, sheriffs and deputy sheriffs, motor vehicle inspectors, employees of the Department of Corrections, and employees of the Department for Children and Families.

Subchapter 2. Administration

§ 5321. SECRETARY OF STATE'S OFFICE DUTIES

The Office shall:

(1) provide general information to applicants for commissioning as a notary public;

(2) administer fees as provided under section 5324 of this chapter;

(3) explain appeal procedures to notaries public and applicants and explain complaint procedures to the public; and

(4) receive applications for commissioning, review applications, and grant and renew commissions when appropriate under this chapter.

§ 5322. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint two notaries public to serve as advisors in matters relating to notarial acts. One of the advisors shall be an attorney selected from a list of at least three licensed attorneys provided by the Vermont Bar Association. The advisors shall be appointed for staggered five-year terms and serve at the pleasure of the Secretary. One of the initial appointments shall be for less than a five-year term.

(b) Each appointee shall have at least three years of experience as a notary public during the period immediately preceding appointment and shall be

actively commissioned in Vermont and remain in good standing during incumbency.

(c) The Office shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The appointees shall be entitled to compensation and reimbursement of expenses as set forth in 32 V.S.A. § 1010 for attendance at any meeting called by the Office for this purpose.

§ 5323. RULES

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking or otherwise disciplining a notary public and assuring the trustworthiness of an individual holding a commission as notary public; and

(5) include provisions to prevent fraud or mistake in the performance of notarial acts.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that substantially enact this chapter; and

(3) the views of governmental officials and entities and other interested persons.

§ 5324. FEES

For the issuance of a commission as a notary public, the Office shall collect a fee of \$15.00.

Subchapter 3. Commissions

§ 5341. COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO IMMUNITY OR BENEFIT

(a) An individual qualified under subsection (b) of this section may apply to the Office for a commission as a notary public. The applicant shall comply with and provide the information required by rules adopted by the Office and pay the application fee set forth in section 5324 of this chapter.

(b) An applicant for a commission as a notary public shall:

(1) be at least 18 years of age;

(2) be a citizen or permanent legal resident of the United States;

(3) be a resident of or have a place of employment or practice in this State;

(4) not be disqualified to receive a commission under section 5342 of this chapter; and

(5) pass a basic examination approved by the Office based on the statutes, rules, and ethics relevant to notarial acts.

(c) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the Office.

(d) Upon compliance with this section, the Office shall issue a commission as a notary public to an applicant, which shall be valid through the then current commission term end date.

(e) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this State on public officials or employees.

§ 5342. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC

(a) The Office may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(1) failure to comply with this chapter;

(2) a fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Office;

(3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;

(4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(5) failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the Office, or any federal or State law;

(6) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;

(7) violation by the notary public of a rule of the Office regarding a notary public;

(8) denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; or

(9) committing any of the conduct set forth in 3 V.S.A. § 129a(a).

(b) If the Office denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with 3 V.S.A. chapter 25.

§ 5343. RENEWALS; CONTINUING EDUCATION

(a) Biennially, the Office shall provide a renewal notice to each commissioned notary public. Upon receipt of a notary public's completed renewal, payment of the fee as set forth in section 5324 of this chapter, and evidence of eligibility, the Office shall issue to him or her a new commission.

(b) A notary public applying for renewal shall complete continuing education approved by the Office, which shall not be required to exceed two hours, during the preceding two-year period.

(c) The Office, with the advice of the advisor appointees, shall establish by rule guidelines and criteria for continuing education credit.

§ 5344. DATABASE OF NOTARIES PUBLIC

The Office shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts; and

(2) that indicates whether a notary public has notified the Office that the notary public will be performing notarial acts on electronic records.

§ 5345. PROHIBITIONS; OFFENSES

(a) A person shall not perform or attempt to perform a notarial act or hold himself or herself out as being able to do so in this State without first having been commissioned.

(b) A person shall not use in connection with the person's name any letters, words, or insignia indicating or implying that the person is a notary public unless commissioned in accordance with this chapter.

(c) A person shall not perform or attempt to perform a notarial act while his or her commission has been revoked or suspended.

(d) A person who violates a provision of this section shall be subject to a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Prosecution may occur upon the complaint of the Attorney General or a State's Attorney and shall not act as a bar to civil or administrative proceedings involving the same conduct.

(e) A commission as a notary public shall not authorize an individual to assist a person in drafting legal records, give legal advice, or otherwise practice law.

(f) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person who seeks performance of a notarial act by the notary public.

Subchapter 4. Notarial Acts

§ 5361. NOTARIAL ACTS IN THIS STATE; AUTHORITY TO PERFORM

(a) A notarial act may only be performed in this State by a notary public commissioned under this chapter.

(b) The signature and title of an individual performing a notarial act in this State are prima facie evidence that the signature is genuine and that the individual holds the designated title.

§ 5362. AUTHORIZED NOTARIAL ACTS

(a) A notary public may perform a notarial act authorized by this chapter or otherwise by law of this State.

(b) A notary public shall not perform a notarial act with respect to a record to which the notary public or the notary public's spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

§ 5363. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS

(a) Acknowledgments. A notary public who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(b) Verifications. A notary public who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(c) Signatures. A notary public who attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(d) Protests. A notary public who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 9A V.S.A. § 3-505(b), protest; certificate of dishonor.

§ 5364. PERSONAL APPEARANCE REQUIRED

(a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

(b) A personal appearance does not include an acknowledgment using video conferencing software that uses the transmission of video images, or any other form of communication in which the notary public and the person requesting the notarial act are not in the same physical location at the same time.

§ 5365. IDENTIFICATION OF INDIVIDUAL

(a) Personal knowledge. A notary public has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(b) Satisfactory evidence. A notary public has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) by means of:

(A) a passport, driver's license, or government issued non-driver identification card, which is current or expired not more than three years before performance of the notarial act; or

(B) another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government issued non-driver identification card, which is current or expired not more than three years before performance of the notarial act.

(c) Additional information. A notary public may require an individual to provide additional information or identification credentials necessary to assure the notary public of the identity of the individual.

§ 5366. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN

If an individual is physically unable to sign a record, the individual may direct an individual other than the notary public to sign the individual's name on the record. The notary public shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

§ 5367. CERTIFICATE OF NOTARIAL ACT

(a) A notarial act shall be evidenced by a certificate. The certificate shall:

(1) be executed contemporaneously with the performance of the notarial act;

(2) be signed and dated by the notary public and be signed in the same manner as on file with the Office;

(3) identify the jurisdiction in which the notarial act is performed;

(4) contain the title of office of the notary public; and

(5) indicate the date of expiration of the officer's commission.

(b)(1) If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate or, in the alternative, the notary shall clearly print or type the notary public's name and commission number on the certificate.

(2) If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in

subdivisions (a)(2)–(4) of this section, an official stamp may be attached to or logically associated with the certificate.

(c) A certificate of a notarial act is sufficient if it meets the requirements of subsections (a) and (b) of this section and:

(1) is in a short form as set forth in section 5368 of this chapter;

(2) is in a form otherwise permitted by the law of this State;

(3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(4) sets forth the actions of the notary public and the actions are sufficient to meet the requirements of the notarial act as provided in sections 5362–5364 of this chapter or a law of this State other than this chapter.

(d) By executing a certificate of a notarial act, a notary public certifies that the notary public has complied with the requirements and made the determinations specified in sections 5363–5365 of this chapter.

(e) A notary public shall not affix the notary public’s signature to, or logically associate it with, a certificate until the notarial act has been performed.

(f)(1) If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record.

(2) If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record.

(3) If the Office has established standards by rule pursuant to section 5323 of this chapter for attaching, affixing, or logically associating the certificate, the process shall conform to those standards.

§ 5368. SHORT-FORM CERTIFICATES

The following short-form certificates of notarial acts shall be sufficient for the purposes indicated, if completed with the information required by subsections 5367(a) and (b) of this chapter:

(1) For an acknowledgment in an individual capacity:

State of Vermont [County] of _____
This record was acknowledged before me on _____ by _____
Date _____ Name(s) of individual(s) _____
Signature of notary public _____
Stamp [_____]
Title of office _____ [My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of Vermont [County] of _____
This record was acknowledged before me on _____ by _____
Date _____ Name(s) of individual(s) _____
as _____ (type of authority, such as officer or
trustee) of _____ (name of party on behalf of
whom _____ record _____ was _____ executed).
Signature of notary public _____
Stamp [_____]
Title of office _____ [My commission expires: _____]

(3) For a verification on oath or affirmation:

State of Vermont [County] of _____
Signed and sworn to (or affirmed) before me on _____
by _____
Date _____
Name(s) of individual(s) making statement _____
Signature of notary public _____
Stamp [_____]
Title of office _____ [My commission expires: _____]

(4) For attesting a signature:

State of Vermont [County] of _____
Signed [or attested] before me on _____ by _____
Date _____ Name(s) of individual(s) _____
Signature of notary public _____
Stamp [_____]
Title of office _____ [My commission expires: _____]

§ 5369. OFFICIAL STAMP

The official stamp of a notary public shall:

(1) include the notary public's name, jurisdiction, and other information required by the Office; and

(2) be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

§ 5370. STAMPING DEVICE

(a) A notary public is responsible for the security of the notary public's stamping device and shall not allow another individual to use the device to perform a notarial act.

(b) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the Office on discovering that the device is lost or stolen.

§ 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD; SELECTION OF TECHNOLOGY

(a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records from the tamper-evident technologies approved by the Office by rule. A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, the notary public shall notify the Office that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use from the list of technologies approved by the Office by rule. If the Office has established standards by rule for approval of technology pursuant to section 5323 of this chapter, the technology shall conform to the standards. If the technology conforms to the standards, the Office shall approve the use of the technology.

§ 5372. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

(a) A notary public may refuse to perform a notarial act if the notary public is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record; or

(2) the individual's signature is knowingly and voluntarily made.

(b) A notary public may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

§ 5373. VALIDITY OF NOTARIAL ACTS

(a) Except as otherwise provided in subsection 5372(b) of this chapter, the failure of a notary public to perform a duty or meet a requirement specified in this chapter shall not impair the marketability of title or invalidate a notarial act or a certification evidencing the notarial act.

(b) An acknowledgment that contains a notary commission expiration date that is either inaccurate or expired shall not invalidate the acknowledgment if it can be established that on the date the acknowledgment was taken, the notary public's commission was active.

(c) The validity of a notarial act under this chapter shall not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this State other than this chapter or law of the United States.

(d) Defects in the written evidence of acknowledgment in a document in the public records may be cured by the notary public who performed the original notarial act. The notary public shall, under oath and before a different notary public, execute a writing correcting any defect. Upon recording, the corrective document corrects any deficiency and ratifies the original written evidence of acknowledgment as of the date the acknowledgment was originally taken.

(e) Notwithstanding any provision of law to the contrary, a document that conveys an interest in real property shall be recordable in the land records and, if recorded, shall be sufficient for record notice to third parties, notwithstanding the failure of a notary public to perform any duty or meet any requirement specified in this chapter. Such failure includes the failure to comply in full or in part with the requirements of sections 5367-5369 of this title.

(f) This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

§ 5374. NOTARIAL ACT IN ANOTHER STATE

(a) A notarial act performed in another state has the same effect under the law of this State as if performed by a notary public of this State, if the act performed in that state is performed by:

(1) a notary public of that state;

(2) a judge, clerk, or deputy clerk of a court of that state; or

(3) any other individual authorized by the law of that state to perform the notarial act.

(b) If a deed or other conveyance or a power of attorney for the conveyance of land, the acknowledgment or proof of which is taken out of State, is certified agreeably to the laws of the state in which the acknowledgment or proof is taken, it shall be valid as though it were taken before a proper officer in this State.

(c) An acknowledgment for a deed or other conveyance or a power of attorney for the conveyance of land that is taken out of State before a proper officer of this State shall be valid as if taken within this State.

(d) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(e) The signature and title of a notarial officer described in subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 5375. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY
RECOGNIZED INDIAN TRIBE

(a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notary public of this State, if the act performed in the jurisdiction of the tribe is performed by:

(1) a notary public of the tribe;

(2) a judge, clerk, or deputy clerk of a court of the tribe; or

(3) any other individual authorized by the law of the tribe to perform the notarial act.

(b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 5376. NOTARIAL ACT UNDER FEDERAL AUTHORITY

(a) A notarial act performed under federal law has the same effect under the law of this State as if performed by a notary public of this State, if the act performed under federal law is performed by:

(1) a judge, clerk, or deputy clerk of a court;

(2) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(3) an individual designated a notarizing officer by the U.S. Department of State for performing notarial acts overseas; or

(4) any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an officer described in subdivision (a)(1), (2), or (3) of this section shall conclusively establish the authority of the officer to perform the notarial act.

§ 5377. EVIDENCE OF AUTHENTICITY OF NOTARIAL ACT PERFORMED IN THIS STATE

(a) The authenticity of the official notarial stamp and signature of a notary public may be evidenced by either:

(1) A certificate of authority from the Secretary of State authenticated as necessary.

(2) An apostille from the Secretary of State in the form prescribed by the Hague convention of October 5, 1961 abolishing the requirement of legalization of foreign public documents.

(b) An apostille as specified by the Hague convention shall be attached to any document that requires authentication and that is sent to a nation that has signed and ratified this convention.

§ 5378. FOREIGN NOTARIAL ACT

(a) In this section, “foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.

(b) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this State as if performed by a notary public of this State.

(c) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(d) The signature and official stamp of an individual holding an office described in subsection (c) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(e) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(f) A consular authentication issued by an individual designated by the U.S. Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

Sec. 2. 27 V.S.A. § 341 is amended to read:

§ 341. REQUIREMENTS GENERALLY; RECORDING

(a) Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a ~~town clerk, notary public, master, or county clerk~~ and recorded at length in the clerk's office of the town in which such lands lie. Such acknowledgment before a notary public shall be valid without an official ~~seal~~ stamp being affixed to his or her signature.

(b) A deed or other conveyance of land ~~which~~ that includes a reference to a survey prepared or revised after July 1, 1988 may be recorded only if it is accompanied by the survey to which it refers, or cites the volume and page in the land records showing where the survey has previously been recorded.

(c) A lease of real property that has a term of more than one year from the making of the lease need not be recorded at length if a notice or memorandum of lease, which is executed and acknowledged as provided in subsection (a) of this section, is recorded in the land records of the town in which the leased property is situated. The notice of lease shall contain at least the following information:

- (1) the names of the parties to the lease as set forth in the lease;
- (2) a statement of the rights of a party to extend or renew the lease;
- (3) any addresses set forth in the lease as those of the parties;
- (4) the date of the execution of the lease;
- (5) the term of the lease, the date of commencement, and the date of termination;
- (6) a description of the real property as set forth in the lease;
- (7) a statement of the rights of a party to purchase the real property or exercise a right of first refusal with respect thereto;
- (8) a statement of any restrictions on assignment of the lease; and
- (9) the location of an original lease.

Sec. 3. 27 V.S.A. § 342 is amended to read:

§ 342. ACKNOWLEDGMENT AND RECORDING REQUIRED

A deed of bargain and sale, a mortgage or other conveyance of land in fee simple or for term of life, or a lease for more than one year from the making thereof shall not be effectual to hold such lands against any person but the grantor and his or her heirs, unless the deed or other conveyance is acknowledged and recorded ~~as provided in this chapter.~~

Sec. 4. 27 V.S.A. § 463 is amended to read:

§ 463. BY SEPARATE INSTRUMENT

(a) Mortgages may be discharged by an acknowledgment of satisfaction, executed by the mortgagee or his or her attorney, executor, administrator, or assigns, which shall be substantially in the following form:

I hereby certify that the following described mortgage is paid in full and satisfied, viz: _____ mortgagor to _____ mortgagee, dated _____ 20____, and recorded in book _____, page _____, of the land records of the town of _____.

(b) When such satisfaction is acknowledged before a ~~town clerk~~, notary public, ~~master, or county clerk~~, and recorded, it shall discharge such mortgage and bar actions brought thereon.

Sec. 5. REPEALS

The following are repealed:

(1) 24 V.S.A. chapter 5, subchapter 9 (notaries public);

(2) 27 V.S.A. § 379 (conveyance of real estate; execution and acknowledgment; acknowledgment out of state);

(3) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge or fee);

(4) 32 V.S.A. § 1436 (fee for certification of appointment as notary public); and

(5) 32 V.S.A. § 1759 (notaries public fees).

Sec. 6. APPLICABILITY; NOTARY PUBLIC COMMISSION IN EFFECT

(a)(1) This act shall apply to a notarial act performed on or after the effective date of this act.

(2) A notary public, in performing notarial acts on and after the effective date of this act, shall comply with the provisions of this act.

(b)(1) A commission as a notary public in effect on the effective date of this act shall continue until its date of expiration.

(2) A notary public who applies to renew a commission as a notary public on or after the effective date of this act shall comply with the provisions of this act.

Sec. 7. SAVINGS CLAUSE

This act shall not affect the validity or effect of a notarial act performed prior to the effective date of this act.

Sec. 8. POTENTIAL ENACTMENT OF UNIFORM UNSWORN
DECLARATIONS ACT; REPORT BY AFFECTED ENTITIES

(a) The General Assembly is considering enacting a law similar to the April 2015 draft of the Uniform Unsworn Declarations Act (UUDA) prepared by the National Conference of Commissioners on Uniform State Laws.

(b) In order to understand the UUDA's potential effect on State operations, on or before June 30, 2019, the Secretary of Administration on behalf of the Administration and the State's boards, councils, and commissions; the Attorney General; the Secretary of State; the Executive Director of the Department of State's Attorneys and Sheriffs; the Defender General; the Auditor of Accounts; the State Treasurer; and the Court Administrator shall each submit to the General Assembly a summary regarding the effect of the enactment of the UUDA on each entity and the users of its operations. The summary shall include the following in regard to the entity's operations:

(1) an identification of forms requiring a notarial act and any proceeding or action requiring the use of such forms that are created, used, or required by the entity;

(2) an explanation of whether continued use of a notarial act on a particular form is recommended and if so, why;

(3) any recommendations for amendments to the UUDA;

(4) a draft of any suggested legislation, rules, or forms, including amendments to existing rules and forms, as may be necessary to address issues arising from the enactment of the UUDA;

(5) an identification of the resources, timeline, and expenses related to any necessary rulemaking or form change based on the enactment of the UUDA.

Sec. 9. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

This act shall take effect on July 1, 2019, except that:

(1) this section shall take effect on passage;

(2) the Office of Professional Regulation may adopt rules in accordance with the provisions of Sec. 1 prior to the effective date of that section;

(3) beginning on December 1, 2018, the Office of Professional Regulation shall perform the duties of the assistant judges and county clerks in regard to receiving applications and commissioning notaries public as set forth in 24 V.S.A. chapter 5, subchapter 9 (county officers; notaries public) for the two-year notaries public commission terms that begin on February 1, 2019 in accordance with Sec. 1; and

(4) in Sec. 1, the examination requirement for new notaries public applicants set forth in 26 V.S.A. § 5341(b)(5) and the continuing education requirement for notaries public renewal applicants set forth in 26 V.S.A. § 5343(b) shall take effect on February 1, 2021 and shall apply to those applicants for the notaries public commission terms that begin on that date.

H. 780

An act relating to portable rides at agricultural fairs, field days, and other similar events

The Senate proposes to the House to amend the bill 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 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~~ For the purposes of this chapter, amusement ride shall also not include bungee jumping, zip lines, or waterslides or obstacle, challenge, or adventure courses.

(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 ~~at~~ the following:

(1) Certificate of insurance in the amount of not less than \$1,000,000.00 that insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of \$100.00.

(3) Proof or a statement of compliance with the requirements of 21 V.S.A. chapter 9.

~~(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.

~~(e)~~(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, any forms to be used to apply for the certificate of operation, the adhesive sticker that shall be affixed to the ride pursuant to subdivision 723a(b)(2) of this title, and the certification to be filed pursuant to subdivision 723a(b)(3) of this title;

(2) make any forms and certifications available on the Secretary of State's website and shall provide adhesive stickers to inspectors;

(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 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; or

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subdivision (1)(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 standard F770 concerning the practices for ownership, operation, maintenance, and inspection of 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, in a format to be determined by the Secretary of State, shall be affixed to the ride that indicates:

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

(B) the name of the inspector.

(3) The owner or operator shall submit a certification, in a format to be determined by the Secretary of State, to the organization hosting a fair, field day, or other event or location, at which the owner or operator intends to operate a ride, stating that the ride has been inspected pursuant to subsection (a) of this section and stickers have been affixed pursuant to this subdivision (b) prior to the ride being used to carry or convey passengers.

(c) A ride shall be inspected for safety 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 or the Office of the Attorney General promptly upon request;

(3) keep a paper or electronic copy of all required forms or certifications, and 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;

(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) operate the ride in accordance with the ride manufacturer's requirements.

(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 judgment and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all reasonable written and verbal warnings and directions from ride operators or owners that are posted conspicuously at the entrance to the ride or explained in a clear and understandable manner at the beginning of each ride segment.

Sec. 6. REPORT

The Department of Forests, Parks and Recreation shall, on or before December 1, 2018, prepare a report concerning:

(1) how bungee jumps; zip lines; waterslides and water rides; and obstacle, challenge, and adventure courses in Vermont are inspected for safety; and

(2) how these types of rides are inspected for safety and regulated in other states.

Sec. 7. 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 rides at agricultural fairs, field days, and other similar events.

(For text see House Journal for March 20th, 2018)

H. 859

An act relating to requiring municipal corporations to affirmatively vote to retain ownership of lease lands

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

Sec. 1. 24 V.S.A. § 2409 is added to read:

§ 2409. RETENTION OF MUNICIPAL OWNERSHIP OF LEASE LANDS

(a) As used in this section:

(1) “Legislative body” means the officer or officers of a municipal corporation who are charged with the care of the municipal corporation’s lease lands.

(2) “Lessee” means the person entitled to possess, enjoy, and use land subject to a perpetual lease and shall include the person’s heirs, executors, administrators, and assigns.

(3) “Municipal corporation” shall have the same meaning as “municipality” in 1 V.S.A. § 126 and shall also include every municipal corporation identified in subdivision 1751(1) of this title, county grammar schools, any unorganized towns and gores in the State, and any of the unified towns and gores of Essex County. “Municipal corporation” shall not include the University of Vermont and State Agricultural College.

(4) “Perpetual lease” means any leasehold interest in Vermont land, and every estate in Vermont land other than fee simple absolute, the title to which is held by a municipal corporation according to section 2401 of this title, arising out of or created by an instrument of lease that conveys to a person designated as lessee the right to possess, enjoy, and use the land in perpetuity or substantially in perpetuity. “Perpetual lease” shall include leasehold interests that are subject to restrictions on the lessee’s use of the land and shall include lands that the municipal corporation may repossess for nonpayment of rent or other default under the terms of the lease.

(5) “Perpetual lease land” means all land described in a perpetual lease that is owned by or vested in a municipal corporation. “Perpetual lease land” does not include land described in a perpetual lease that is held in title by any person other than a municipal corporation, or any land described in a perpetual lease over which the municipal corporation acts exclusively as trustee.

(b)(1) On January 1, 2020, fee simple title to perpetual lease lands shall vest in the current lessee of record, free and clear of the interest of a municipal corporation in the perpetual lease lands held in accordance with section 2401 of this title, unless prior to that date the legislative body of the municipal corporation votes in the affirmative to retain ownership of some or all of the perpetual lease lands within that municipal corporation.

(2) At any time, the legislative body of a municipal corporation may vote to relinquish its interest in some or all of the perpetual lease lands within that municipal corporation held in accordance with section 2401 of this title. Upon such a vote, fee simple title to perpetual lease lands shall vest in the current lessee of record.

(3) When fee simple title to perpetual lease land vests in the current lessee of record pursuant to this subsection, the land shall remain subject to any other encumbrances of record, including municipal encumbrances and easements.

(c) Nothing in this section shall prevent a municipal corporation that has retained its interest in perpetual lease land held in accordance with section

2401 of this title from later conveying the land in accordance with section 2406 of this title.

Sec. 2. 24 V.S.A. § 1061 is amended to read:

§ 1061. CONVEYANCE OF REAL ESTATE

* * *

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the legislative body of a town or village may authorize the conveyance of municipal real estate if the conveyance:

* * *

(3) Involves real estate used for housing or urban renewal projects under chapter 113 of this title.

(4) Involves lease land pursuant to chapter 65, subchapter 1 of this title.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(For text see House Journal March 2, 2018)

H. 895

An act relating to legislative review of certain report requirements

The Senate proposes to the House to amend the bill as follows:

First: Immediately following the end of Sec. 4, by adding a reader assistance heading to read:

* * * Reports Requirements Modified * * *

Second: By adding a Sec. 4a to read:

Sec. 4a. 18 V.S.A. § 4803 is amended to read:

§ 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;
PER DIEM

* * *

(g)(1) ~~Annually on or before November 15, the~~ The Council ~~shall~~ may submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

* * *

Third: By adding a Sec. 4b to read:

Sec. 4b. 18 V.S.A. § 5208 is amended to read:

§ 5208. DEPARTMENT OF HEALTH; REPORT ON STATISTICS

* * *

~~(b) In addition to the report required by subsection (a) of this section and notwithstanding the provisions of 2 V.S.A. § 20(d), beginning March 1, 2014 and annually thereafter, the Department shall report to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding the number of persons who died during the preceding calendar year from an overdose of a Schedule II, III, or IV controlled substance. The report shall list separately the number of deaths specifically related to opioids, including for each death whether an opioid antagonist was administered and whether it was administered by persons other than emergency medical personnel, firefighters, or law enforcement officers. Beginning in 2015, the report shall include similar data from prior years to allow for comparison. [Repealed.]~~

Fourth: By adding a Sec. 4c to read:

Sec. 4c. 19 V.S.A. § 42 is amended to read:

§ 42. REPORTS PRESERVED; CONSOLIDATED TRANSPORTATION REPORT

* * *

(b) Annually, on or before January 15, the Agency shall submit a consolidated transportation system and activities report to the House and Senate Committees on Transportation. The report shall consist of:

(1) Financial and performance data of all public transit systems, as defined in 24 V.S.A. § 5088(6), that receive operating subsidies in any form from the State or federal government, including subsidies related to the Elders and Persons with Disabilities Transportation Program for service and capital equipment. This component of the report shall:

* * *

(C) show as a separate category financial and performance data on the Elders and Persons with Disabilities Transportation Program;

~~(D) describe any action the Agency has taken pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards.~~

(2) Data on pavement conditions of the State highway system that, at a minimum, shall include a pavement condition index that rates the State highway system and the current and historic percentage of State highway

pavement mileage that is rated in poor or very poor condition.

(3) A description of the conditions of bridges, culverts, and other structures on the State highway system and on town highways ~~and of the status of the accelerated bridge program.~~

* * *

(6) A summary of the statuses of aviation, rail, and public transit ~~projects programmed for construction during the previous calendar year programs.~~

* * *

(8) An overview of operations and maintenance activities, including winter maintenance statistics, ~~snow and ice control plans, and equipment performance measures.~~

(9) ~~Data on the miles of State highway paving completed during the previous construction season.~~

~~(10)~~ A list of projects for which the construction phase was completed during the most recent construction season.

~~(11)~~(10) Such other information that the Secretary determines the Committees on Transportation need to perform their oversight role.

Fifth: By adding a Sec. 4d to read:

Sec. 4d. 2014 Acts and Resolves No. 179, Sec. E.306.2 is amended to read:

Sec. E.306.2 SUBSTANCE ABUSE TREATMENT SERVICES

(a) Program Objectives And Performance Measures:

* * *

~~(2) Thereafter, annually, on or before January 15, the Chief, Secretary, and Commissioners shall report to those Committees on the service delivery system's success in reaching the program objectives using the performance measure data collected for those services. [Repealed.]~~

* * *

Sixth: In Sec. 23, 18 V.S.A. § 9374, in subsection (h), in subdivision (4)(B), immediately following the phrase "The Board and the Department shall also present the information required by" by striking out "subsection (a) of this section" and inserting in lieu thereof the phrase this subsection (h)

(For text see House Journal February 27, 2018)

H. 923

An act relating to capital construction and State bonding budget adjustment

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

Sec. 1. 2017 Acts and Resolves No. 84, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2018:

* * *

(13) Burlington, 108 Cherry Street, ~~parking garage, repairs~~ design, engineering, and architectural costs for the repair of the parking garage and related eligible project costs: ~~\$5,000,000.00~~ \$2,281,094.00

(c) The following sums are appropriated in FY 2019:

(1) Statewide, planning, use, and contingency:

~~\$500,000.00~~ \$600,000.00

(2) Statewide, major maintenance: ~~\$5,707,408.00~~ \$6,900,000.00

* * *

(6) Montpelier, 120 State Street, life safety and infrastructure improvements: ~~\$700,000.00~~ \$1,968,000.00

* * *

(8) Waterbury, Waterbury State Office Complex, Weeks building, renovation and fit-up: ~~\$900,000.00~~ \$1,152,085.00

(9) Newport, Northern State Correctional Facility, door control replacement and perimeter control: ~~\$1,000,000.00~~ \$1,715,000.00

(10) Montpelier, 109 and 111 State Street, final design and construction: ~~\$4,000,000.00~~ \$1,000,000.00

(11) ~~Burlington, 108 Cherry Street, parking garage, repairs:~~ ~~\$5,000,000.00~~ [Repealed.]

* * *

(13) Montpelier, 115 State Street, State House, switchgear and emergency generator: ~~\$450,000.00~~

(14) Rutland, Asa Bloomer building, rehabilitation of building components and systems, and planning and use study: ~~\$1,050,000.00~~

(15) Springfield, State Office Building, repair of the retaining wall, and environmental remediation associated with the retaining wall project: ~~\$1,400,000.00~~

(16) St. Albans, Franklin County Courthouse, ADA renovations, new handicap access ramp and related exterior renovations: \$300,000.00

(17) Waterbury, Waterbury State Office Complex, Stanley and Wasson, demolition of Stanley Hall, and programming, schematic design, and design development for Wasson Hall: \$950,000.00

(18) Rutland, Marble Valley Regional Correctional Facility, repair of the historic brick and stone masonry wall used as the perimeter security for the facility: \$600,000.00

* * *

(e)(1) On or before December 15, 2018, the Commissioner of Buildings and General Services shall submit to the House Committee on Corrections and Institutions and the Senate Committee on Institutions a report on the John J. Zampieri State Office Building at 108 Cherry Street in Burlington that shall include 20-year economic projections for each of the following options:

(A) selling 108 Cherry Street and leasing, purchasing, or building a new State office space; and

(B) renovating 108 Cherry Street and continuing to use it as State office space in its entirety for State employees; and

(C) renovating 108 Cherry Street and using it as State office space for all direct-service employees currently housed there and leasing the remainder of the space to a non-State entity.

(2) When the General Assembly is not in session, if, based on the projections calculated in subdivision (1) of this subsection (e), the Commissioner of Buildings and General Services determines it is in the best interests of the State to sell the John J. Zampieri State Office Building at 108 Cherry Street in Burlington, he or she may notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and request the approval to sell. The Chairs shall recommend to approve or deny the request to the Joint Fiscal Committee. The Joint Fiscal Committee may approve or deny the recommendation of the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions; provided, however, that an approval to sell shall also require that the proceeds from the sale be appropriated to future capital construction projects and expended within two years after the date of sale.

(f) For the amount appropriated in subdivision (c)(13) of this section, the Commissioner of Buildings and General Services shall evaluate all proposals for a generator, including the use of a generator or battery backup. After evaluation of the proposals, the Commissioner of Buildings and General Services shall notify the Chairs of the House Committee on Corrections and

Institutions and the Senate Committee on Institutions of the decision prior to the purchase of a generator or battery backup. If required by 29 V.S.A. chapter 6, the Commissioner of Buildings and General Services shall ensure that the Capitol Complex Commission is provided with the proposal.

(g) The Commissioner of Buildings and General Services is authorized to use up to \$250,000.00 from the amount appropriated in subdivision (c)(2) of this section to prepare a State-owned building for sale if any renovations are needed.

Appropriation – FY 2018	\$27,857,525.00	\$25,138,619.00
Appropriation – FY 2019	\$27,853,933.00	\$28,131,610.00
Total Appropriation – Section 2	\$55,711,458.00	\$53,270,229.00

Sec. 2. 2017 Acts and Resolves No. 84, Sec. 3 is amended to read:

Sec. 3. HUMAN SERVICES

* * *

(b) The sum of \$300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in subsection (a) of this section. The following sums are appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services:

(1) Statewide correctional facilities, cameras, locks, perimeter intrusion at correctional facilities: \$300,000.00

(2) Chittenden County Regional Correctional Facility and Northwest State Correctional Facility, renovations, beds for therapeutic placement: \$600,000.00

(3) Essex, Woodside Juvenile Rehabilitation Center, design and construction documents: \$500,000.00

(4) Brattleboro, Brattleboro Retreat, renovation and fit-up: \$4,500,000.00

(c) For the amount appropriated in subdivision (b)(2) of this section, it is the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and in the Northwest State Correctional Facility for persons in the custody of the Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten beds in the Northwest State Correctional Facility.

(d) For the amount appropriated in subdivision (b)(4) of this section:

(1) The use of funds shall be restricted to capital renovations and fit-up costs and shall not be used for any periodic lease payments, usage fees, or other operating expenses.

(2)(A) The Department of Buildings and General Services shall not expend funds until the Commissioner of Buildings and General Services and the Secretary of Human Services have notified the Commissioner of Finance and Management and the Chairs of House Committee on Corrections and Institutions and the Senate Committee on Institutions that an agreement has been executed between the Brattleboro Retreat and the State of Vermont.

(B) The agreement described in subdivision (2)(A) of this subsection (d) shall include the following provisions:

(i) the Brattleboro Retreat shall provide a minimum of 12 beds, including level-1 beds, to the State for a period determined by the Secretary to be in the best interests to the State; and

(ii) terms and conditions that ensure the protection of State investment of capital appropriations.

(C) Prior to execution, the State Treasurer shall approve the agreement described in subdivision (2)(A) of this subsection (d) to ensure that it is in compliance with applicable tax-exempt bond requirements.

(D) The Commissioner of Buildings and General Services and Secretary of Human Services may also propose draft legislation to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that may be necessary to fulfill the agreement.

(3)(A) On or before October 15, 2018, the Secretary of Human Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions if an agreement between the Brattleboro Retreat and the State of Vermont cannot be reached and shall submit to them an alternative proposal for the 12 beds. The Secretary of Human Services shall also send the alternative proposal to the Joint Fiscal Committee.

(B) With approval of the Speaker of the House and the President Pro Tempore of the Senate, as appropriate, the House Committee on Corrections and Institutions and the Senate Committee on Institutions may meet up to two times when the General Assembly is not in session to evaluate, approve, or recommend alterations to the proposal. The House Committee on Corrections and Institutions' and the Senate Committee on Institutions' members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

Appropriation – FY 2018	\$300,000.00
Appropriation – FY 2019	\$300,000.00 <u>\$5,900,000.00</u>

Total Appropriation – Section 3 \$~~600,000.00~~ \$6,200,000.00

Sec. 3. 2017 Acts and Resolves No. 84, Sec. 4 is amended to read:

Sec. 4. JUDICIARY

* * *

(c) The sum of \$1,496,398.00 is appropriated in FY 2019 to the Judiciary for the case management IT system.

Appropriation – FY 2018 \$3,050,000.00

Appropriation – FY 2019 \$1,496,398.00

Total Appropriation – Section 4 ~~\$3,050,000.00~~ \$4,546,398.00

Sec. 4. 2017 Acts and Resolves No. 84, Sec. 5 is amended to read:

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

* * *

(c) The sum of ~~\$200,000.00~~ \$300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at historic sites statewide.

(d) The following sums are appropriated in FY 2019 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers:
~~\$15,000.00~~ \$29,000.00

(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping: \$125,000.00

(4) Schooner Lois McClure, repairs and upgrades: \$25,000.00

(5) Civil War Heritage Trail, signs: \$30,000.00

* * *

Appropriation – FY 2018 \$450,000.00

Appropriation – FY 2019 ~~\$370,000.00~~ \$539,000.00

Total Appropriation – Section 5 ~~\$820,000.00~~ \$989,000.00

Sec. 5. 2017 Acts and Resolves No. 84, Sec. 6 is amended to read:

Sec. 6. GRANT PROGRAMS

* * *

(b) The following sums are appropriated in FY 2019 for Building Communities Grants established in 24 V.S.A. chapter 137:

* * *

(9) To the Enhanced 911 Board for the Enhanced 911 Compliance Grants Program for school safety: \$400,000.00

Appropriation – FY 2018 \$1,475,000.00

Appropriation – FY 2019 ~~\$1,400,000.00~~ \$1,800,000.00

Total Appropriation – Section 6 ~~\$2,875,000.00~~ \$3,275,000.00

Sec. 6. 2017 Acts and Resolves No. 84, Sec. 8 is amended to read:

Sec. 8. UNIVERSITY OF VERMONT

* * *

(b) The sum of ~~\$1,400,000.00~~ \$1,650,000.00 is appropriated in FY 2019 to the University of Vermont for the projects described in subsection (a) of this section.

Appropriation – FY 2018 \$1,400,000.00

Appropriation – FY 2019 ~~\$1,400,000.00~~ \$1,650,000.00

Total Appropriation – Section 8 ~~\$2,800,000.00~~ \$3,050,000.00

Sec. 6a. 2017 Acts and Resolves No. 84, Sec. 9 is amended to read:

Sec. 9. VERMONT STATE COLLEGES

* * *

(b) The sum of ~~\$2,000,000.00~~ \$3,000,000.00 is appropriated in FY 2019 to the Vermont State Colleges for the projects described in subsection (a) of this section.

Appropriation – FY 2018 \$2,000,000.00

Appropriation – FY 2019 ~~\$2,000,000.00~~ \$3,000,000.00

Total Appropriation – Section 9 ~~\$4,000,000.00~~ \$5,000,000.00

Sec. 7. 2017 Acts and Resolves No. 84, Sec. 10 is amended to read:

Sec. 10. NATURAL RESOURCES

* * *

(e) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation for the

projects described in this subsection:

* * *

(3) State's share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine and Ely Mine): ~~\$2,755,000.00~~ \$177,259.00

* * *

Appropriation – FY 2018	\$10,914,000.00
Appropriation – FY 2019	\$8,205,000.00 <u>\$5,627,259.00</u>
Total Appropriation – Section 10	\$19,119,000.00 <u>\$16,541,259.00</u>

Sec. 8. 2017 Acts and Resolves No. 84, Sec. 11 is amended to read:

Sec. 11. CLEAN WATER INITIATIVES

* * *

(b) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

* * *

(4) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, new projects (Ryegate, Springfield, ~~St. Johnsbury~~, and St. Albans): \$2,704,232.00

* * *

(d)(1) The following sums are appropriated in FY 2018 to the Vermont Housing and Conservation Board for the following projects:

~~(1)(A)~~ Statewide water quality improvement projects or other conservation projects: \$2,800,000.00

~~(2)(B)~~ Water quality farm improvement grants or fee purchase projects that enhance water quality impacts by leveraging additional funds: \$1,000,000.00

(2) A grant issued under subdivision (1)(B) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost share requirements.

(e)(1) The following sum of ~~\$2,000,000.00~~ is sums are appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for projects described in this subsection:

(A) Best Management Practices and, the Conservation Reserve Enhancement Program, and the Capital Equipment Assistance Program:
\$3,615,000.00

(B) Phosphorus removal equipment: \$1,500,000.00

(2) Notwithstanding 6 V.S.A. § 4828(d), an applicant for a grant issued under subdivision (1)(B) of this subsection to purchase or implement phosphorus removal technology or equipment shall pay at least 20 percent of the total eligible project cost. Each grant awarded pursuant to this subsection (e) shall not exceed \$300,000.00.

(f) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

* * *

(2) EcoSystem restoration and protection Restoration and Protection grant programs: \$5,000,000.00

(A) Standard EcoSystem Restoration and Protection programs:
\$3,760,000.00

(B) Municipal Roads Grant-in-Aid: \$3,090,000.00

(C) Multi-Sector Clean Water Block Grants: \$2,000,000.00

(D) Lake Carmi, aeration system or artificial circulation, or both:
\$200,000.00

(3) Municipal Pollution Control Grants, new projects (Colchester, Rutland City, St. Albans, Middlebury, and St. Johnsbury):

~~\$1,407,268.00~~ \$4,040,000.00

(4) Clean Water Act, implementation projects: \$11,112,944.00

The Commissioner of Environmental Conservation may use up to \$1,400,000.00 of the amounts appropriated in subdivision (2) of this subsection to support capital-eligible clean water projects for Lake Carmi; provided, however, that the Commissioner shall provide prior notification of any project and its cost to the Chairs of the House Committees on Corrections and Institutions and on Natural Resources, Fish, and Wildlife and of the Senate Committees on Institutions and on Natural Resources and Energy.

(5) The Commissioner of Forests, Parks and Recreation may use up to \$50,000.00 of the amounts appropriated in subdivision (2)(A) of this subsection for skidder bridges.

(6) For the amount appropriated in subdivision (2)(B) of this subsection, on or before January 15, 2019, the Commissioner of Environmental

Conservation shall report back to the House Committees on Corrections and Institutions and on Transportation and of the Senate Committees on Institutions and on Transportation with a description and cost of each project that received funding.

(g)(1) The sum of 2,750,000.00 is following sums are appropriated in FY 2019 to the Vermont Housing and Conservation Board for:

(A) statewide water quality improvement projects or other conservation projects: \$2,750,000.00

(B) water quality farm improvement grants or fee purchase projects: \$1,000,000.00

(2) A grant issued under subdivision (1)(B) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost-share requirements.

(h) It is the intent of the General Assembly that the Secretary of Natural Resources shall use the amount appropriated in ~~subdivision~~ subdivisions (b)(4) and (f)(6) of this section to fund new projects in Ryegate, Springfield, ~~St. Johnsbury~~, and St. Albans City, and in FY 2019 in Colchester, Rutland City, Middlebury, St. Johnsbury, and St. Albans; provided, however, that if the Secretary determines that one of these projects is not ready in FY 2018 or FY 2019, or the amount appropriated exceeds the amount needed to fund these projects, the funds may be used for an eligible new project as authorized by 10 V.S.A. chapter 55 and 24 V.S.A. chapter 120.

* * *

(l) The following sums are appropriated in FY 2019 to the Municipal Mitigation Assistance Program in the Agency of Transportation:

(1) Municipal Highway and Stormwater Mitigation Program: \$1,000,000.00

(2) Better Roads Program: \$1,400,000.00

(m) The sum of \$200,000.00 is appropriated in FY 2019 to the Agency of Commerce and Community Development for the Downtown Transportation Fund pilot project.

Appropriation – FY 2018	\$21,936,616.00
Appropriation – FY 2019	\$23,470,212.00 <u>\$25,755,000.00</u>

(c) ~~The sum of \$50,000.00 is~~ following sums are appropriated in FY 2019 to the Vermont Veterans' Home for:

- (1) resident care furnishings: \$50,000.00
- (2) security, access system, and safety upgrades: \$100,000.00

(d) It is the intent of the General Assembly that the amounts appropriated in ~~subsections~~ subsection (a) and subdivision (c)(1) of this section shall be used to match federal funds to purchase resident care furnishings for the Veterans' Home.

(e) The Veterans' Home shall only use the funds appropriated in 2015 Acts and Resolves No. 26, Sec. 16 for an electronic medical records system. These funds shall be used to match federal funds and shall only become available after the Veterans' Home notifies the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that the electronic medical records system is in compliance with the criteria for creating and maintaining connectivity established by the Vermont Information Technology Leaders pursuant to 18 V.S.A. § 9352(i).

Appropriation – FY 2018	\$390,000.00
Appropriation – FY 2019	\$50,000.00 <u>\$150,000.00</u>
<u>Total Appropriation – Section 16</u>	\$440,000.00 <u>\$540,000.00</u>

Sec. 12. 2017 Acts and Resolves No. 84, Sec. 16a is added to read:

Sec. 16a. DEPARTMENT OF LABOR

The sum of \$500,000.00 is appropriated in FY 2019 to the Department of Labor to fund the Adult Career and Technical Education Equipment Grant Pilot Program to provide equipment to support adult tech programs.

Sec. 13. 2017 Acts and Resolves No. 84, Sec. 16b is added to read:

Sec. 16b. SERGEANT AT ARMS

(a) The sum of \$15,000.00 is appropriated in FY 2019 to the Sergeant at Arms to contract with a third party to conduct an assessment of the sound system in the State House and 1 Baldwin Street pursuant to 2 V.S.A. § 62(a)(8). The Sergeant at Arms shall submit a copy of the assessment to the Committee on Joint Rules.

(b) On or before November 15, 2018, the Sergeant at Arms shall develop a proposal for a sound system for the State House and 1 Baldwin Street based on the assessment described in subsection (a) of this section. As part of the proposal development process, the Sergeant at Arms may consult with the Commissioner of Buildings and General Services.

(c) The Sergeant at Arms shall submit the proposal described in subsection (b) of this section to the Committee on Joint Rules, and to the Secretary of Administration to request inclusion in the Governor's biennial capital budget report pursuant to 32 V.S.A. § 309.

Sec. 14. 2017 Acts and Resolves No. 84, Sec. 16c is added to read:

Sec. 16c. PUBLIC SERVICE

(a) The following sums are appropriated in FY 2019 to the Department of Public Service:

(1) VTA wireless network: \$900,000.00

(2) Northeast Kingdom Fiber Network, fiber access point construction: \$393,000.00

(b) On or before September 1, 2018, the Department of Public Service shall submit a report to the House Committees on Corrections and Institutions and on Energy and Technology and the Senate Committees on Finance and on Institutions with an update on the status of the two projects described in subsection (a) of this section. The report shall include an update on the progress of each project and whether any requests for proposals have been issued.

Total Appropriation – Section 16c \$1,293,000.00

Sec. 15. 2017 Acts and Resolves No. 84, Sec. 18 is amended to read:

Sec. 18. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

* * *

(22) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5(a) (County courthouses, ADA compliance, repairs and upgrades): \$2,079.09

(23) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5(b) (County courthouses, ADA compliance, repairs and upgrades): \$18,688.70

(24) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4(b)(1) (UVM Health Lab, colocation): \$383.90

(25) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 5(b) (Lamoille County Courthouse, planning): \$540.00

(26) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b) (Woodside Juvenile Rehabilitation Center, project design and planning): \$52,003.54

(27) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 5 (Judiciary, ADA compliance, county courthouses): \$157,394.00

(28) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 13(b) (Robert H. Wood Vermont Fire Academy, burn building): \$10,646.82

(29) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 8 (Lyndon State College): \$48,634.00

(30) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 11 (Public safety, Waterbury State Office Complex, blood analysis laboratory, renovations): \$252,085.35

(31) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2 (Department of Libraries, centralized facility renovation): \$447,739.00

* * *

(d) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

* * *

(4) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 11(a)(1) (water pollution control): \$8,221.85

(5) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 11(a)(8) (municipal pollution control grants, Waterbury): \$136,824.00

(e) The following unexpended funds appropriated to the Agency of Commerce and Community Development for capital construction projects are reallocated to defray expenditures authorized in Sec. 5(d) of this act, placement and replacement of historic site markers:

(1) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 6(a)(2) (Bennington monument, structural repairs and ADA compliance): \$1,224.51

(2) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(b) (Bennington monument, elevator, roof repairs): \$1,997.73

(3) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(c) (Bennington monument, elevator, roof repairs): \$6,469.60

(f) Of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 3 (cellular and broadband infrastructure) to the Vermont Telecommunications Authority for capital construction projects, the amount of \$1,972,322.98 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

Total Reallocations and Transfers – Section 18

~~\$14,822,286.78~~ \$17,939,541.85

Sec. 16. 2017 Acts and Resolves No. 84, Sec. 19 is amended to read:

Sec. 19. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of \$132,460,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The State Treasurer is authorized to issue additional general obligation bonds in the amount of \$10,936,961.00 that were previously authorized but unissued under this act for the purpose of funding the appropriations of this act.

Total Revenues – Section 19

~~\$132,460,000.00~~ \$143,396,961.00

Sec. 17. 2017 Acts and Resolves No. 84, Sec. 20 is amended to read:

Sec. 20. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

~~(b) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects. [Repealed.]~~

(c) The Commissioner of Buildings and General Services is authorized to sell or transfer the buildings and adjacent land located at 1987 Rockingham Road in Rockingham (Troop Headquarters and Garage) pursuant to the requirements of 29 V.S.A. § 166; provided, however, that if a transfer occurs, the buildings and adjacent land may only be transferred to another State agency for a State use. If the buildings and adjacent land are sold, the proceeds

from the sale shall be appropriated to future capital construction projects and expended within two years after the date of sale.

(d) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects and expended within two years after the date of sale.

(e)(1) Notwithstanding 29 V.S.A. § 166(b), the Department of Buildings and General Services is authorized to sell or transfer to the City of Newport a portion of the remaining lands of the State of Vermont and boardwalk located north of the Emory A. Hebard State Office Building. The land and boardwalk to be sold or transferred is described as being the land north of the bike path up to the approximate shoreline of Lake Memphremagog, bounded on the west by lands owned by the City of Newport and the Northern VT Railroad Co., Inc., bounded on the east by lands owned by the City of Newport, and bounded on the south by the right-of-way retained by Newport & Richford R.R.

(2) On or before October 1, 2018, the Commissioner of Buildings and General Services shall have a survey prepared to more particularly describe and delineate the land and boardwalk to be sold or transferred that is described in subdivision (1) of this subsection.

Sec. 18. 2012 Acts and Resolves, No. 104, Sec. 14, amending 2011 Acts and Resolves, No. 40, Sec. 26, is further amended to read:

Sec. 16. Sec. 26 of No. 40 of the Acts of 2011 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

~~(a) The commissioner of buildings and general services may sell the Asa Bloomer State Office Building and the Rutland Multi-Modal Transit Center in accordance with the requirements of 29 V.S.A. § 166(d) and following negotiations with the City of Rutland. If negotiations with the city result in the city's management of the Transit Center, the commissioner may use \$81,000 in unexpended capital funds previously appropriated to the department for other purposes to purchase a flexible parking machine for the Transit Center. It is the intent of the general assembly that state offices remain downtown. [Repealed.]~~

* * *

Sec. 19. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, 2015 Acts and Resolves No. 58, Sec. E.113.1, and 2017 Acts and Resolves No. 84, Sec. 29, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2018~~ July 1, 2019.

* * * Human Services * * *

Sec. 20. AGENCY OF HUMAN SERVICES; FACILITIES PLAN; UPDATE

On or before February 1, 2019, the Secretary of Human Services, in consultation with the Commissioner of Buildings and General Services, shall update the facilities plan and recommendations required by 2017 Acts and Resolves No. 84, Sec. 31, taking into consideration changes proposed in the 2018 legislative session. The Agency's update shall include a review of the populations and bed capacity needs described in 2017 Acts and Resolves No. 84, Sec. 31.

* * * Labor * * *

Sec. 21. 2017 Acts and Resolves No. 84, Secs. 33a and 33b are added to read:

Sec. 33a. ADULT CAREER AND TECHNICAL EDUCATION
EQUIPMENT GRANT PILOT PROGRAM

(a) The General Assembly hereby establishes a pilot grant program to authorize the Department of Labor, in consultation with the State Workforce Development Board, to administer the Adult Career and Technical Education Equipment Grant Pilot Program to support the purchase of equipment necessary for the delivery of occupational training for students enrolled in a postsecondary course offered by Vermont's Career and Technical Education Centers.

(b) An applicant's training program shall qualify for a grant described in subsection (a) of this section if it includes all of the following requirements:

(1) meets current occupational demand, as evidenced by current labor market information;

(2) aligns with a career pathway or set of stackable credentials involving a college or university accredited in Vermont;

(3) guarantees delivery of equipment to more than one region of the State;

(4) is supported with a business or industry partnership;

(5) sets forth how equipment will be maintained, insured, shared, and transported, if applicable; and

(6) is endorsed by the Adult Career and Technical Education Association.

(c) Grants awarded under this program shall be used to purchase capital-eligible equipment. Grants shall not be used to support curriculum development, instruction, or program administration.

(d) On or before July 15, 2018, the Department shall develop and publish a simplified grant application that meets the criteria described in subsection (b) of this section. The Department shall consult with the Agency of Education and the State Workforce Development Board in reviewing applications and selecting grantees.

(e) Grantees shall have ownership over any share of equipment purchased with the use of these funds. Any equipment purchased from this program may also be used by secondary career technical education programs.

(f) On or before February 15, 2019, the Department of Labor shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that includes the following:

(1) how the funds were used, expected outcomes, recommended performance metrics to ensure success of the program, and any other relevant information that would inform future decisions about the use of this program;

(2) assessment of the functionality and accessibility of shared-equipment agreements; and

(3) how, and the extent to which, the program shall be funded in the future.

* * * Sunset of Adult Career and Technical Education
Equipment Grant Program * * *

Sec. 33b. REPEAL OF ADULT CAREER AND TECHNICAL
EDUCATION EQUIPMENT GRANT PROGRAM

The Adult Career and Technical Education Equipment Grant Program established in Sec. 33a of this act shall be repealed on July 1, 2019.

* * * NATURAL RESOURCES * * *

Sec. 22. 3 V.S.A. § 2873(b) is amended to read:

(b) The Department ~~shall~~ may perform design and construction supervision services for major maintenance and capital construction projects for the Agency and all of its components.

Sec. 23. 2017 Acts and Resolves No. 84, Sec. 35b is added to read:

Sec. 35b. ALBURGH CEMETERY; LAND TRANSFER

(a) The Commissioner of Forests, Parks and Recreation may enter into an agreement with the Vermont Housing and Conservation Board and The Nature

Conservancy to amend their easements not to exceed a total of one acre on land in the town of Alburgh that abuts the west side of the South Alburgh Cemetery to allow the State to convey that land to the Alburgh Cemetery Association.

(b) On or before January 15, 2019, the Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on whether the Vermont Housing and Conservation Board and The Nature Conservancy have amended their easements. If the easements have been amended, the Commissioner shall submit a proposal to the General Assembly, either by legislation or resolution, to approve the land transfer to the Alburgh Cemetery Association.

* * * School Safety and Security * * *

Sec. 24. 30 V.S.A. § 7051 is amended to read:

§ 7051. DEFINITIONS

As used in this chapter:

* * *

(14) “Dispatchable Location” means the location information delivered to the public safety answering point with a 911 call.

(15) “Enterprise Communications Systems (ECS)” means any networked communication system serving two or more stations, or living units, within an enterprise. ECS includes circuit-switched networks, such as multi-line telephone systems or legacy ECS, IP-enabled service, and cloud-based technology.

(16) “Station” means a telephone handset, customer premise equipment (CPE) or calling device that is capable of initiating a call to 911.

Sec. 25. 30 V.S.A. § 7057 is amended to read:

§ 7057. ~~PRIVATELY OWNED TELEPHONE SYSTEMS~~ ENTERPRISE COMMUNICATIONS SYSTEMS

Any ~~privately owned telephone system~~ enterprise communications system shall provide to those end users the same level of 911 service that other end users receive and shall provide ANI signaling, station identification data, including dispatchable location, and updates to Enhanced 911 databases under rules adopted by the Board. The Board may waive the provisions of this section for any ~~privately owned telephone system~~ enterprise communications system, provided that in the judgment of the Board, the owner of the system is actively engaged in becoming compliant with this section, is likely to comply with this section in a reasonable amount of time, and will do so in accordance with standards and procedures adopted by the Board by rule.

Sec. 26. 2017 Acts and Resolves No. 84, Secs. 36a and 37a are added to read:

Sec. 36a. SCHOOL SAFETY AND SECURITY GRANT PROGRAM

(a) Creation. There is created the School Safety and Security Grant Program to be administered by the Department of Public Safety to enhance safety and security in Vermont schools, as defined in 16 V.S.A. § 3447.

(b) Use of funds. Grants authorized in subsection (a) of this section shall be used for the planning, delivery, and installation of equipment for upgrades to existing school security equipment and new school security equipment identified through threat assessment planning and surveys designed to enhance building security.

(c) Guidelines. The following guidelines shall apply to capital grants for school safety measures:

(1) Grants shall be awarded competitively to schools for capital-eligible expenses to implement safety and security measures identified in a security assessment. Capital-eligible expenses may include video monitoring and surveillance equipment, intercom systems, window coverings, exterior and interior doors, locks, and perimeter security measures.

(2) Grants shall only be awarded after a security assessment has been completed by the Agency of Education and Department of Public Safety.

(3) The Program is authorized to award grants of up to \$25,000.00 per school.

(d) Administration. The Department of Public Safety, in coordination with the Agency of Education, shall administer and coordinate grants made pursuant to this section. Grant funds shall not be used to administer the Program.

(e) Reporting. The Department of Public Safety shall provide notice of any grants awarded under this section to the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions.

* * * Sunset of School Security Grant Program * * *

Sec. 36b. REPEAL OF SCHOOL SECURITY GRANT PROGRAM

The School Safety and Security Grant Program established in Sec. 17 of this act shall be repealed on July 1, 2019.

* * * School Planning Grants * * *

Sec. 27. APPLICATIONS FOR PLANNING GRANTS FOR CAPITAL CONSTRUCTION; UNIFIED UNION SCHOOL DISTRICTS; SCHOOL CONSOLIDATION

(a) Applications for planning grants. The Secretary of Education shall accept applications for planning grants for capital construction that would result in the consolidation of student populations and the closure of at least one building pursuant to the provisions of this section.

(b) Districts eligible to apply. A district is eligible to apply for a planning grant under this section (eligible district) if it:

(1) is a unified union school district created by the affirmative votes of the electorate between June 30, 2015 and December 31, 2018;

(2) is either its own supervisory district or is a member district within a supervisory union;

(3) is fully operational or will be fully operational before July 2, 2019; and

(4) provides or has intended to provide education for students in the same grade, after becoming fully operational, by operating more than one school building offering that grade.

(c) Eligible projects.

(1) An eligible district can apply for a grant to reimburse the cost of architects, engineers, or other professional planning costs under this section if the proposed project will:

(A) consolidate the provision of education for all resident students in at least four grade levels into one existing building that will house those grades either by renovating or adding additional square-footage to that building or both; and

(B) result in the closure of at least one existing building that houses those grades in the year prior to the proposed consolidation of students.

(2) Notwithstanding the provisions of subdivision (1)(A) of this subsection, if an eligible district operates more than two schools providing education in the pertinent grades, then a project is eligible under this section if the project will result in the closure of at least one school building and the consolidation of students into one or more remaining buildings.

(d) Process.

(1) An eligible district shall submit a written application to the Secretary of Education on or before October 1, 2018. The application shall specify the purpose of and need for the proposed eligible project, shall include educational specifications based upon a facility analysis and enrollment projections, and shall concisely provide details addressing the ways in which the proposed project:

(A) will cause the eligible district to provide education in a manner that is more educationally appropriate;

(B) will cause the eligible district to provide education in a manner that provides greater educational opportunities in a more equitable manner;

(C) will result in or lead to sustained financial savings for the eligible district;

(D) will result in or lead to more efficient use of statewide education funds;

(E) will result in improvements that comply with standards for school construction adopted by the Division of Fire Safety, the Agency of Natural Resources, the Division for Historic Preservation, the Department of Health, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and any standards of other State or federal agencies and local or regional planning authorities; and

(F) will incorporate recommendations received after consultation with the School Energy Management Program and Efficiency Vermont, as appropriate.

(2) The Secretary, in consultation with other public and private entities at the Secretary's discretion, shall evaluate and rank all eligible projects based upon the proposed project's ability:

(A) to promote the goals outlined in subdivision (1) of this subsection (d);

(B) to support increased connectivity, energy efficiency, and use of renewable resources; and

(C) to cease using buildings that are inappropriate for direct instruction due to, for example, conditions that threaten the health or safety of students or employees, difficulty in complying with the requirements of the Americans with Disabilities Act or other State or federal laws or regulations, or excessive energy use.

(3) On or before January 15, 2019, the Secretary shall present a prioritized list of eligible projects to the General Assembly together with a request for capital funding not to exceed a total of \$300,000.00 to provide planning grants for some or all projects on the list. Nothing shall prohibit the Secretary from declining to include one or more projects on the prioritized list if the Secretary, in his or her sole judgment, determines that the project does not sufficiently promote the goals outlined in subdivision (1) of this subsection.

(e) Disclaimers. Nothing in this section shall be construed:

(1) to guarantee that the General Assembly shall appropriate funds during the 2019 Legislative Session or after for planning grants contemplated by this section; or

(2) to suggest that the General Assembly intends to lift the suspension of state aid for school construction imposed by 2013 Acts and Resolves No. 51, Sec. 45.

* * * Effective Date * * *

Sec. 28. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 27, 2018)

Ordered to Lie

H. 219

An act relating to the Vermont spaying and neutering program.

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

Action Postponed Indefinitely

H. 167

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

Consent Calendar

Concurrent Resolutions

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

H.C.R. 361

House concurrent resolution congratulating the 2017 West Rutland High School Golden Horde Division IV girls' championship softball team

H.C.R. 362

House concurrent resolution congratulating the Migrant Justice organization on the progress achieved with its Milk with Dignity Program

H.C.R. 363

House concurrent resolution honoring Vermont high school students who have achieved fluency in world languages other than English, and welcoming the establishment of a Vermont Seal of Bilingualism

H.C.R. 364

House concurrent resolution congratulating the Clemmons family of Charlotte and it's A Sense of Place project on winning a National Creative Placemaking Fund grant

H.C.R. 365

House concurrent resolution congratulating Cadence Wheeler of Springfield on his jumping achievements at State and New England indoor track and field championship meets

H.C.R. 366

House concurrent resolution honoring former South Burlington Fire Captain Gary Rounds for his exemplary municipal public service

H.C.R. 367

House concurrent resolution commemorating the 80th Anniversary of the Castleton Colonial Day Historic House Tour

H.C.R. 368

House concurrent resolution congratulating the 2018 Essex High School Vermont-NEA Scholars' Bowl championship team

H.C.R. 369

House concurrent resolution congratulating Carl Fung on winning the 2017 national LEGO REBRICK SuperBots contest

H.C.R. 370

House concurrent resolution congratulating the Essex Junction all-stars Little League Baseball team on winning the 2017 Vermont State championship

H.C.R. 371

House concurrent resolution designating Wednesday, June 27, 2018 as Post-Traumatic Stress Injury Awareness Day

H.C.R. 372

House concurrent resolution congratulating the 2018 Vermont History Day winners

H.C.R. 373

House concurrent resolution congratulating the Health Care & Rehabilitation Services of Southeastern Vermont on its 50th anniversary

H.C.R. 374

House concurrent resolution congratulating Tessa Napolitano of Burlington on winning the 2018 Elks New England Regional Hoop Shoot for her age group

H.C.R. 375

House concurrent resolution congratulating Ellie Whalen of Rutland Town on winning the 2018 Elks New England Regional Hoop Shoot for her age group

H.C.R. 376

House concurrent resolution congratulating the 2017 Oxbow Union High School Olympians Division III championship girls' softball team and honoring Coach Robin Wozny on the completion of her outstanding high school coaching career

H.C.R. 377

House concurrent resolution congratulating Alice Bennett of Bennington on her 100th birthday

H.C.R. 378

House concurrent resolution congratulating Honorary Shaftsbury Fire Chief Charles O. Becker on 70 years of exemplary service

H.C.R. 379

House concurrent resolution congratulating William Collins on 40 years of outstanding service as a Bennington Rescue Squad Emergency Medical Technician

H.C.R. 380

House concurrent resolution in memory of former Georgia Justice of the Peace Charles Aubrey Thweatt

H.C.R. 381

House concurrent resolution designating the week of May 7, 2018 as Women's Lung Health Week

H.C.R. 382

House concurrent resolution recognizing the 2017 Miss Vermont's Outstanding Teen Jenna Lawrence's work on behalf of Alzheimer's public awareness and eradication

H.C.R. 383

House concurrent resolution congratulating the Hinesburg Fire Department on its 75th anniversary

H.C.R. 384

House concurrent resolution recognizing the importance of forests and forestry-related industries in Vermont in commemoration of Arbor Day

H.C.R. 385

House concurrent resolution in memory of Bellows Falls educator and civic leader Francis X. Coyne

H.C.R. 386

House concurrent resolution congratulating Wilson House in East Dorset on its 30th anniversary

H.C.R. 387

House concurrent resolution congratulating Miss Vermont 2017 Erin Connor of Bridport

S.C.R. 23

Senate concurrent resolution in memory of Gertrude Martha Hodge of Topsham