

# House Calendar

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Friday, May 04, 2018

122nd DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

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**ACTION CALENDAR**  
**Action Postponed Until May 4, 2018**  
**Senate Proposal of Amendment**  
**S. 203**

**An act relating to systemic improvements of the mental health system**

The Senate concurs in the House proposal of amendment thereto as follows:

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, 2018)**

**Amendment to be offered by Rep. Donahue of Northfield to S. 203**

Moves that the House concur in the Senate Proposal of Amendment to the House Proposal of Amendment with further proposal of amendment as follows:

First: By striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

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) if the University of Vermont Health Network:

(A) consults with the Secretary of Human Services in identifying the appropriate number and type of additional inpatient beds needed in the State;

(B) ensures that the planning process for designing its proposed expansion of inpatient psychiatric bed capacity at the Central Vermont Medical Center campus includes broad stakeholder input, including from patients and providers; and

(C) works with the Green Mountain Care Board for ongoing oversight of expenditures.

Second: 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 such stakeholder involvement in working toward an articulation of a common, long-term vision of full integration of mental health services within a comprehensive and holistic health care system.

**NEW BUSINESS**

**Third Reading**

**S. 105**

An act relating to consumer justice enforcement

**S. 150**

An act relating to automated license plate recognition systems

**S. 179**

An act relating to community justice centers

**S. 180**

An act relating to the Vermont Fair Repair Act

**S. 197**

An act relating to liability for toxic substance exposures or releases

**S. 222**

An act relating to miscellaneous judiciary procedures

**S. 262**

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

**S. 273**

An act relating to miscellaneous law enforcement amendments

**Favorable with Amendment**

**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~~ 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 ~~18~~ 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 )**

**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)**

**(For text see Senate Journal February 23, 2018 )**

**S. 260**

An act relating to funding the cleanup of State waters

**Rep. Deen of Westminster**, 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 cost 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)**

### **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. 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	<del>\$300,000.00</del> \$5,900,000.00
Total Appropriation – Section 3	<del>\$600,000.00</del> <u>\$6,200,000.00</u>

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
<u>Appropriation – FY 2019</u>	<u>\$1,496,398.00</u>
Total Appropriation – Section 4	<del>\$3,050,000.00</del> <u>\$4,546,398.00</u>

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:	<del>\$15,000.00</del> <u>\$29,000.00</u>
(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping:	\$125,000.00
<u>(4) Schooner Lois McClure, repairs and upgrades:</u>	<u>\$25,000.00</u>
<u>(5) Civil War Heritage Trail, signs:</u>	<u>\$30,000.00</u>

\* \* \*

Appropriation – FY 2018	\$450,000.00
Appropriation – FY 2019	<del>\$370,000.00</del> <u>\$539,000.00</u>
Total Appropriation – Section 5	<del>\$820,000.00</del> <u>\$989,000.00</u>

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

<u>Grants Program for school safety:</u>		<u>\$400,000.00</u>
Appropriation – FY 2018		\$1,475,000.00
Appropriation – FY 2019	<del>\$1,400,000.00</del>	<u>\$1,800,000.00</u>
Total Appropriation – Section 6	<del>\$2,875,000.00</del>	<u>\$3,275,000.00</u>

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	<del>\$1,400,000.00</del>	<u>\$1,650,000.00</u>
Total Appropriation – Section 8	<del>\$2,800,000.00</del>	<u>\$3,050,000.00</u>

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	<del>\$2,000,000.00</del>	<u>\$3,000,000.00</u>
Total Appropriation – Section 9	<del>\$4,000,000.00</del>	<u>\$5,000,000.00</u>

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	<del>\$8,205,000.00</del> <u>\$5,627,259.00</u>
Total Appropriation – Section 10	<del>\$19,119,000.00</del> <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	<del>\$23,470,212.00</del> <u>\$25,755,000.00</u>
Total Appropriation – Section 11	<del>\$45,406,828.00</del> <u>\$47,691,616.00</u>

Sec. 9. 2017 Acts and Resolves No. 84, Sec. 12 is amended to read:

Sec. 12. MILITARY

\* \* \*

(b) The following sums are appropriated in FY 2019 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: ~~\$700,000.00~~ \$780,000.00

(2) Bennington Armory, site acquisition: \$60,000.00  
Appropriation – FY 2018 \$750,000.00  
Appropriation – FY 2019 ~~\$760,000.00~~ \$840,000.00  
Total Appropriation – Section 12 ~~\$1,510,000.00~~ \$1,590,000.00

Sec. 10. 2017 Acts and Resolves No. 84, Sec. 13 is amended to read:

Sec. 13. PUBLIC SAFETY

\* \* \*

(b) ~~The sum of \$5,573,000.00 is~~ following sums are appropriated in FY 2019 to the Department of Buildings and General Services ~~for:~~

(1) construction of the Williston Public Safety Field Station: \$5,573,000.00  
(2) East Cottage, Robert H. Wood Criminal Justice and Fire Training Center, renovation and fit-up, and historic windows: \$1,850,000.00  
(3) Berlin, scoping and preliminary design for the Berlin Public Safety Field Station: \$35,000.00

(c) The sum of \$4,000,000.00 is appropriated in FY 2019 to the Department of Public Safety for the School Safety and Security Grant Program.

Appropriation – FY 2018 \$1,927,000.00  
Appropriation – FY 2019 ~~\$5,573,000.00~~ \$11,458,000.00  
Total Appropriation – Section 13 ~~\$7,500,000.00~~ \$13,385,000.00

Sec. 11. 2017 Acts and Resolves No. 84, Sec. 16 is amended to read:

Sec. 16. VERMONT VETERANS’ HOME

\* \* \*

(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>	<u>\$440,000.00</u>	<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 )

**NOTICE CALENDAR**

**Favorable with Amendment**

**H. 928**

An act relating to compensation for certain State employees (Pay Act).

**(Rep. Brumsted of Shelburne** will speak for the Committee on Government Operations.)

**Rep. Trieber of Rockingham**, for the Committee on Appropriations, recommends the bill ought to pass when amended by striking all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Executive Branch; Exempt Employees; Fiscal Years 2019 and 2020 \* \* \*

Sec. 1. EXECUTIVE BRANCH; EXEMPT EMPLOYEES; PERMITTED SALARY INCREASES; FISCAL YEARS 2019 AND 2020

(a) Exempt employees in the Executive Branch may receive salary increases not to exceed:

(1) In Fiscal Year 2019:

(A)(i) for employees earning an annual salary of up to and including \$90,000.00 as of July 1, 2018, 1.9 percent beginning on July 8, 2018; and

(ii) for employees earning an annual salary of more than \$90,000.00 as of July 1, 2018, \$1,710.00 beginning on July 8, 2018; and

(B) 1.35 percent beginning on January 6, 2019.

(2) In Fiscal Year 2020:

(A)(i) for employees earning an annual salary of up to and including \$90,000.00 as of July 1, 2019, 1.9 percent beginning on July 7, 2019; and

(ii) for employees earning an annual salary of more than \$90,000.00 as of July 1, 2019, \$1,710.00 beginning on July 7, 2019; and

(B) 1.35 percent beginning on January 5, 2020.

(b)(1) The permitted increases set forth in subsection (a) of this section for employees earning an annual salary of up to and including \$90,000.00 are consistent with the collective bargaining agreement between the State and the

Vermont State Employees' Association for classified employees in the Executive Branch, which provides for a 1.9 percent step increase in July 2018 and 2019 and a 1.35 percent across-the-board increase in January 2019 and 2020, resulting in an overall budgetary impact of 2.575 percent in Fiscal Year 2019 and of 3.25 percent in Fiscal Year 2020.

(2) The permitted increases set forth in subsection (a) of this section for employees earning an annual salary of more than \$90,000.00 are differentiated for the purpose of addressing exponential salary increases of those employees compared to the employees who annually earn \$90,000.00 or less.

Sec. 2. EXECUTIVE BRANCH; EXEMPT AGENCY AND DEPARTMENT HEADS, DEPUTIES, AND EXECUTIVE ASSISTANTS; ANNUAL SALARY ADJUSTMENT AND SPECIAL SALARY INCREASE OR BONUS; EXEMPT EMPLOYEES IN PAY PLANS

(a) For purposes of determining annual salary adjustments, special salary increases, and bonuses under 32 V.S.A. §§ 1003(b) and 1020(b), "the total rate of adjustment available to classified employees under the collective bargaining agreement" shall be the fiscal equivalent of compensation increases provided in the collective bargaining agreement, which is as follows:

(1) In Fiscal Year 2019, 2.575 percent.

(2) In Fiscal Year 2020, 3.25 percent.

(b) Notwithstanding any provision of this act to the contrary, exempt employees in the Executive Branch who are in a pay plan established pursuant to 32 V.S.A. § 1020(c) may receive salary adjustments not to exceed those available to classified employees provided under the collective bargaining agreement in effect, as set forth in that subsection.

\* \* \* Executive Branch; Miscellaneous Statutory Salaries;  
Fiscal Year 2019 \* \* \*

Sec. 3. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

(a) Each elective officer of the Executive Department is entitled to an annual salary as follows:

<u>Annual</u>	<u>Annual</u>	<u>Annual</u>	<u>Annual</u>
<u>Salary</u>	<u>Salary</u>	<u>Salary</u>	<u>Salary</u>
<u>as of</u>	<u>as of</u>	<u>as of</u>	<u>as of</u>
<u>July 10,</u>	<u>July 09,</u>	<u>July 8,</u>	<u>January 6,</u>
<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>



Governor	\$166,060	\$172,619	<u>\$174,329</u>	<u>\$176,682</u>
Lieutenant Governor	<u>70,490</u>	<u>73,274</u>	<u>74,666</u>	<u>75,674</u>
Secretary of State	<u>105,297</u>	<u>109,456</u>	<u>111,166</u>	<u>112,667</u>
State Treasurer	<u>105,297</u>	<u>109,456</u>	<u>111,166</u>	<u>112,667</u>
Auditor of Accounts	<u>105,297</u>	<u>109,456</u>	<u>111,166</u>	<u>112,667</u>
Attorney General	<u>126,055</u>	<u>131,034</u>	<u>132,744</u>	<u>134,536</u>

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary ~~which~~ that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

	<u>Base</u>	<u>Base</u>	<u>Base</u>	<u>Base</u>
	<u>Salary</u>	<u>Salary</u>	<u>Salary</u>	<u>Salary</u>
	<u>as of</u>	<u>as of</u>	<u>as of</u>	<u>as of</u>
	<u>July 10,</u>	<u>July 09,</u>	<u>July 8,</u>	<u>January</u>
	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
(A) Administration	\$100,416	\$104,382	<u>\$106,092</u>	<u>\$107,524</u>
(B) Agriculture,				
Food and Markets	100,416	104,382	<u>106,092</u>	<u>107,524</u>
(C) Financial Regulation	<u>93,874</u>	<u>97,582</u>	<u>99,292</u>	<u>100,632</u>
(D) Buildings and General				

Services	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(E) Children and Families	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(F) Commerce and Community				
Development	100,416	104,382	<u>106,092</u>	<u>107,524</u>
(G) Corrections	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(H) Defender General	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(I) Disabilities, Aging, and				
Independent Living	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(J) Economic Development	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(K) Education	100,416	104,382	<u>106,092</u>	<u>107,524</u>
(L) Environmental				
Conservation	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(M) Finance and				
Management	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(N) Fish and Wildlife	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(O) Forests, Parks and				
Recreation	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(P) Health	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(Q) Housing and Community				
Development	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(R) Human Resources	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(S) Human Services	100,416	104,382	<u>106,092</u>	<u>107,524</u>
(T) Information and				
Innovation				
<u>Digital Services</u>	93,874	97,582	<u>106,092</u>	<u>107,524</u>
(U) Labor	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(V) Libraries	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(W) Liquor Control	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(X) Lottery	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(Y) Mental Health	93,874	97,582	<u>99,292</u>	<u>100,632</u>

(Z) Military	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(AA) Motor Vehicles	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(BB) Natural Resources	100,416	104,382	<u>106,092</u>	<u>107,524</u>
(CC) Natural Resources Board				
<del>Chairperson</del> <u>Chair</u>	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(DD) Public Safety	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(EE) Public Service	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(FF) Taxes	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(GG) Tourism and				
Marketing	85,154	88,518	<u>90,200</u>	<u>91,418</u>
(HH) Transportation	100,416	104,382	<u>106,092</u>	<u>107,524</u>
(II) Vermont Health Access	93,874	97,582	<u>99,292</u>	<u>100,632</u>
(JJ) Veterans' Home	93,874	97,582	<u>99,292</u>	<u>100,632</u>

(2) The Secretary of Administration may include the Director of the Office of Professional Regulation in any pay plans that may be established under the authority of subsection 1020(c) of this title, provided the minimum hiring rate does not fall below a base salary, as of July 10, 2016, of ~~\$72,192.00~~ and as of July 09, 2017, of ~~\$75,044.00~~ July 8, 2018 of \$76,470.00 and as of January 6, 2019 of \$77,502.00.

(3) If the Chair of the Natural Resources Board is employed on less than a full-time basis, the hiring and salary maximums for that position shall be reduced proportionately.

(4) When a permanent employee is appointed to an exempt position, the Governor may authorize such employee to retain the present salary even though it is in excess of any salary maximum provided in statute.

\* \* \*

\* \* \* Executive Branch; Miscellaneous Statutory Salaries;  
Fiscal Year 2020 \* \* \*

Sec. 4. 32 V.S.A. § 1003 is amended to read:

§ 1003. STATE OFFICERS

(a) Each elective officer of the Executive Department is entitled to an annual salary as follows:

<u>Annual</u>	<u>Annual</u>	<u>Annual</u>	<u>Annual</u>
---------------	---------------	---------------	---------------

	Salary as of July 8, 2018	Salary as of January 6, 2019	Salary as of July 7, 2019	Salary as of January 5, 2020
Governor	\$174,329	\$176,682	\$178,392	\$180,800
Lieutenant Governor	74,666	75,674	77,112	78,153
Secretary of State	111,166	112,667	114,377	115,921
State Treasurer	111,166	112,667	114,377	115,921
Auditor of Accounts	111,166	112,667	114,377	115,921
Attorney General	132,744	134,536	136,246	138,085

(b) The Governor may appoint each officer of the Executive Branch listed in this subsection at a starting salary ranging from the base salary stated for that position to a salary that does not exceed the maximum salary unless otherwise authorized by this subsection. The maximum salary for each appointive officer shall be 50 percent above the base salary. Annually, the Governor may grant to each of those officers an annual salary adjustment subject to the maximum salary. The annual salary adjustment granted to officers under this subsection shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect. In addition to the annual salary adjustment specified in this subsection, the Governor may grant a special salary increase subject to the maximum salary, or a bonus, to any officer listed in this subsection whose job duties have significantly increased, or whose contributions to the State in the preceding year are deemed especially significant. Special salary increases or bonuses granted to any individual shall not exceed the average of the total rate of adjustment available to classified employees under the collective bargaining agreement then in effect.

(1) Heads of the following Departments and Agencies:

Base Salary as of July 8,	Base Salary as of January 6,	Base Salary as of July 7,	Base Salary as of January
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5.

	2018	2019	<u>2019</u>	<u>2020</u>
(A) Administration	\$106,092	\$107,524	<u>\$109,234</u>	<u>\$110,709</u>
(B) Agriculture,				
Food and Markets	106,092	107,524	<u>109,234</u>	<u>110,709</u>
(C) Financial Regulation	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(D) Buildings and General				
Services	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(E) Children and Families	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(F) Commerce and Community				
Development	106,092	107,524	<u>109,234</u>	<u>110,709</u>
(G) Corrections	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(H) Defender General	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(I) Disabilities, Aging, and				
Independent Living	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(J) Economic Development	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(K) Education	106,092	107,524	<u>109,234</u>	<u>110,709</u>
(L) Environmental				
Conservation	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(M) Finance and				
Management	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(N) Fish and Wildlife	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(O) Forests, Parks and				
Recreation	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(P) Health	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(Q) Housing and Community				
Development	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(R) Human Resources	99,292	100,632	<u>102,342</u>	<u>103,724</u>

(S) Human Services	106,092	107,524	<u>109,234</u>	<u>110,709</u>
(T) Digital Services	106,092	107,524	<u>109,234</u>	<u>110,709</u>
(U) Labor	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(V) Libraries	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(W) Liquor Control	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(X) Lottery	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(Y) Mental Health	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(Z) Military	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(AA) Motor Vehicles	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(BB) Natural Resources	106,092	107,524	<u>109,234</u>	<u>110,709</u>
(CC) Natural Resources Board				
Chair	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(DD) Public Safety	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(EE) Public Service	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(FF) Taxes	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(GG) Tourism and				
Marketing	90,200	91,418	<u>93,128</u>	<u>94,385</u>
(HH) Transportation	106,092	107,524	<u>109,234</u>	<u>110,709</u>
(II) Vermont Health Access	99,292	100,632	<u>102,342</u>	<u>103,724</u>
(JJ) Veterans' Home	99,292	100,632	<u>102,342</u>	<u>103,724</u>

(2) The Secretary of Administration may include the Director of the Office of Professional Regulation in any pay plans that may be established under the authority of subsection 1020(c) of this title, provided the minimum hiring rate does not fall below a base salary, as of ~~July 8, 2018, of \$76,470.00 and as of January 6, 2019, of \$77,502.00~~ July 7, 2019 of \$78,975.00 and as of January 5, 2020 of \$80,041.00.

(3) If the Chair of the Natural Resources Board is employed on less than a full-time basis, the hiring and salary maximums for that position shall be reduced proportionately.

(4) When a permanent employee is appointed to an exempt position, the Governor may authorize such employee to retain the present salary even

though it is in excess of any salary maximum provided in statute.

\* \* \*

\* \* \* Judicial Branch; Statutory Salaries; Fiscal Year 2019 \* \* \*

Sec. 5. 32 V.S.A. § 1003(c) is amended to read:

(c) The officers of the Judicial Branch named below shall be entitled to annual salaries as follows:

	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 10,</u> <u>2016</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 09,</u> <u>2017</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 8,</u> <u>2018</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>January 6,</u> <u>2019</u>
(1) Chief Justice of Supreme Court	<del>\$159,827</del>	<del>\$166,140</del>	<u>\$167,850</u>	<u>\$170,116</u>
(2) Each Associate Justice	<del>152,538</del>	<del>158,563</del>	<u>160,273</u>	<u>162,437</u>
(3) Administrative judge	<del>152,538</del>	<del>158,563</del>	<u>160,273</u>	<u>162,437</u>
(4) Each Superior judge	<del>145,011</del>	<del>150,739</del>	<u>152,449</u>	<u>154,507</u>
(5) [Repealed.]				
(6) Each magistrate	<del>109,337</del>	<del>113,656</del>	<u>115,366</u>	<u>116,923</u>
(7) Each Judicial Bureau hearing officer	<del>109,337</del>	<del>113,656</del>	<u>115,366</u>	<u>116,923</u>

Sec. 6. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES

(a)(1) Each assistant judge of the Superior Court shall be entitled to receive compensation in the amount of ~~\$167.63 a day as of July 10, 2016 and \$174.25 a day as of July 09, 2017~~ \$177.56 a day as of July 8, 2018 and \$179.96 a day as of January 6, 2019 for time spent in the performance of official duties and necessary expenses as allowed to classified State employees. Compensation under this section shall be based on a two-hour minimum and hourly thereafter.

\* \* \*

Sec. 7. 32 V.S.A. § 1142 is amended to read:

§ 1142. PROBATE JUDGES

(a) The Probate judges in the several Probate Districts shall be entitled to receive the following annual salaries, which shall be paid by the State in lieu of all fees or other compensation:

	<del>Annual</del> <del>Salary</del> <del>as of</del> <del>July 10,</del> <del>2016</del>	<del>Annual</del> <del>Salary</del> <del>as of</del> <del>July 09,</del> <del>2017</del>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 8,</u> <u>2018</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>January 6,</u> <u>2019</u>
(1) Addison	<del>\$57,169</del>	<del>\$59,427</del>	<u>\$60,556</u>	<u>\$61,374</u>
(2) Bennington	<del>72,271</del>	<del>75,126</del>	<u>76,553</u>	<u>77,586</u>
(3) Caledonia	<del>50,698</del>	<del>52,701</del>	<u>53,702</u>	<u>54,427</u>
(4) Chittenden	<del>120,608</del>	<del>125,372</del>	<u>127,082</u>	<u>128,798</u>
(5) Essex	<del>14,163</del>	<del>14,722</del>	<u>15,002</u>	<u>15,205</u>
(6) Franklin	<del>57,169</del>	<del>59,427</del>	<u>60,556</u>	<u>61,374</u>
(7) Grand Isle	<del>14,163</del>	<del>14,722</del>	<u>15,002</u>	<u>15,205</u>
(8) Lamoille	<del>39,911</del>	<del>41,487</del>	<u>42,275</u>	<u>42,846</u>
(9) Orange	<del>47,460</del>	<del>49,335</del>	<u>50,272</u>	<u>50,951</u>
(10) Orleans	<del>46,383</del>	<del>48,215</del>	<u>49,131</u>	<u>49,794</u>
(11) Rutland	<del>102,473</del>	<del>106,521</del>	<u>108,231</u>	<u>109,692</u>
(12) Washington	<del>78,741</del>	<del>81,851</del>	<u>83,406</u>	<u>84,532</u>
(13) Windham	<del>63,641</del>	<del>66,155</del>	<u>67,412</u>	<u>68,322</u>
(14) Windsor	<del>86,293</del>	<del>89,702</del>	<u>91,406</u>	<u>92,640</u>

\* \* \*

\* \* \* Judicial Branch; Statutory Salaries; Fiscal Year 2020 \* \* \*

Sec. 8. 32 V.S.A. § 1003(c) is amended to read:

(c) The officers of the Judicial Branch named below shall be entitled to annual salaries as follows:

<del>Annual</del> <del>Salary</del> <del>as of</del> <del>July 8,</del>	<del>Annual</del> <del>Salary</del> <del>as of</del> <del>January 6,</del>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 7,</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>January 5,</u>
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	<u>2018</u>	<u>2019</u>	<u>2019</u>	<u>2020</u>
(1) Chief Justice of Supreme Court	\$167,850	\$170,116	\$171,826	\$174,146
(2) Each Associate Justice	160,273	162,437	164,147	166,363
(3) Administrative judge	160,273	162,437	164,147	166,363
(4) Each Superior judge	152,449	154,507	156,217	158,326
(5) [Repealed.]				
(6) Each magistrate	115,366	116,923	118,633	120,235
(7) Each Judicial Bureau hearing officer	115,366	116,923	118,633	120,235

Sec. 9. 32 V.S.A. § 1141 is amended to read:

§ 1141. ASSISTANT JUDGES

(a)(1) Each assistant judge of the Superior Court shall be entitled to receive compensation in the amount of ~~\$177.56 day as of July 8, 2018 and \$179.96 a day as of January 6, 2019~~ \$183.38 a day as of July 7, 2019 and \$185.86 a day as of January 5, 2020 for time spent in the performance of official duties and necessary expenses as allowed to classified State employees. Compensation under this section shall be based on a two-hour minimum and hourly thereafter.

\* \* \*

Sec. 10. 32 V.S.A. § 1142 is amended to read:

§ 1142. PROBATE JUDGES

(a) The Probate judges in the several Probate Districts shall be entitled to receive the following annual salaries, which shall be paid by the State in lieu of all fees or other compensation:

	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 8,</u> <u>2018</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>January 6,</u> <u>2019</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 7,</u> <u>2019</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>January 5,</u> <u>2020</u>
(1) Addison	\$60,556	\$61,374	\$62,540	\$63,384

(2) Bennington	76,553	77,586	<u>79,060</u>	<u>80,127</u>
(3) Caledonia	53,702	54,427	<u>55,461</u>	<u>56,210</u>
(4) Chittenden	127,082	128,798	<u>130,508</u>	<u>132,270</u>
(5) Essex	15,002	15,205	<u>15,494</u>	<u>15,703</u>
(6) Franklin	60,556	61,374	<u>62,540</u>	<u>63,384</u>
(7) Grand Isle	15,002	15,205	<u>15,494</u>	<u>15,703</u>
(8) Lamoille	42,275	42,846	<u>43,660</u>	<u>44,249</u>
(9) Orange	50,272	50,951	<u>51,919</u>	<u>52,620</u>
(10) Orleans	49,131	49,794	<u>50,740</u>	<u>51,425</u>
(11) Rutland	108,231	109,692	<u>111,402</u>	<u>112,906</u>
(12) Washington	83,406	84,532	<u>86,138</u>	<u>87,301</u>
(13) Windham	67,412	68,322	<u>69,620</u>	<u>70,560</u>
(14) Windsor	91,406	92,640	<u>94,350</u>	<u>95,624</u>

\* \* \*

\* \* \* Sheriffs; Statutory Salaries; Fiscal Year 2019 \* \* \*

Sec. 11. 32 V.S.A. § 1182 is amended to read:  
§ 1182. SHERIFFS

(a) The sheriffs of all counties except Chittenden shall be entitled to receive salaries in the amount of ~~\$77,672.00 as of July 10, 2016 and \$80,740.00 as of July 09, 2017~~ \$82,274.00 as of July 8, 2018 and \$83,385.00 as of January 6, 2019. The Sheriff of Chittenden County shall be entitled to an annual salary in the amount of ~~\$82,197.00 as of July 10, 2016 and \$85,444.00 as of July 09, 2017~~ \$87,067.00 as of July 8, 2018 and \$88,242.00 as of January 6, 2019.

\* \* \*

\* \* \* Sheriffs; Statutory Salaries; Fiscal Year 2020 \* \* \*

Sec. 12. 32 V.S.A. § 1182 is amended to read:  
§ 1182. SHERIFFS

(a) The sheriffs of all counties except Chittenden shall be entitled to receive salaries in the amount of ~~\$82,274.00 as of July 8, 2018 and \$83,385.00 as of January 6, 2019~~ \$84,969.00 as of July 7, 2019 and \$86,116.00 as of January 5,

2020. The Sheriff of Chittenden County shall be entitled to an annual salary in the amount of ~~\$87,067.00 as of July 8, 2018 and \$88,242.00 as of January 6, 2019~~ \$89,919.00 as of July 7, 2019 and \$91,133.00 as of January 5, 2020.

\* \* \*

\* \* \* State's Attorneys; Statutory Salaries; Fiscal Year 2019 \* \* \*

Sec. 13. 32 V.S.A. § 1183 is amended to read:

§ 1183. STATE'S ATTORNEYS

(a) The State's Attorneys shall be entitled to receive annual salaries as follows:

	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 10,</u> <u>2016</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 09,</u> <u>2017</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 8,</u> <u>2018</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>January 6,</u> <u>2019</u>
(1) Addison County	\$105,064	\$109,214	<u>\$110,924</u>	<u>\$112,421</u>
(2) Bennington County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(3) Caledonia County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(4) Chittenden County	109,841	114,180	<u>115,890</u>	<u>117,455</u>
(5) Essex County	78,799	81,912	<u>83,468</u>	<u>84,595</u>
(6) Franklin County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(7) Grand Isle County	78,799	81,912	<u>83,468</u>	<u>84,595</u>
(8) Lamoille County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(9) Orange County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(10) Orleans County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(11) Rutland County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(12) Washington County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(13) Windham County	105,064	109,214	<u>110,924</u>	<u>112,421</u>
(14) Windsor County	105,064	109,214	<u>110,924</u>	<u>112,421</u>

\* \* \*

\* \* \* State's Attorneys; Statutory Salaries; Fiscal Year 2020 \* \* \*

Sec. 14. 32 V.S.A. § 1183 is amended to read:

§ 1183. STATE'S ATTORNEYS

(a) The State's Attorneys shall be entitled to receive annual salaries as follows:

	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 8,</u> <u>2018</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>January 6,</u> <u>2019</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>July 7,</u> <u>2019</u>	<u>Annual</u> <u>Salary</u> <u>as of</u> <u>January 5,</u> <u>2020</u>
(1) Addison County	\$110,924	\$112,421	\$114,131	\$115,672
(2) Bennington County	110,924	112,421	114,131	115,672
(3) Caledonia County	110,924	112,421	114,131	115,672
(4) Chittenden County	115,890	117,455	119,165	120,774
(5) Essex County	83,468	84,595	86,202	87,366
(6) Franklin County	110,924	112,421	114,131	115,672
(7) Grand Isle County	83,468	84,595	86,202	87,366
(8) Lamoille County	110,924	112,421	114,131	115,672
(9) Orange County	110,924	112,421	114,131	115,672
(10) Orleans County	110,924	112,421	114,131	115,672
(11) Rutland County	110,924	112,421	114,131	115,672
(12) Washington County	110,924	112,421	114,131	115,672
(13) Windham County	110,924	112,421	114,131	115,672
(14) Windsor County	110,924	112,421	114,131	115,672

\* \* \*

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

Sec. 15. PAY ACT APPROPRIATIONS

(a) Executive Branch. The two-year agreements between the State of Vermont and the Vermont State Employees' Association for the Defender General, nonmanagement, supervisory, and corrections bargaining units for the period of July 1, 2018 through June 30, 2020; the collective bargaining agreement with the Vermont Troopers' Association for the period of July 1, 2018 through June 30, 2020; and salary increases for employees in the Executive Branch not covered by the bargaining agreements shall be funded as

follows:

(1) Fiscal Year 2019.

(A) General Fund. The amount of \$6,636,000.00 is appropriated from the General Fund to the Secretary of Administration for distribution to departments to fund the fiscal year 2019 collective bargaining agreements and the requirements of this act.

(B) Transportation Fund. The amount of \$1,876,000.00 is appropriated from the Transportation Fund to the Secretary of Administration for distribution to the Agency of Transportation and the Department of Public Safety to fund the fiscal year 2019 collective bargaining agreements and the requirements of this act.

(C) Other funds. The Administration shall provide additional spending authority to departments through the existing process of excess receipts to fund the fiscal year 2019 collective bargaining agreements and the requirements of this act. The estimated amounts are \$8,362,000.00 from special fund, federal, and other sources.

(D) Transfers. With due regard to the possible availability of other funds, for fiscal year 2019, the Secretary of Administration may transfer from the various appropriations and various funds and from the receipts of the Liquor Control Board such sums as the Secretary may determine to be necessary to carry out the purposes of this act to the various agencies supported by State funds.

(2) Fiscal Year 2020.

(A) General Fund. The amount of \$8,539,000.00 is appropriated from the General Fund to the Secretary of Administration for distribution to departments to fund the fiscal year 2020 collective bargaining agreements and the requirements of this act.

(B) Transportation Fund. The amount of \$2,368,000.00 is appropriated from the Transportation Fund to the Secretary of Administration for distribution to the Agency of Transportation and the Department of Public Safety to fund the fiscal year 2020 collective bargaining agreements and the requirements of this act.

(C) Other funds. The administration shall provide additional spending authority to departments through the existing process of excess receipts to fund the fiscal year 2020 collective bargaining agreements and the requirements of this act. The estimated amounts are \$11,308,000.00 from special fund, federal, and other sources.

(D) Transfers. With due regard to the possible availability of other

funds, for fiscal year 2020, the Secretary of Administration may transfer from the various appropriations and various funds and from the receipts of the Liquor Control Board such sums as the Secretary may determine to be necessary to carry out the purposes of this act to the various agencies supported by State funds.

(3) This section shall include sufficient funding to ensure administration of exempt pay plans authorized by 32 V.S.A. § 1020(c).

(b) Judicial Branch.

(1) The Chief Justice of the Vermont Supreme Court may extend the provisions of the Judiciary's collective bargaining agreement to Judiciary employees who are not covered by the bargaining agreement.

(2) The two-year agreements between the State of Vermont and the Vermont State Employees' Association for the judicial bargaining unit for the period of July 1, 2018 through June 30, 2020 and salary increases for employees in the Judicial Branch not covered by the bargaining agreements shall be funded as follows:

(A) Fiscal Year 2019. The amount of \$745,000.00 is appropriated from the General Fund to the Judiciary to fund the fiscal year 2019 collective bargaining agreement and the requirements of this act.

(B) Fiscal Year 2020. The amount of \$1,025,441.00 is appropriated from the General Fund to the Judiciary to fund the fiscal year 2020 collective bargaining agreement and the requirements of this act.

(c) Legislative Branch. For the period of July 1, 2018 through June 30, 2020, the General Assembly shall be funded as follows:

(1) Fiscal Year 2019. The amount of \$236,800.00 is appropriated from the General Fund to the Legislative Branch.

(2) Fiscal Year 2020. The amount of \$303,800.00 is appropriated from the General Fund to the Legislative Branch.

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

Sec. 16. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except that the following shall take effect on July 1, 2019:

(1) Sec. 4 (Executive Branch; Miscellaneous Statutory Salaries; Fiscal Year 2020);

(2) Secs. 8–10 (Judicial Branch; Statutory Salaries; Fiscal Year 2020);

(3) Sec. 12 (Sheriffs; Statutory Salaries; Fiscal Year 2020); and

(4) Sec. 14 (State's Attorneys; Statutory Salaries; Fiscal Year 2020).

**(Committee Vote 11-0-0)**

**S. 224**

An act relating to co-payment limits for visits to chiropractors

**Reps. Jickling of Randolph**, 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:

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

Sec. 1. 8 V.S.A. § 4088a is amended to read:

§ 4088a. CHIROPRACTIC SERVICES

(a)(1) A health insurance plan shall provide coverage for clinically necessary health care services provided by a chiropractic physician licensed in this State for treatment within the scope of practice described in 26 V.S.A. chapter 10, but limiting adjunctive therapies to physiotherapy modalities and rehabilitative exercises. A health insurance plan does not have to provide coverage for the treatment of any visceral condition arising from problems or dysfunctions of the abdominal or thoracic organs.

(2) A health insurer may require that the chiropractic services be provided by a licensed chiropractic physician under contract with the insurer or upon referral from a health care provider under contract with the insurer.

(3) Health care services provided by chiropractic physicians may be subject to reasonable deductibles, co-payment and co-insurance amounts, fee or benefit limits, practice parameters, and utilization review consistent with any applicable regulations published by the Department of Financial Regulation; provided that any such amounts, limits, and review shall not function to direct treatment in a manner unfairly discriminative against chiropractic care, and collectively shall be no more restrictive than those applicable under the same policy to care or services provided by other health care providers but allowing for the management of the benefit consistent with variations in practice patterns and treatment modalities among different types of health care providers.

(4) For silver- and bronze-level qualified health benefit plans and reflective silver plans offered pursuant to 33 V.S.A. chapter 18, subchapter 1, health care services provided by a chiropractic physician may be subject to a co-payment requirement, provided that any required co-payment amount shall be between 140 and 160 percent of the amount of the co-payment applicable to care and services provided by a primary care provider under the plan.

(5) Nothing herein contained in this section shall be construed as impeding or preventing either the provision or coverage of health care services by licensed chiropractic physicians, within the lawful scope of chiropractic practice, in hospital facilities on a staff or employee basis.

\* \* \*

Sec. 2. 8 V.S.A. § 4088k is added to read:

§ 4088k. PHYSICAL THERAPY CO-PAYMENTS FOR CERTAIN PLANS

For silver- and bronze-level qualified health benefit plans and reflective silver plans offered pursuant to 33 V.S.A. chapter 18, subchapter 1, health care services provided by a licensed physical therapist may be subject to a co-payment requirement, provided that any required co-payment amount shall be between 140 and 160 percent of the amount of the co-payment applicable to care and services provided by a primary care provider under the plan.

Sec. 3. CHIROPRACTIC AND PHYSICAL THERAPY CO-PAYMENT LIMITS; IMPACT REPORTS

(a) On or before January 1, 2019, the Department of Vermont Health Access and the health insurance carriers offering qualified health benefit plans on the Vermont Health Benefit Exchange shall submit a report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board regarding the projected impact of the chiropractic and physical therapy co-payment limits for qualified health benefit plans and reflective silver plans required by Secs. 1 and 2 of this act on the plans' premium rates, on the plans' actuarial values, and on plan designs, including any impacts on the cost-sharing levels and amounts for other health care services. The information shall be reported separately for each provider type.

(b) On or before November 15, 2021, the Department of Vermont Health Access and the health insurance carriers offering qualified health benefit plans on the Vermont Health Benefit Exchange shall submit a report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board regarding the impact of the chiropractic and physical therapy co-payment limits for qualified health benefit plans and reflective silver plans on utilization of chiropractic and physical therapy services. The information shall be reported separately for each provider type.

Sec. 4. HEALTH INSURANCE COVERAGE FOR NON-OPIOID APPROACHES TO TREATING AND MANAGING PAIN; REPORT

(a) The Department of Vermont Health Access shall convene a working group to develop recommendations related to insurance coverage for non-



opioid approaches, including nonpharmacological approaches, to treating and managing pain. The working group shall be composed of the following members:

- (1) the Commissioner of Financial Regulation or designee;
- (2) one representative of each health insurance carrier offering qualified health benefit plans on the Vermont Health Benefit Exchange;
- (3) the Chief Health Care Advocate or designee; and
- (4) a pain management clinician selected by the Vermont Medical Society.

(b) The Department of Vermont Health Access shall provide the working group with the clinical approaches to non-opioid treatments for pain that the Department is developing with stakeholders. Using the model being developed by the Department, the working group shall consider issues related to health insurance coverage for non-opioid approaches, including nonpharmacological approaches, to treating and managing pain, including whether health insurance plans should cover certain non-opioid approaches, including nonpharmacological approaches, to treating and managing pain and an appropriate level of cost-sharing that should apply to chiropractic care, physical therapy, and any other non-opioid or nonpharmacological modalities for treating and managing pain that the working group recommends for insurance coverage.

(c) On or before January 15, 2019, the working group shall provide its recommendations to the House Committees on Health Care and on Human Services and the Senate Committees on Health and Welfare and on Finance.

#### Sec. 5. EFFECTIVE DATES

(a) Secs. 1 (8 V.S.A. § 4088a) and 2 (8 V.S.A. § 4088k) shall take effect on January 1, 2020 and shall apply to all health insurance plans issued on and after January 1, 2020 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2021.

(b) The remaining sections shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to co-payment limits for chiropractic care and physical therapy”

**(Committee vote: 11-0-0 )**

**(For text see Senate Journal March 13, 2018 )**

## S. 261

An act relating to mitigating trauma and toxic stress during childhood by strengthening child and family resilience

**Rep. Mrowicki of Putney**, for the Committee on Human Services, 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:

\* \* \* Purpose and Status Update \* \* \*

### Sec. 1. PURPOSE

It is the purpose of this act to ensure a consistent family support system by enhancing opportunities to build resilience among families throughout the State that are experiencing the causes or symptoms of childhood adversity. While significant efforts to provide preventative services are already well under way in many parts of the State, better coordination is necessary to ensure that gaps in services are addressed and redundancies do not occur. In this regard, this act builds on the significant work advanced in 2017 Acts and Resolves No. 43, including the principles for Vermont's trauma-informed system of care. The General Assembly supports a public health approach to address childhood adversity wherein interventions pertaining to socioeconomic determinants of health are employed in a manner that has the broadest societal reach and in which specialized interventions are directed to individuals with the most acute need.

### Sec. 2. STATUS REPORT; COMPLETION OF ACT 43 REPORT

On or before November 1, 2018, the Agency of Human Services' Director of Trauma Prevention and Resilience Development shall submit to the Chairs of the House Committee on Human Services and the Senate Committee on Health and Welfare and to any existing Advisory Council on Child Poverty and Strengthening Families a status report on the Agency's methodology and progress in preparing the response plan required pursuant to 2017 Acts and Resolves No. 43, Sec. 4, including any preliminary findings. The status report shall include information as to the Agency's progress in implementing trauma-informed training opportunities for child care providers

\* \* \* Human Services Generally \* \* \*

Sec. 3. 33 V.S.A. § 3402 is added to read:

### § 3402. DEFINITIONS

As used in this chapter:

(1) “Childhood adversity” means experiences that may be traumatic to children and youths during the first 18 years of life, such as experiencing violence or other emotionally disturbing exposures in their homes or communities.

(2) “Resilience” means the ability to respond to, withstand, and recover from serious hardship with coping skills and a combination of protective factors, including a strong community, family support, social connections, knowledge of parenting and child development, concrete support in times of need, and social and emotional competence of children.

(3) “Toxic stress” means strong, frequent, or prolonged experience of adversity without adequate support.

(4) “Trauma-informed” means a type of program, organization, or system that recognizes the widespread impact of trauma and potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved in a system; responds by fully integrating knowledge about trauma into policies, procedures, and practices; and seeks actively to resist retraumatization and build resilience among the population served.

Sec. 4. 33 V.S.A. § 3403 is added to read:

§ 3403. DIRECTOR OF TRAUMA PREVENTION AND RESILIENCE

DEVELOPMENT

(a) There is created the permanent position of Director of Trauma Prevention and Resilience Development within the Office of the Secretary in the Agency of Human Services for the purpose of directing and coordinating systemic approaches across State government that build childhood resiliency and mitigate toxic stress by implementing a public health approach. The Director shall engage families and communities to build the protective factors of a strong community, family support, social connections, knowledge of parenting and child development, concrete support in times of need, and the social and emotional competence of children. It is the intent of the General Assembly that the Director position be funded by the repurposing of existing expenditures and resources, including the potential reassignment of existing positions. If the Secretary determines to fund this position by reassigning an existing position, he or she shall propose to the Joint Fiscal Committee prior to October 1, 2018 any necessary statutory modifications to reflect the reassignment.

(b) The Director shall:

(1) provide advice and support to the Secretary of Human Services and facilitate communication and coordination among the Agency’s departments with regard to childhood trauma, toxic stress, and the promotion of resilience

building;

(2) collaborate with both community and State partners, including the Agency of Education and the Judiciary, to build consistency between trauma-informed systems that address medical and social service needs and serve as a conduit between providers and the public;

(3) provide support for and dissemination of educational materials pertaining to childhood trauma, toxic stress, and the promotion of resilience building, including to postsecondary institutions within Vermont's State College System;

(4) coordinate with partners inside and outside State government, including the Child and Family Trauma Work Group; and

(5) evaluate the work of the Agency and the Agency's grantees and community contractors that addresses resilience and trauma-prevention using results-based accountability methodologies.

Sec. 5. 2017 Acts and Resolves No. 43, Sec. 4 is amended to read:

Sec. 4. ~~ADVERSE CHILDHOOD EXPERIENCES~~ ADVERSITY;

#### RESPONSE PLAN

(a) On or before January 15, 2019, the Agency of Human Services shall present to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, in response to the work completed by the Adverse Childhood Experiences Working Group established pursuant to Sec. 3 of this act, a plan that specially addresses the integration of evidence-informed and family-focused prevention, intervention, treatment, and recovery services for individuals affected by ~~adverse childhood experiences~~ adversity. The plan shall address the coordination of services throughout and among the Agency, the Agency of Education, and the Judiciary and shall propose mechanisms for:

(1) improving and engaging community providers in the systematic prevention of trauma;

(2) case detection and care of individuals affected by ~~adverse childhood experiences~~ adversity; and

(3) ensuring that the Agency's policies related to children, families, and communities build resilience;

(4) ensuring that the Agency and grants to the Agency of Human Services' Agency's community partners related to children and families strive toward accountability and community resilience are evaluated using results-based accountability methodology; and

(5) providing an estimate of the resources necessary to implement the response plan, including any possible reallocations.

\* \* \*

\* \* \* Health Care \* \* \*

Sec. 6. 18 V.S.A. § 702 is amended to read:

§ 702. BLUEPRINT FOR HEALTH; STRATEGIC PLAN

\* \* \*

(c) The Blueprint shall be developed and implemented to further the following principles:

(1) ~~the primary care provider~~ The Blueprint community health team should serve a central role in the coordination of medical care and social services and shall be compensated appropriately for this effort;

(2) ~~use~~ Use of information technology should be maximized;

(3) ~~local~~ Local service providers should be used and supported, whenever possible;

(4) ~~transition~~ Transition plans should be developed by all involved parties to ensure a smooth and timely transition from the current model to the Blueprint model of health care delivery and payment;

(5) ~~implementation~~ Implementation of the Blueprint in communities across the State should be accompanied by payment to providers sufficient to support care management activities consistent with the Blueprint, recognizing that interim or temporary payment measures may be necessary during early and transitional phases of implementation; ~~and~~.

(6) ~~interventions~~ Interventions designed to prevent chronic disease and improve outcomes for persons with chronic disease should be maximized, should target specific chronic disease risk factors, and should address changes in individual behavior; the physical, mental, and social environment; and health care policies and systems.

(7) Providers should assess trauma and toxic stress to ensure that the needs of the whole person are addressed and opportunities to build resilience and community supports are maximized.

\* \* \*

Sec. 7. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or

commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

\* \* \*

(17) The ACO provides connections and incentives to existing community services for preventing and addressing the impact of childhood adversity. The ACO collaborates on the development of quality-outcome measurements for use by primary care providers who work with children and families and fosters collaboration among care coordinators, community service providers, and families.

\* \* \*

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

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

and that after passage the title of the bill be amended to read: “An act relating to ensuring a coordinated public health approach to addressing childhood adversity and promoting resilience”

**(Committee vote: 11-0-0)**

**(For text see Senate Journal March 13, 2018)**

**Rep. Trieber of Rockingham**, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Human Services and when further amended as follows:

the report of the Committee on Human Services and recommends that the House propose to the Senate that the report be amended in Sec. 4, 33 V.S.A. § 3403, subdivision (b)(3), after the word “System” and before the semicolon, by inserting the phrase “and the University of Vermont and State Agricultural College”

**( Committee Vote: 11-0-0)**

**S. 280**

An act relating to the Advisory Council for Strengthening Families

**Rep. Noyes of Wolcott**, for the Committee on Human Services, 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:

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

Sec. 1. ADVISORY COUNCIL ON CHILD POVERTY AND  
STRENGTHENING FAMILIES

(a)(1) There is created the Advisory Council on Child Poverty and Strengthening Families to:

(A) identify and examine structural and other issues in Vermont that:

(i) lead to families living in poverty; and

(ii) create conditions that prevent families from moving out of poverty; and

(B) advance policies that:

(i) promote financial stability and asset building;

(ii) support safety nets for families with low income; and

(iii) mitigate the effects of childhood poverty.

(2) The Advisory Council shall provide guidance and recommend policies that either reduce incidences of or mitigate the effects of childhood poverty. It shall serve as an educational forum for both its members and the public. The Advisory Council shall use data better to understand existing and emerging challenges to children and families living in poverty.

(3) The Advisory Council shall monitor the development and implementation of the Agency of Human Services' childhood trauma response plan required pursuant to 2017 Acts and Resolves No. 43, Sec. 4.

(b)(1) Voting membership. The Advisory Council shall be composed of the following 15 voting members:

(A) the President Pro Tempore of the Senate or designee;

(B) the Speaker of the House or designee;

(C) the Chair of the Senate Committee on Education or designee;

(D) the Chair of the Senate Committee on Health and Welfare or designee;

(E) the Chair of the House Committee on Education or designee;

(F) the Chair of the House Committee on Human Services or designee;

(G) a member appointed by Voices for Vermont's Children;

(H) a member appointed by the Vermont Low Income Advocacy Council;

(I) a member appointed by Vermont Legal Aid;

(J) a member appointed by the Vermont Coalition for Disability Rights;

(K) a member appointed by the Vermont Affordable Housing Coalition;

(L) a nongovernmental designee of the Child and Family Trauma Work Group who does not otherwise represent an organization with membership on this Council;

(M) an employee of the prekindergarten through grade 12 public education delivery system in Vermont appointed jointly by the Executive Directors of the Vermont Superintendents Association, the Vermont Principals' Association, and the Vermont Council of Special Education Coordinators;

(N) a business owner appointed by Vermont Businesses Roundtable; and

(O) a member appointed by the Vermont Community Action Partnership.

(2) Nonvoting membership. The Advisory Council shall be composed of the following five nonvoting members or designees:

(A) the Secretary of Education;

(B) the Secretary of Human Services;

(C) the Commissioner for Children and Families;

(D) the Commissioner of Health; and

(E) the Commissioner of Labor.

(c) Assistance. The Advisory Council shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) Work products.

(1) Compilation of minutes. On or before January 1 of each year, the



Advisory Council shall submit to the General Assembly a compilation of its meeting minutes from the previous calendar year that summarizes the Advisory Council's activities and decisions.

(2) Recommendations. On or before January 1 of each year, the Advisory Council shall submit a list of policy recommendations and legislative priorities from the previous calendar year to the General Assembly or to the appropriate State agency or organization that are aimed at reducing incidences of or mitigating the effects of childhood poverty.

(3) Legislation. On or before November 15 of each year, the Advisory Council may prepare legislation for introduction by one or more of its legislative members that contains any of the Advisory Council's policy recommendations for reducing incidences of or mitigating the effects of childhood poverty.

(e) Meetings.

(1) The member of the House Committee on Human Services shall call the first meeting of the Advisory Council to occur on or before July 1 of each year.

(2) Each year the Advisory Council shall select a chair from among its legislative members at the first meeting. The Advisory Council may select a vice chair from among its legislative members.

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

(4) At least once annually, the Advisory Council shall meet in a location other than the State House for the purpose of receiving testimony from members of Vermont families experiencing poverty or organizations providing direct services to Vermont families experiencing poverty.

(5)(A) The Advisory Council shall cease to exist on July 1, 2028.

(B) Five years prior, in 2023, the Advisory Council shall conduct a midterm review of its achievements and effectiveness using results-based accountability. Among any other benchmarks that the Advisory Council chooses to measure pursuant to subdivision (C) of this subdivision (5), it shall review, as compared to 2016:

(i) the number and percentage of children living in families at 50 percent, 100 percent, and 200 percent of the federal poverty level; and

(ii) the number and percentage of children living in families paying more than 30 percent of their cash income for housing and related expenses.

(C) On or before January 1, 2019, the Advisory Council shall

identify any additional benchmarks it plans to measure during its 2023 midterm review.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Advisory Council 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.

(2) Other members of the Advisory Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings.

(3) Payments to members of the Advisory Council authorized under this subsection shall be made from monies appropriated by the General Assembly.

Sec. 2. 2015 Acts and Resolves No. 60, Sec. 23(h) is amended to read:

(h) Sunset. On June 1, ~~2018~~ 2021, this section (creating the Joint Legislative Child Protection Oversight Committee) is repealed and the Committee shall cease to exist.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage; provided, however, that if the date of passage is after June 1, 2018, then notwithstanding 1 V.S.A. § 214, Sec. 2 shall apply retroactively to June 1, 2018.

and that after passage the title of the bill be amended to read: “An act relating to the Advisory Council on Child Poverty and Strengthening Families”

**(Committee vote: 11-0-0)**

**(For text see Senate Journal February 16, 2018 )**

**Rep. Yacovone of Morristown**, for the Committee on Appropriations, recommends the bill ought to pass when amended as recommended by the Committee on Human Services and when further amended as follows:

First: In Sec. 1, by striking out subdivision (b)(1) in its entirety and inserting in lieu thereof as follows:

(b)(1) Voting membership. The Advisory Council shall be composed of the following 15 voting members:

(A) three members of the Senate, not all from the same political party, appointed by the Committee on Committees, including one member

from the Committee on Education and one member from the Committee on Health and Welfare;

(B) three members of the House, not all from the same political party, appointed by the Speaker of House, including one member from the Committee on Education and one member from the Committee on Human Services;

(C) a member appointed by Voices for Vermont's Children;

(D) a member appointed by the Vermont Low Income Advocacy Council;

(E) a member appointed by Vermont Legal Aid;

(F) a member appointed by the Vermont Coalition for Disability Rights;

(G) a member appointed by the Vermont Affordable Housing Coalition;

(H) a nongovernmental designee of the Child and Family Trauma Work Group who does not otherwise represent an organization with membership on this Council;

(I) an employee of the prekindergarten through grade 12 public education delivery system in Vermont appointed jointly by the Executive Directors of the Vermont Superintendents Association, the Vermont Principals' Association, and the Vermont Council of Special Education Coordinators;

(J) a business owner appointed by the Vermont Businesses Roundtable; and

(K) a member appointed by the Vermont Community Action Partnership.

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof new Secs. 2 and 3 to read as follows:

Sec. 2. 2015 Acts and Resolves No. 60, Sec. 23 is amended to read:

Sec. 23. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT COMMITTEE

\* \* \*

(c) Powers and duties.

(1) The Committee shall:

(A) Exercise oversight over Vermont's system systems for youth justice and protecting children from abuse and neglect, including:

~~(i)(A)~~ evaluating whether the branches, departments, agencies, and persons that are responsible for protecting children from abuse and neglect are effective;

~~(ii)(B)~~ determining if there are deficiencies in the system and the causes of those deficiencies;

~~(iii)(C)~~ evaluating which programs are the most cost-effective;  
and

~~(iv)(D)~~ determining whether there is variation in policies, procedures, practices, and outcomes between different areas of the State and the causes and results of any such variation;

~~(v)~~ evaluating whether licensed mandatory reporters should be required to certify that they completed training on the requirements set forth under 33 V.S.A. § 4913; and

~~(vi)~~ evaluating the measures recommended by the Working Group to Recommend Improvements to CHINS Proceedings established in Sec. 24 of this act to ensure that once a child is returned to his or her family, the court or the Department for Children and Families may continue to monitor the child and family where appropriate.

~~(B)~~ The Committee shall report any proposed legislation on or before January 15, 2016 to the House and Senate Committees on Judiciary, the House Committee on Human Services, and the Senate Committee on Health and Welfare.

(2) The Committee may review and make recommendations to the House and Senate Committees on Appropriations regarding budget proposals and appropriations relating to protecting children from abuse and neglect.

\* \* \*

(h) Sunset. On June 1, ~~2018~~ 2022, this section (creating the Joint Legislative Child Protection Oversight Committee) is repealed and the Committee shall cease to exist.

### Sec. 3. EFFECTIVE DATES

This act shall take effect on passage; provided, however, that if the date of passage is after June 1, 2018, then notwithstanding 1 V.S.A. § 214, Sec. 2 shall apply retroactively to June 1, 2018.

**( Committee Vote: 11-0-0)**

**S. 285**

An act relating to universal recycling requirements

**Rep. Sullivan of Burlington**, 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:

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

\* \* \* Solid Waste Management Facility Requirements \* \* \*

Sec. 1. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

(A) the treatment facility does not ~~utilize~~ use a process to ~~further~~ reduce pathogens further in order to qualify for marketing and distribution; and

(B) the facility is not a drying bed, lagoon, or nonconcrete bunker; and

(C) the owner of the facility has submitted a sludge and septage management plan to the Secretary and the Secretary has approved the plan. Noncompliance with an approved sludge and septage management plan shall constitute a violation of the terms of this chapter, as well as a violation under chapters 201 and 211 of this title.

(2) Certification shall be valid for a period not to exceed 10 years.

(b) Certification for a solid waste management facility, where appropriate, shall:

\* \* \*

(3)~~(A)~~ Specify the projected amount and types of waste material to be disposed of at the facility, which, in case of landfills and incinerators, shall include the following:

~~(A)~~(i) if the waste is being delivered from a municipality that has an

approved implementation plan, hazardous materials and recyclables shall be removed from the waste according to the terms of that implementation plan;

~~(B)(ii)~~ except as provided in subdivision (B) of this subdivision (3), if the waste is being delivered from a municipality that does not have an approved implementation plan, leaf and yard residuals shall be removed from the waste stream, and 100 percent of each of the following shall be removed from the waste stream: mandated recyclables, hazardous waste from households, and hazardous waste from small quantity generators.

(B) If waste delivered to the facility is process residuals from a material recovery facility, the facility receiving the waste shall not be required to remove 100 percent of mandated recyclables from the process residuals if the facility receiving the waste has a plan approved by the Secretary to remove mandated recyclables from the process residuals to the maximum extent practicable.

\* \* \*

(j) A facility certified under this section that offers the collection of municipal solid waste shall:

(1) Beginning on July 1, 2014, collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables. A facility shall not be required to accept mandated recyclables from a commercial hauler.

(2) Beginning on July 1, 2015, collect leaf and yard residuals between April 1 and December 15 separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(3) Beginning on July 1, 2017, collect food residuals separate from other solid waste and deliver food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

\* \* \*

~~(l) A facility certified under this section that offers the collection of municipal solid waste shall not charge a separate fee for the collection of mandated recyclables.~~ A facility certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of municipal solid waste and may adjust the charge for the collection of municipal solid waste. A facility certified under this section may charge a separate fee for the collection of mandated recyclables, leaf and yard residuals,

or food residuals. ~~If a facility collects mandated recyclables from a commercial hauler, the facility may charge a fee for the collection of those mandated recyclables.~~

\* \* \*

\* \* \* Commercial Hauler Requirements \* \* \*

Sec. 2. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the State shall apply to the Secretary for a permit to do so, by submitting an application on a form prepared for this purpose by the Secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years and shall be renewed annually. The application shall indicate the nature of the waste to be hauled. The Secretary may specify conditions that the Secretary deems necessary to assure compliance with State law.

(b) As used in this section:

(1) “Commercial hauler” means:

(A) any person that transports regulated quantities of hazardous waste; and

(B) any person that transports solid waste for compensation in a vehicle.

(2) The commercial hauler required to obtain a permit under this section is the legal or commercial entity that is transporting the waste, rather than the individual employees and subcontractors of the legal or commercial entity. In the case of a sole proprietorship, the sole proprietor is the commercial entity.

(3) The Secretary shall not require a commercial hauler to obtain a permit under this section, comply with the disclosure requirements of this section, comply with the reporting and registration requirements of section 6608 of this title, or pay the fee specified in 3 V.S.A. § 2822, if:

(A) the commercial hauler does not transport more than four cubic yards of solid waste at any time; and

(B) the solid waste transportation services performed are incidental to other nonwaste transportation-related services performed by the commercial hauler.

\* \* \*

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this

subsection, a commercial hauler that offers the collection of municipal solid waste ~~shall~~:

(A) Beginning on July 1, 2015, shall offer to collect mandated recyclables ~~separated~~ separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) ~~Beginning on July 1, 2016, offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.~~

(C) Beginning on July 1, 2018, 2020, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, ~~leaf and yard residuals~~, or food residuals, a commercial hauler in that municipality is not required to comply with the requirements of subdivision (1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), ~~(B)~~, ~~or (C)~~ or (B) of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A)



of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A), ~~(B), or (C)~~ or (B) of this subsection (g) are not required; and

(D) in the delineated area, alternatives to the services, including on-site management, required under subdivision (1)(A), ~~(B), or (C)~~ or (B) of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(4) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), ~~(B), or (C)~~ or (B) of this subsection for mandated recyclables, ~~leaf and yard residuals,~~ or food residuals collected as part of a litter collection.

(h) A commercial hauler certified under this section that offers the collection of municipal solid waste may not charge a separate line item fee on a bill to a residential customer for the collection of mandated recyclables, provided that a commercial hauler may charge a fee for all service calls, stops, or collections at a residential property and a commercial hauler may charge a tiered or variable fee based on the size of the collection container provided to a residential customer or the amount of waste collected from a residential customer. A commercial hauler certified under this section may incorporate the cost of the collection of mandated recyclables into the cost of the collection of solid waste and may adjust the charge for the collection of solid waste. A commercial hauler certified under this section that offers the collection of solid waste may charge a separate fee for the collection of ~~leaf and yard residuals or~~ food residuals from a residential customer.

(i) A commercial hauler that operates a bag-drop or fast-trash site at a fixed location to collect municipal solid waste shall offer at the site all collection services required under 10 V.S.A. § 6605(j).

### Sec. 3. UNIVERSAL RECYCLING STAKEHOLDER GROUP;

#### COMMERCIAL HAULER SERVICES; FOOD RESIDUAL

#### COLLECTION SERVICES

(a) The Agency of Natural Resources has convened a Universal Recycling Stakeholder Group to provide valuable input, advice, and assistance to the Agency and the State in the implementation of 2012 Acts and Resolves No. 148 (Act 148). The work of the Stakeholder Group has been integral to the successful implementation of Act 148 and the work of the Stakeholder Group is commended by the General Assembly.

(b) As part of the ongoing Agency of Natural Resource's Universal Recycling Stakeholder Group, the Secretary of Natural Resources shall seek the input of the Stakeholder Group regarding the requirement under 10 V.S.A. § 6607a(g) that commercial solid waste haulers offer the service of collection of food residuals separate from other solid waste beginning July 1, 2020. The Secretary shall request that the Stakeholder Group review whether:

(1) the requirements under subsection 6607a(g) should be amended so that commercial haulers are only required to offer collection of food residuals:

(A) in municipalities, solid waste management districts, or other areas based on population, housing, or route density; or

(B) based on other appropriate criteria specified by the Working Group.

(2) sufficient regional capacity to process food residuals is available to allow for the collection of food residuals by all commercial solid waste haulers beginning on July 1, 2020.

(b) The Secretary of Natural Resources, after consultation with the Universal Recycling Stakeholder Group, shall include in the report the Agency shall submit under 6604(b) of this title recommendations addressing subdivisions (a)(1) and (2) of this section.

\* \* \* Food Residual Management \* \* \*

Sec. 4. 10 V.S.A. § 6605k(b) is amended to read:

(b) A person who produces more than an amount identified under subsection (c) of this section in food residuals ~~and is located within 20 miles of a certified organics management facility that has available capacity and that is willing to accept the food residuals~~ shall:

(1) ~~Separate~~ separate food residuals from other solid waste, provided that a de minimis amount of food residuals may be disposed of in solid waste when a person has established a program to separate food residuals and the program includes a component for the education of program users regarding the need to separate food residuals; and

(2) ~~Arrange~~ arrange for the transfer of food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions (a)(2)-(5) of this section or shall manage food residuals on site.

\* \* \* Plastic Film Recycling; Unclaimed Beverage

Container Deposits \* \* \*

Sec. 5. AGENCY OF NATURAL RESOURCES REVIEW OF PRIVATE

## PILOT PROJECT FOR THE RECYCLING OF PLASTIC FILM

(a) The Secretary of Natural Resources or designee shall provide written or oral testimony to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy in January 2019 and in January 2020 regarding the success of a pilot project funded by private beverage manufacturers and distributors and other private entities in the State for the collection and recycling of plastic film.

(b) The Secretary shall request from the pilot project information necessary for evaluation of the project, including:

(1) whether the pilot project was effectively implemented;

(2) the collection opportunities for plastic film, including convenience;

(3) the education or outreach provided regarding opportunities or methods for reducing the use or disposal of plastic film;

(4) costs to operate the pilot project; and

(5) any measurable reduction achieved in the amount of plastic film disposed of as solid waste.

(c) In the testimony required under subsection (a) of this section, the Secretary shall:

(1) summarize the effectiveness of the pilot project based on information collected under subsection (a);

(2) recommend whether the State should encourage the pilot project to continue; and

(3) recommend to what extent or at what percentage the unclaimed beverage container deposits should be allowed to be retained by beverage manufacturers or distributors to assist in paying for the costs of collection and recycling of plastic film or mandated recyclables.

(d) As used in this section:

(1) "Mandated recyclables" shall have the same meaning as in 10 V.S.A. § 6601.

(2) "Plastic film" means single-use bags or coverings of consumer products made from plastic resins or derived from nonrenewable, petroleum-based feedstocks, including laundry or dry cleaning coverings, coverings or bags for clothes sold at retail, plastic film grocery sacks, plastic film shopping bags, fresh produce bags, and newspaper sleeves.

Sec. 6. 10 V.S.A. § 1530 is added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT

TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND

(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 July 1, 2020, 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 October 10, 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 October 10, 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.

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

## Sec. 7. EFFECTIVE DATES

(a) This act shall take effect on passage, except that Sec. 4 (food residuals) shall take effect on July 1, 2020.

**(Committee vote: 8-0-1 )**

**(For text see Senate Journal March 28, 2018 )**

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

bill be amended as recommended by the Committee on Natural Resources, Fish, and Wildlife with further amendment thereto by striking out Secs. 5 (plastic film pilot report), 6 (abandoned beverage container deposits; escheats), and 7 (effective dates) and the reader assistance headings in their entirety and inserting in lieu thereof a new Sec. 5 and reader assistance heading to read as follows:

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

Sec. 5. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 4 (food residuals) shall take effect on July 1, 2020.

( Committee Vote: 9-0-2)

**Senate Proposal of Amendment**

**H. 908**

An act relating to the Administrative Procedure Act

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. PURPOSE

The General Assembly adopts the changes in this act to:

- (1) improve public participation in rulemaking and public access to the rulemaking process and to adopted rules;
- (2) increase the efficiency of the rulemaking process; and
- (3) ensure that rules are authorized, necessary, and reasonable and are subject to a thorough regulatory analysis.

Sec. 2. 3 V.S.A. chapter 25 is amended to read:

CHAPTER 25. ADMINISTRATIVE PROCEDURE

Subchapter 1. General Provisions

§ 800. PURPOSE

The General Assembly intends that:

- (1) ~~agencies~~ Agencies maximize the involvement of the public in the development of rules;
- (2) ~~agency~~ Agency inclusion of public participation in the ~~rule-making processes~~ rulemaking process should be consistent;
- (3) Agencies write rules so that they are clear and accessible to the

public.

(4) When an agency adopts rules, it subjects the rules to thorough regulatory analysis.

(5) the The General Assembly should articulate, as clearly as possible, the intent of any legislation which that delegates rule-making rulemaking authority;

(4)(6) when When an agency adopts policy or procedures, or guidance, it should shall not do so to supplant or avoid the adoption of rules.

#### § 801. SHORT TITLE AND DEFINITIONS

(a) This chapter may be cited as the “Vermont Administrative Procedure Act.”

(b) As used in this chapter:

\* \* \*

(7) “Practice” means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, which that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) “Procedure” means a practice which that has been adopted in the manner provided in section 835 of this title writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to

the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

\* \* \*

(13)(A) “Arbitrary,” when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in accordance with the Vermont Supreme Court’s application of “arbitrary” in *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 154 Vt. 596 (1990).

(14) “Guidance document” means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency’s current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) “Index” means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers.

\* \* \*

#### § 806. PROCEDURE TO REQUEST ADOPTION OF RULES OR PROCEDURES; GUIDANCE DOCUMENTS

(a) A person may submit a written request to an agency asking the agency to adopt, amend, or repeal a procedure or rule. Within 30 days of after receiving the request, the agency shall initiate ~~rule-making~~ rulemaking



proceedings; shall adopt a, amend, or repeal the procedure; or shall deny the request, giving its reasons in writing.

(b) A person may submit a written request to an agency asking the agency to adopt a guidance document as a rule or to amend or repeal the guidance document. Within 30 days after receiving the request, the agency shall initiate rulemaking proceedings; shall amend or repeal the guidance document; or shall deny the request, giving its reasons in writing.

\* \* \*

### Subchapter 2. Contested Cases

#### § 809. CONTESTED CASES; NOTICE; HEARING; RECORDS

\* \* \*

(i) When a board or commission member who hears all or a substantial part of a case retires from office or completes his or her term before the case is completed, he or she may remain a member of the board or commission for the purpose of deciding and concluding the case. If the member who retires or completes his or her term is a chair, the member may also remain a member for the purpose of certifying questions of law if an appeal is taken, when such is required by law. For this service, the member may be compensated in the manner provided for active members.

\* \* \*

### Subchapter 3. Rulemaking; Procedures; Guidance Documents

#### § 817. LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

\* \* \*

#### § 818. SECRETARY OF STATE; CENTRALIZED RULE SYSTEM

(a) The Secretary of State shall establish and maintain a centralized rule system that is open and available to the public. The system shall include all rules in effect or proposed as of July 1, 2019 and all rules proposed and adopted by agencies of the State after that date.

(b) The Secretary shall design the centralized rule system to:

(1) facilitate public notice of and access to the rulemaking process;

(2) provide the public with greater access to current and previous versions of adopted rules; and

(3) promote more efficient and transparent filing by State agencies of rulemaking documents and review by the committees established in this chapter.

(c) At a minimum, the records included in the system shall include all documents submitted to the Secretary of State under this subchapter.

(d) The centralized rule system may be digital, may be available online, and may be designed to support such other functions as the Secretary of State determines are consistent with the goals of this section and section 800 of this title.

\* \* \*

#### § 831. REQUIRED POLICY STATEMENTS AND RULES

(a) Where due process or a statute directs an agency to adopt rules, the agency shall initiate rulemaking and adopt rules in the manner provided by sections 836-844 of this title.

(b) An agency shall adopt a procedure describing an existing practice when so requested by an interested person.

(c) An agency shall initiate rulemaking to adopt as a rule an existing practice or procedure when so requested by 25 or more persons or by the Legislative Committee on Administrative Rules. An agency shall not be required to initiate rulemaking with respect to any practice or procedure, except as provided by this subsection.

(d) An agency required to hold hearings on contested cases as required by section 809 of this title shall adopt rules of procedure in the manner provided in this chapter.

(e) Within 30 days after an agency discovers that the text of a final proposed rule as submitted to the Legislative Committee on Administrative Rules deviates from the text that the agency intended to submit to the Committee, the agency shall initiate rulemaking to correct the rule if the period for final adoption of the rule under subsection 843(c) of this title has elapsed.

(f) Except as provided in subsections (a)-(d)(e) of this section, an agency shall not be required to initiate rulemaking or to adopt a procedure or a rule.

\* \* \*

#### § 832a. ~~RULES AFFECTING SMALL BUSINESSES~~

~~(a) Where a rule provides for the regulation of a small business, an agency shall consider ways by which a small business can reduce the cost and burden of compliance by specifying less numerous, detailed or frequent reporting requirements, or alternative methods of compliance.~~

~~(b) An agency shall also consider creative, innovative, or flexible methods of compliance with the rule when the agency finds, in writing, such action~~

would not:

~~(1) significantly reduce the effectiveness of the rule in achieving the objectives or purposes of the statutes being implemented or interpreted; or~~

~~(2) be inconsistent with the language or purpose of statutes that are implemented or interpreted by the rule; or~~

~~(3) increase the risk to the health, safety, or welfare of the public or to the beneficiaries of the regulation, or compromise the environmental standards of the State.~~

~~(c) This section shall not apply where the regulation is incidental to:~~

~~(1) a purchase of goods or services by the State or an agency thereof; or~~

~~(2) the payment for goods or services by the State or an agency thereof for the benefit of a third party. [Repealed.]~~

#### § 832b. ADMINISTRATIVE RULES AFFECTING SCHOOL DISTRICTS

~~If a rule affects or provides for the regulation of public education and public schools, the agency proposing the rule shall evaluate the cost implications to local school districts and school taxpayers, clearly state the associated costs, and report them in a local school cost impact statement to be filed with the economic impact statement on the rule required by subsection 838(c) of this title. An agency proposing a rule affecting school districts shall also consider and include in the local school cost impact statement an evaluation of alternatives to the rule, including no rule on the subject which would reduce or ameliorate costs to local school districts while achieving the objectives or purposes of the proposed rule. The Legislative Committee on Administrative Rules may object to any proposed rule if a local school cost impact statement is not filed with the proposed rule, or the Committee finds the statement to be inadequate, in the same manner in which the Committee may object to an economic impact statement under section 842 of this title. [Repealed.]~~

#### § 833. STYLE OF RULES

(a) Rules and procedures shall be written in a clear and coherent manner using words with common and everyday meanings, consistent with the text of the rule or procedure.

(b)(1) When an agency proposes to amend an existing rule, it shall replace terms identified as potentially disrespectful by the study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1 with respectful language recommended therein or used in the Vermont Statutes Annotated, where appropriate.

(2) All new rules adopted by agencies shall use, to the fullest extent

possible, respectful language consistent with the Vermont Statutes Annotated and the respectful language study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1, where appropriate.

(c) The Secretary of State may issue a guidance document suggesting how agencies may draft rules and procedures in accordance with this section. The guidance document may include suggestions on style, numbering, and drafting the content of the filings required under this subchapter.

\* \* \*

#### § 835. COMPILATION OF PROCEDURES AND GUIDANCE DOCUMENTS

(a) Procedures and guidance documents shall be maintained by the agency in an official current compilation that is indexed by subject includes an index. Each addition, change, or deletion to the official compilation shall also be dated, indexed, and recorded. The compilation shall be a public record. The agency shall publish the compilation and index on its Internet website and make all procedures and guidance documents available to the public. On or after January 1, 2024, an agency shall not rely on a procedure or guidance document or cite it against any party to a proceeding, unless the procedure or guidance document is included in a compilation maintained and published in accordance with this subsection.

(b) A procedure or guidance document shall not have the force of law. However, this subsection shall not apply to a procedure if a statute that specifically enables the procedure states that it has the force of law. This subsection is not intended to affect whether a court or quasi-judicial body gives deference to a procedure or guidance document issued by an agency whose action is before the court or body.

#### § 836. PROCEDURE FOR ADOPTION OF RULES

(a) Except for emergency rules, rules shall be adopted by taking the following steps:

- (1) prefiling, when required;
- (2) filing the proposed rule;
- (3) publishing the proposed rule;
- (4) holding a public hearing and receiving comments;
- (5) filing the final proposal;
- (6) responding to the Legislative Committee on Administrative Rules when required; and

(7) filing the adopted rule.

(b) During the rulemaking process, the agency proposing the rule shall post on its website information concerning the proposal.

(1) The agency shall post the information on a separate page that is readily accessible from a prominent link on its main web page and that lists proposed rules by title and topic.

(2) For each rulemaking, the posted information shall include:

(A) The proposed rule as filed under section 838 of this title.

(B) The date by which comments may be submitted on the proposed rule and the address for such submission.

(C) The date and location of any public hearing.

(D) Each comment submitted to the agency on the proposed rule. The agency shall redact sensitive personal information from the posted comments. As used in this subdivision (D), “sensitive personal information” means each of the items listed in 9 V.S.A. § 2430(5)(A)(i)–(iv) and does not include the name, affiliation, and contact information of the commenter.

(E) The final proposed rule as filed under section 841 of this title.

(F) Each document submitted by the agency to the Legislative Committee on Administrative Rules.

(3) The agency shall maintain the information required by this subsection on its website until the earliest of the following dates: filing of a final adopted rule under section 843 of this title; withdrawal of the proposed rule; or expiration of the period for final adoption under subsection 843(c) of this title.

(4) If an agency is a board or commission exercising quasi-judicial functions and members of the public can access all of the information required by subdivision (2) of this subsection through the agency’s online case-management system, this information need not also be posted on the agency’s website. Instead, the list of proposed rules on the agency’s website shall include the case number for each proposed rule and instructions for accessing all of the information about the proposed rule in the agency’s online case-management system.

\* \* \*

## § 838. FILING OF PROPOSED RULES

(a) Filing; information. Proposed rules shall be filed with the Secretary of State.—~~The filing shall include~~ in a format determined by the Secretary that

includes the following information:

(1) ~~a cover sheet;~~ The name of the agency and the subject or title of the rule.

(2) ~~an~~ An analysis of economic impact statement;

(3) ~~an incorporation~~ An analysis of environmental impact.

(4) An explanation of all material incorporated by reference statement,  
~~if the proposed rule includes an incorporation by reference;~~ any.

~~(4) an adopting page;~~

(5) ~~the~~ The text of the proposed rule;

(6) ~~an~~ An annotated text showing changes from existing rules; The annotated text of the rule shall include markings to indicate clearly changed wording from any existing rule.

(7) ~~an~~ An explanation of the strategy for maximizing public input on the proposed rule as prescribed by the Interagency Committee on Administrative Rules; and.

(8) a A brief summary of the scientific information upon which the proposed rule is based, to the extent the proposed rule depends on scientific information for its validity. The summary shall refer to the scientific studies on which the proposed rule is based and shall explain the procedure for obtaining such studies from the agency.

~~(b) The cover sheet shall be on a form prepared by the Secretary of State containing at least the following information:~~

~~(1) the name of the agency;~~

~~(2) the title or subject of the rule;~~

~~(3)~~(9) a A concise summary in plain language explaining the effect of the rule; and its effect.

~~(4)~~(10) ~~the~~ The specific statutory authority for the rule, and, if none exists, the general statutory authority for the rule;

~~(5)~~(11) ~~an~~ An explanation of why the rule is necessary;

~~(6)~~(12) ~~an~~ An explanation of the people, enterprises, and government entities affected by the rule;

~~(7) a brief summary of the economic impact of the rule;~~

~~(8)~~(13) ~~the~~ The name, address, and telephone number of an individual in the agency able to answer questions and receive comments on the proposal;

~~(9)~~(14) a A proposed schedule for completing the requirements of this chapter, including, if there is a hearing scheduled, the date, time, and place of that hearing and a deadline for receiving comments;

~~(10)~~(15) ~~whether~~ Whether the rule contains an exemption from inspection and copying of public records, or otherwise contains a Public Records Act exemption by designating information as confidential or limiting its public release and, if so, the asserted statutory authority for the exemption and a brief summary of the reason for the exemption; ~~and~~.

~~(11)~~(16) a A signed and dated statement by the adopting authority approving the contents of the filing.

~~(e)~~(b) Economic impact analysis; rules affecting small businesses and school districts.

(1) General requirements. The economic impact ~~statement~~ analysis shall analyze the anticipated costs and benefits to be expected from adoption of the rule. Specifically, each economic impact ~~statement~~ analysis shall, for each requirement in the rule:

(A) ~~List categories~~ list each category of people, enterprises, and government entities potentially affected and estimate for each the costs and benefits anticipated; ~~and~~

(B) ~~Compare~~ compare the economic impact of the rule with the economic impact of other alternatives to the rule, including having no rule on the subject or a rule having separate requirements for small ~~business~~ businesses.

~~(C) Include a flexibility statement.~~ ~~The flexibility statement shall compare the burden imposed on small businesses by compliance with the rule to the burden which would be imposed by alternatives considered under section 832a of this title.~~

~~(D) Include a greenhouse gas impact statement.~~ ~~The greenhouse gas impact statement shall explain how the rule has been crafted to reduce the extent to which greenhouse gases are emitted. The Secretary of Administration, in conjunction with the Secretaries of Agriculture, Food and Markets, of Natural Resources, and of Transportation, and the Commissioner of Public Service shall provide a checklist which shall be used in the adoption of rules to assure the full consideration of greenhouse gas impacts, direct and indirect.~~

(2) Small businesses. When a rule provides for the regulation of a small business, in the economic impact analysis, the agency shall include, when appropriate, a specific and clearly demarcated evaluation of ways by which a small business can reduce the cost and burden of compliance by specifying less

numerous, detailed, or frequent reporting requirements or alternative methods of compliance.

(A) An agency shall also include in this evaluation its consideration of creative, innovative, or flexible methods of compliance with the rule when the agency finds, in writing, that these methods of compliance would not:

(i) significantly reduce the effectiveness of the rule in achieving the objectives or purposes of the statutes being implemented or interpreted; or

(ii) be inconsistent with the language or purpose of statutes that are implemented or interpreted by the rule; or

(iii) increase the risk to the health, safety, or welfare of the public or to the beneficiaries of the regulation or compromise the environmental standards of the State.

(B) This subdivision (2) shall not apply when the regulation is incidental to:

(i) a purchase of goods or services by the State or an agency thereof; or

(ii) the payment for goods or services by the State or an agency thereof for the benefit of a third party.

(3) School districts. If a rule affects or provides for the regulation of public education and public schools, the economic impact analysis shall include a specific and clearly demarcated evaluation of the cost implications to local school districts and school taxpayers and shall clearly state the associated costs. This evaluation also shall include consideration of alternatives to the rule, including having no rule on the subject, that would reduce or ameliorate costs to local school districts while achieving the objectives or purposes of the proposed rule.

(4) Most appropriate method. In addition, each economic impact statement analysis shall conclude that the rule is the most appropriate method of achieving the regulatory purpose and, with respect to small businesses, contain any findings required by section 832a of this title. Only employees of the agency and information either already available to the agency or available at reasonable cost shall need be used in preparing economic impact statements analyses.

(c) Environmental impact analysis. The environmental impact analysis shall:

(1) Analyze the anticipated environmental impacts, whether positive or negative, from adoption of the rule. Examples of environmental impacts include the emission of greenhouse gases; the discharge of pollutants to water;



and effects on the ability of the environment to provide benefits such as food and fresh water, regulation of climate and water flow, and recreation.

(2) Compare the environmental impact of the rule with the environmental impact of other alternatives to the rule, including having no rule on the subject.

(d) Incorporation by reference.

(1) A rule may incorporate by reference all or any part of a code, standard, or rule that has been adopted by an agency of the United States, this State, or another state or by a nationally recognized organization or association, if:

(A) repeating verbatim the text of the code, standard, or rule in the rule would be unduly cumbersome, expensive, or otherwise inexpedient; and

(B) the reference in the rule fully identifies the incorporated code, standard, or rule by citation, date, and place where copies are available.

(2) Materials incorporated by reference shall be readily available to the public. As used in this subsection, "readily available" means that all of the following apply:

(A) Each filing states where copies of the incorporated code, standard, or rule are available in written or electronic form from the agency adopting the rule or the agency of the United States, this State, another state, or the organization or association originally issuing the code, standard, or rule.

(B) A copy of the code, standard, or rule is made available for public inspection at the principal office of the agency, and is available at that office for copying in the manner set forth in 1 V.S.A. § 316 and subject to the exceptions set forth in 1 V.S.A. § 317(c).

(C) The incorporated code, standard, or rule is made available for free public access online unless the agency is prevented from providing such access by law or legally enforceable contract.

~~(d) Any required incorporation by reference statement shall include a separately signed statement by the adopting authority:~~

~~(1) certifying that the text of the matter incorporated has been reviewed by the agency, with the name of the reviewing official;~~

~~(2) explaining how the text of the matter incorporated can be obtained by the public, and at what cost;~~

~~(3) explaining any modifications to the matter incorporated;~~

~~(4) discussing the comparative desirability of reproducing the~~

incorporated matter in full in the text of the rule; and

~~(5) certifying that the agency has the capability and the intent to enforce the rule.~~

~~(e) The adopting page shall be on a form prepared by the Secretary of State and shall contain the name of the agency, the subject of the proposed rule, an explanation of the effect of the proposal on existing rules, and any internal reference number assigned by the agency.~~

~~(f) The annotated text of the rule shall include markings to clearly indicate changed wording from any existing rule.~~

~~(g) The brief summary of scientific information shall refer to scientific studies upon which the proposed rule is based and shall explain the procedure for obtaining such studies from the agency.~~

#### § 839. PUBLICATION OF PROPOSED RULES

(a) Online. The Secretary of State shall publish online notice of a proposed rule within two weeks of after receipt of the proposed rule. Notice shall include the following information:

- (1) the name of the agency;
- (2) the title or subject of the rule;
- (3) a concise summary in plain language of the effect of the rule;
- (4) an explanation of the people, enterprises, and governmental entities affected by the rule;
- (5) a brief summary of the economic impact;
- (6) the name, telephone number, and address of an agency official able to answer questions and receive comments on the proposal;
- (7) the date, time, and place of the hearing or hearings; and
- (8) the deadline for receiving comments.

(b) Editing of notices. The Secretary of State may edit all notices for clarity, brevity, and format and shall include a brief statement explaining how members of the public can participate in the rulemaking process.

(c) Newspaper publication. The Secretary of State shall arrange for one formal publication, in a consolidated advertisement in newspapers having general circulation in different parts of the State as newspapers of record approved by the Secretary of State, of information relating to all proposed rules that includes the following information:

- (1) the name of the agency and its Internet address;

(2) the title or subject and a concise summary of the rule and the Internet address at which the rule may be viewed; and

(3) the office name, office telephone number, and office mailing address of an agency official able to answer questions and receive comments on the proposal.

(d) Reimbursement. The Secretary of State shall be reimbursed by agencies making publication in accordance with subsection (c) of this section so that all costs are prorated among agencies publishing at the same time.

\* \* \*

#### § 841. FINAL PROPOSAL

(a) After considering public comment as required in section 840 of this title, an agency shall file a final proposal with the Secretary of State and with the Legislative Committee on Administrative Rules. The Committee may require that the agency include an electronic copy of the final proposal with its filing.

(b) The filing of the final proposal shall include all information required to be filed with the original proposal, suitably amended to reflect any changes made in the rule and the fact that public hearing and comment ~~has~~ have been completed.

(1) With the final proposal, the agency shall include a statement that succinctly and separately addresses each of the following:

(A) how the proposed rule is within the authority of the agency;

(B) why the proposed rule is not arbitrary;

(C) the strategy for maximizing public input that was prescribed by the Interagency Committee on Administrative Rules and the actions taken by the agency that demonstrate compliance with that strategy;

(D) the sufficiency of the economic impact analysis; and

(E) the sufficiency of the environmental impact analysis.

(2) ~~Where~~ When an agency decides in a final proposal to overrule substantial arguments and considerations raised for or against the original proposal or to reject suggestions with respect to separate requirements for small businesses, the final proposal shall include a description of the reasons for the agency's decision.

\* \* \*

#### § 842. REVIEW BY LEGISLATIVE COMMITTEE

(a) Objection; time frame; process. ~~Within 30 days of the date a rule is~~

~~first placed on the Committee's agenda but no later than 45 days after the filing of a final proposal unless the agency consents to an extension of this review period, the Legislative Committee on Administrative Rules, by majority vote of the entire Committee, may object under subsection (b), (c), or (d) of this section, and recommend that the agency amend or withdraw the proposal. The agency shall be notified promptly of the objections. Failure to give timely notice shall be deemed approval. The agency shall within 14 days of after receiving notice respond in writing to the Committee and send a copy to the Secretary of State. In its response, the agency may include revisions to the proposed rule or filing documents that seek to cure defects noted by the Committee. After receipt of this response, the Committee may withdraw or modify its objections.~~

(b) Grounds for objection. The Committee may object under this subsection if:

- (1) a proposed rule is beyond the authority of the agency;
- (2) a proposed rule is contrary to the intent of the Legislature;
- (3) a proposed rule is arbitrary; or
- (4) the agency did not adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules;
- (5) a proposed rule is not written in a satisfactory style in accordance with section 833 of this title;
- (6) the economic impact analysis fails to recognize a substantial economic impact of the proposed rule, fails to include an evaluation and statement of costs to local school districts required under section 838 of this title, or fails to recognize a substantial economic impact of the rule to such districts; or
- (7) the environmental impact analysis fails to recognize a substantial environmental impact of the proposed rule.

(c) Objections; legal effect.

(1) When objection is made under this ~~subsection~~ section, and the objection is not withdrawn after the agency responds, on majority vote of the entire Committee, it may file the objection in certified form with the Secretary of State. The objection shall contain a concise statement of the Committee's reasons for its action. The Secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency.

(2) After a Committee objection is filed with the Secretary under this subsection, or on the same grounds under subsection 817(d) of this title, to the

extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the Legislature, is not arbitrary, and is written in a satisfactory style in accordance with section 833 of this title, and that the agency did adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules and its economic and environmental impact analyses did not fail to recognize a substantial economic or environmental impact. The objection of the Committee shall not be admissible evidence in any proceeding other than to establish the fact of the objection. If the agency fails to meet its burden of proof, the ~~Court~~ court shall declare the whole or portion of the rule objected to invalid.

(3) The failure of the Committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

~~(c) The Committee may object under this subsection if a proposed rule is not written in a satisfactory style according to section 833 of this title.~~

~~(d) The Committee may object under this subsection if the economic impact statement fails to recognize a substantial economic impact of the proposed rule that the Committee describes in its notice of objection. The Committee may object one time under this subsection and return the proposed rule to the agency as unacceptable for filing. The agency may then cure the defect and adopt the rule, or it may adopt the rule without change.~~

~~(e) Notice of objection; inclusion on rule copies.~~ When an objection is made under subsection (b) of this section and has been certified by the Secretary of State, notice of the objection shall be included on all copies of the rule distributed to the public.

#### § 843. FILING OF ADOPTED RULES

(a) An adopting authority may adopt a properly filed final proposed rule after:

(1) The passage of 30 days from the date a rule is first placed on the committee's agenda or 45 days after filing of a final proposal under section 841 of this title, whichever occurs first, provided the agency has not received notice of objection from the Legislative Committee on Administrative Rules; or

(2) Receiving notice of approval from the Legislative Committee on Administrative Rules; or

(3) Responding to an objection of the Legislative Committee on Administrative Rules under section 842 of this title. After responding to such

an objection, an agency may adopt the rule without change or may make a germane change in accordance with subsection (b) of this section.

(b) The text of the adopted rule shall be the same as the text of the final proposed rule submitted under section 841, except that any germane change may be made by the agency in response to an objection or expressed concern of the Legislative Committee on Administrative Rules.

(c) Adoption shall be complete upon proper filing with the Secretary of State and with the Legislative Committee on Administrative Rules. An agency shall have eight months from the date of initial filing with the Secretary of State to adopt a rule unless extended by action or request of the Legislative Committee on Administrative Rules. The Secretary of State shall refuse to accept a final filing after that date, except that:

(1) Within 30 days after discovering that the text of a final adopted rule deviates from the text of a final proposed rule as approved by the Legislative Committee on Administrative Rules, an agency shall correct the adopted rule to conform to the final proposed rule as so approved and shall refile the adopted rule in the manner set forth in this section, along with documentation demonstrating that the refiled adopted rule conforms to the final proposed rule as approved.

(2) An agency may refile a final adopted rule in the manner set forth in this section solely for the purpose of correcting one or more typographic errors that do not change the substance or effect of the rule.

\* \* \*

#### § 844. EMERGENCY RULES

(a) Where an agency believes that there exists an imminent peril to public health, safety, or welfare, it may adopt an emergency rule. The rule may be adopted without having been prefiled or filed in proposed or final proposed form, and may be adopted after whatever notice and hearing ~~that~~ the agency finds to be practicable under the circumstances. The agency shall make reasonable efforts to ensure that emergency rules are known to persons who may be affected by them.

(b) Emergency rules adopted under this section shall not remain in effect for more than ~~120~~ 180 days. An agency may propose a permanent rule on the same subject at the same time that it adopts an emergency rule.

(c) Emergency rules adopted under this section shall be filed with the Secretary of State and with the Legislative Committee on Administrative Rules. The Legislative Committee on Administrative Rules shall distribute copies of emergency rules to the appropriate standing committees.

(d) Emergency rules adopted under this section shall include:

(1) as much of the information required for the filing of a proposed rule as is practicable under the circumstances; and

(2) a signed and dated statement by the adopting authority explaining the nature of the imminent peril to the public health, safety, or welfare and approving of the contents of the rules.

(e)(1) On a majority vote of the entire Committee, the Committee may object under this subsection if an emergency rule is:

(A) beyond the authority of the agency;

(B) contrary to the intent of the Legislature;

(C) arbitrary; or

(D) not necessitated by an imminent peril to public health, safety, or welfare sufficient to justify adoption of an emergency rule.

(2) When objection is made under this subsection, on majority vote of the entire Committee, the Committee may file the objection in certified form with the Secretary of State. The objection shall contain a concise statement of the Committee's reasons for its action. The Secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency. After a Committee objection is filed with the Secretary under this subsection, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the Legislature, is not arbitrary, and is justified by an imminent peril to the public health, safety, or welfare. If the agency fails to meet its burden of proof, the ~~Court~~ court shall declare the whole or portion of the rule objected to invalid. The failure of the Committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

(3) When the Committee makes an objection to an emergency rule under this subsection, the agency may withdraw the rule to which an objection was made. Prior to withdrawal, the agency shall give notice to the Committee of its intent to withdraw the rule. A rule shall be withdrawn upon the filing of a notice of withdrawal with the Secretary of State and the Committee. If the emergency rule amended an existing rule, upon withdrawal of the emergency rule, the existing rule shall revert to its original form, as though the emergency rule had never been adopted.

(f) In response to an expressed concern of the Legislative Committee on Administrative Rules, an agency may make a germane change to an emergency

rule that is approved by the Committee. A change under this subsection shall not be considered a newly adopted emergency rule and shall not extend the period during which the emergency rule remains in effect.

(g) In the alternative to the grounds specified in subsection (a) of this section, an agency may adopt emergency amendments to existing rules using the process set forth in this section if each of the subdivisions (1)–(5) of this subsection applies. On a majority vote of the entire Committee, the Legislative Committee on Administrative Rules may object to the emergency amendments on the basis that one or more of these subdivisions do not apply or under subdivision (e)(1)(A), (B), or (C) of this section, or both.

(1) The existing rules implement a program controlled by federal statute or rule or by a multistate entity.

(2) The controlling federal statute or rule has been amended to require a change in the program or the multistate entity has made a change in the program that is to be implemented in all of the participating states.

(3) The controlling federal statute or rule or the multistate entity requires implementation of the change within 120 days or less.

(4) The adopting authority finds each of the following in writing:

(A) The agency cannot by the date required for implementation complete the final adoption of amended rules using the process set forth in sections 837 through 843 of this title.

(B) Failure to amend the rules by the date required for implementation would cause significant harm to the public health, safety, or welfare or significant financial loss to the State.

(5) On the date the emergency rule amendments are adopted pursuant to this subsection, the adopting authority prefiles a corresponding permanent rule pursuant to section 837 of this title.

#### § 845. EFFECT OF RULES

(a) Rules shall be valid and binding on persons they affect, and shall have the force of law unless amended or revised or unless a court of competent jurisdiction determines otherwise. Except as provided by subsections 842(b)(c) and 844(e) of this title, rules shall be prima facie evidence of the proper interpretation of the matter ~~that~~ to which they refer ~~to~~.

(b) No agency shall grant routine waivers of or variances from any provisions of its rules without either amending the rules, or providing by rule for a process and specific criteria under which the agency may grant a waiver or variance procedure in writing. The duration of the waiver or variance may be temporary if the rule so provides.



\* \* \*

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

(a) Availability from agency. An agency shall make each rule it has finally adopted available to the public online and for physical inspection and copying. Online, the agency shall post its adopted rules on a separate web page that is readily accessible from a prominent link on its main web page, that lists adopted rules by title and topic, and that is searchable.

(b) Register; code.

(1) The Secretary of State (Secretary) shall keep open to public inspection a permanent register of rules. The Secretary may satisfy this requirement by incorporating the register into the centralized rule system created pursuant to section 818 of this title.

(2) The Secretary also shall publish a code of administrative rules that contains the rules adopted under this chapter. The requirement to publish a code shall be considered satisfied if a commercial publisher offers such a code in print at a competitive price and at no charge online. However, if the Secretary establishes the centralized rule system under section 818 of this title as a digital system, then the system shall include the online publication of this code.

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

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

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

~~(2) all three of the following apply:~~

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

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

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

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

~~(e)~~(c) Rules for administration. The Secretary of State shall adopt rules for the effective administration of this chapter. These rules shall be applicable to every agency and shall include uniform procedural requirements, style, appropriate forms, and a system for compiling and indexing rules.

§ 848. ~~RULES REPEAL; OPERATION OF LAW~~ AMENDMENT OF AUTHORITY; NOTICE BY AGENCY

(a) Repeal by operation of law. A rule shall be repealed without formal proceedings under this chapter if:

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

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

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

(b) Notice to Secretary of State; deletion. When a rule is repealed by operation of law under this section, the agency that adopted the rule shall notify the Secretary of State in such manner as the Secretary may prescribe by rule or procedure, and the Secretary of State shall delete the rule from the published code of administrative rules.

(c) Repeal for nonpublication.

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

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

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

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

(d) Amendment of authority for rule.

(1) If the statutory authority for a rule, as stated by the agency under subdivision 838(b)(4) of this title, is amended by the General Assembly, and the amendment does not transfer authority from the adopting agency to another agency, the agency within 30 days following the effective date of the statutory

amendment shall review the rule and make a written determination as to whether such the statutory amendment repeals the authority upon which the rule is based, or requires revision of the rule and shall, within 60 days of the effective date of the statutory amendment, inform in writing submit a copy of this written determination to the Secretary of State and the Legislative Committee on Administrative Rules whether repeal or revision of the rule is required by the statutory amendment, in such manner as the Secretary may prescribe by rule or procedure.

(2) If the statutory authority for a rule, as stated by the agency under subdivision 838(b)(4) of this title, is transferred by act of the General Assembly to another agency, the agency to which the authority is transferred shall provide notice of the transfer, in such manner as the Secretary of State may prescribe by rule or procedure, within 30 days following the effective date of the statutory amendment, to the Secretary and the Legislative Committee on Administrative Rules.

#### § 849. BOARDS AND COMMISSIONS; RETIRING MEMBERS

When a board or commission member, who hears all or a substantial part of a case, retires from office or completes his or her term before the case is completed, he or she may remain a member of the board or commission for the purpose of deciding and concluding the case. If the member who retires or completes his or her term is a chair, he or she may also remain a member for the purpose of certifying questions of law if appeal is taken, where such is required by law. For this service, the member may be compensated in the manner provided for active members. [Repealed.]

#### Sec. 3. REDESIGNATION

Within 3 V.S.A. chapter 25 (administrative procedure):

(1) §§ 800–808 shall be within subchapter 1.

(2) §§ 809–816 shall be within subchapter 2.

(3) §§ 817–849 shall be within subchapter 3.

#### Sec. 4. MISFILING OF EDUCATION RULES

(a) Filing of incorrect rule text.

(1) On or about April 16, 2013, the State Board of Education (SBE) approved revisions to its rules on special education, Series 2360 (the Rules) for submission to the Legislative Committee on Administrative Rules (LCAR). The rulemaking number for the proposed revisions was 12-P55.

(2) On May 30, 2013, LCAR approved revisions to the Rules proposed by the SBE. LCAR approved the Rules as it received them, without change.

(3) On or about June 4, 2013, the SBE submitted the approved rule in final adopted form to LCAR and the Secretary of State (SOS). The number for the final adopted rule was 13-03.

(4) In 2013, the versions of the Rules submitted by the SBE for approval by LCAR and for final adoption were not the correct version and were submitted in error.

(5) The correct version of the Rules was the text approved by the SBE on or about April 16, 2013. This version was distributed by the Agency of Education to the public as if it were the adopted rule.

(b) Notwithstanding any contrary provision of 3 V.S.A. § 836, 843, or 845, on or before 30 days after the effective date of this section, the SBE shall file the version of the Rules approved by the SBE on or about April 16, 2013 as a final proposal pursuant to 3 V.S.A. § 841. The SBE shall include with this filing a certification signed by the Chair of the SBE that the text of the final proposal is the same as the version of the rules approved by the SBE on or about April 16, 2013.

#### Sec. 5. EFFECTIVE DATES

(a) This section and Sec. 4 (misfiling of education rules) shall take effect on passage.

(b) The remainder of this act shall take effect on July 1, 2018, except that in Sec. 2, 3 V.S.A. §§ 818 and 847(b) and (c) shall take effect on July 1, 2019.

(No House Amendments)

### **H. 910**

An act relating to the Open Meeting Law and the Public Records Act

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

\* \* \* Open Meeting Law \* \* \*

Sec. 1. 1 V.S.A. § 310 is amended to read:

#### § 310. DEFINITIONS

As used in this subchapter:

(1) “Business of the public body” means the public body’s governmental functions, including any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(2) “Deliberations” means weighing, examining, and discussing the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.

~~(2)~~~~(3)~~(A) “Meeting” means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.

(B) “Meeting” shall not mean ~~written correspondence or an electronic~~ any communication, including in person or through e-mail, telephone, or teleconferencing, between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting, provided that:

(i) no other business of the public body is discussed or conducted; and

(ii) such a ~~written correspondence or such an electronic~~ communication that results in written or recorded information shall be available for inspection and copying under the Public Records Act as set forth in chapter 5, subchapter 3 of this title.

(C) “Meeting” shall not mean occasions when a quorum of a public body attends social gatherings, conventions, conferences, training programs, press conferences, media events, or otherwise gathers, provided that the public body does not discuss specific business of the public body that, at the time of the exchange, the participating members expect to be business of the public body at a later time.

(D) “Meeting” shall not mean a gathering of a quorum of a public body at a duly warned meeting of another public body, provided that the attending public body does not take action on its business.

~~(3)~~(4) “Public body” means any board, council, or commission of the State or one or more of its political subdivisions, any board, council, or commission of any agency, authority, or instrumentality of the State or one or more of its political subdivisions, or any committee of any of the foregoing boards, councils, or commissions, except that “public body” does not include councils or similar groups established by the Governor for the sole purpose of advising the Governor with respect to policy.

~~(4)~~(5) “Publicly announced” means that notice is given to an editor, publisher, or news director of a newspaper or radio station serving the area of the State in which the public body has jurisdiction, and to any person who has requested under subdivision 312(c)(5) of this title to be notified of special meetings.

~~(5)~~(6) “Quasi-judicial proceeding” means a proceeding which is:

(A) a contested case under the Vermont Administrative Procedure Act; or

(B) a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority.

\* \* \* Public Records Act \* \* \*

Sec. 2. 1 V.S.A. § 315 is amended to read:

§ 315. STATEMENT OF POLICY; SHORT TITLE

(a) It is the policy of this subchapter to provide for free and open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the General Assembly hereby declares that certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed to implement this policy, and the burden of proof shall be on the public agency to sustain its action.

(b) The General Assembly finds that public records are essential to the administration of State and local government. Public records contain information that allows government programs to function, provides officials with a basis for making decisions, and ensures continuity with past operations. Public records document the legal responsibilities of government, help protect the rights of citizens, and provide citizens a means of monitoring government programs and measuring the performance of public officials. Public records provide documentation for the functioning of government and for the retrospective analysis of the development of Vermont government and the impact of programs on citizens.

(c) This subchapter may be known and cited as the Public Records Act or the PRA.

Sec. 3. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

\* \* \*

(e)(1) For any exemption to the Public Records Act enacted or

substantively amended in legislation introduced in the General Assembly in 2019 or later, in the fifth year after the effective date of the enactment, reenactment, or substantive amendment of the exemption, the exemption shall be repealed on July 1 of that fifth year except if the General Assembly reenacts the exemption prior to July 1 of the fifth year or if the law otherwise requires.

(2) Legislation that enacts, reenacts, or substantively amends an exemption to the Public Records Act shall explicitly provide for its repeal on July 1 of the fifth year after the effective date of the exemption unless the legislation specifically provides otherwise.

(f) Unless otherwise provided by law, a record produced or acquired during the period of applicability of an exemption that is subsequently repealed shall, if exempt during that period, remain exempt following the repeal of the exemption.

#### Sec. 4. LEGISLATIVE INTENT

(a) In Sec. 3 of this act, the repeal and reenactment provision added in 1 V.S.A. § 317(e) shall apply only to Public Records Act exemptions that are enacted, reenacted, or substantively amended in legislation introduced in the General Assembly in 2019 or later.

(b) In rearranging the text of existing law in 1 V.S.A. § 318(b)-(c) within Sec. 5 of this act, the General Assembly intends to make the text more organized and clear, and does not intend to effect any substantive changes through the rearrangement of existing text.

Sec. 5. 1 V.S.A. § 318 is amended to read:

#### § 318. PROCEDURE

(a)(1) As used in this section, “promptly” means immediately, with little or no delay, and, unless otherwise provided in this section, not more than three business days:

(A) from receipt of a request under this subchapter; or

(B) in the case of a reversal on appeal by a head of the agency pursuant to subsection (c) of this section, from the date of the determination on appeal.

(2) A custodian or head of the agency who fails to comply with the applicable time limit provisions of this section shall be deemed to have denied the request or the appeal upon the expiration of the time limit.

(b) Upon request, the custodian of a public record shall promptly produce the record for inspection or a copy of the record, except that:

(1) If the record is in active use or in storage and therefore not available

for use at the time the person asks to examine it, the custodian shall so promptly certify this fact in writing to the applicant and, in the certification, set a date and hour within one calendar week of the request when the record will be available for examination.

(2) If the custodian considers the record to be exempt from inspection and copying under the provisions of this subchapter, the custodian shall promptly so certify in writing. ~~Such certification shall identify the records withheld and the basis for the denial. A record shall be produced for inspection or a certification shall be made that a record is exempt within three business days of receipt of the request, unless otherwise provided in subdivision (5) of this subsection.~~ The certification shall:

(A) identify the records withheld;

(B) include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial.~~The custodian shall also;~~

(C) provide the names and titles or positions of each person responsible for denial of the request; and

(D) notify the person of his or her right to appeal to the head of the agency any adverse determination.

~~(3) If appealed to the head of the agency, the head of the agency shall make a determination with respect to any appeal within five business days after the receipt of such appeal. If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of this title. [Repealed.]~~

(4) If a record does not exist, the custodian shall promptly certify in writing that the record does not exist under the name given to the custodian by the applicant or by any other name known to the custodian.

(5) In unusual circumstances as herein specified, the time limits prescribed in this ~~subsection~~ section may be extended by written notice to the person making ~~such~~ the request setting forth the reasons for ~~such~~ the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten business days from receipt of the request or, in the case of a reversal on appeal by a head of the agency pursuant to subsection (c) of this section, from the date of the determination on appeal. As used in this subdivision, "unusual circumstances" means to the extent reasonably necessary to the proper processing of the particular request:

(A) the need to search for and collect the requested records from



field facilities or other establishments that are separate from the office processing the request;

(B) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records ~~which~~ that are demanded in a single request; or

(C) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the Attorney General.

~~(b) Any person making a request to any agency for records under subsection (a) of this section shall be deemed to have exhausted the person's administrative remedies with respect to each request if the agency fails to comply within the applicable time limit provisions of this section. Upon any determination by an agency to comply with a request for records, the records shall be made available promptly to the person making such request. Any notification of denial of any request for records under this section shall set forth the names and titles or positions of each person responsible for the denial of such request.~~

(c)(1) Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination on an appeal within five business days after the receipt of the appeal.

(2) A If the head of the agency upholds the denial of a request for records, in whole or in part, the written determination shall include:

(A) the asserted statutory basis for upholding the denial and;

(B) a brief statement of the reasons and supporting facts for upholding the denial; and

(C) notification of the provisions for judicial review of the determination under section 319 of this title.

~~(2)(3) If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. A failure by the agency to comply with any of the time limit provisions of this section shall be deemed a final denial of the request for records by the agency.~~

\* \* \*

(h) The head of a State agency or department shall:

(1) designate the agency's or department's records officer described in

3 V.S.A. § 218, or shall designate some other person, to be accountable for overseeing the processing of requests for public records received by the agency or department in accordance with this section; and

(2) post on the agency's or department's website the name and contact information of the person designated under subdivision (1) of this subsection.

Sec. 6. 1 V.S.A. § 318a is added to read:

§ 318a. EXECUTIVE BRANCH AGENCY PUBLIC RECORDS REQUEST SYSTEM

(a) The Secretary of Administration shall maintain and update the Public Records Request System established pursuant to 2006 Acts and Resolves No. 132, Sec. 3 and 2011 Acts and Resolves No. 59, Sec. 13 with the information furnished under subsection (b) of this section and post System information on the website of the Agency of Administration.

(b) All public agencies of the Executive Branch of the State:

(1) that receive a written request to inspect or copy a record under this subchapter shall catalogue the request in the Public Records Request System established and maintained by the Secretary of Administration by furnishing the following information:

(A) the date the request was received;

(B) the agency that received the request;

(C) the person that made the request, including a contact name;

(D) the status of the request, including whether the request was fulfilled in whole, fulfilled in part, or denied;

(E) if the request was fulfilled in part or denied, the exemption or other grounds asserted as the basis for partial fulfillment or denial;

(F) the estimated hours necessary to respond to the request;

(G) the date the agency closed the request; and

(H) the elapsed time between receipt of the request and the date the agency closed the request; and

(2) shall post in a conspicuous location on their respective websites a link to the location on the Agency of Administration's website where Public Records Request System information is maintained.

Sec. 7. REPEAL

2011 Acts and Resolves No. 59, Sec. 13 (State agency public request system) is repealed.

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

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2018, except that Sec. 3 shall take effect on January 1, 2019.

(No House Amendments )

**Senate Proposal of Amendment to House Proposal of Amendment**

**S. 166**

**An act relating to the provision of medication-assisted treatment for inmates**

The Senate concurs in the House proposal of amendment thereto as follows:

In Sec. 4, 28 V.S.A. § 801b, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d)(1) As part of reentry planning, the Department shall commence medication-assisted treatment prior to an inmate's release if:

(A) the inmate screens positive for an opioid use disorder;

(B) medication-assisted treatment is medically necessary; and

(C) the inmate elects to commence medication-assisted treatment.

(2) If medication-assisted treatment is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.

**(For House Proposal of Amendment see House Journal April 26, 2018)**

**Senate proposal of amendment to House proposal of amendment to  
Senate proposal of amendment**

**H. 25**

An act relating to sexual assault survivors' rights

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

First: In Sec. 1, 13 V.S.A. § 4003, in the first sentence, by striking out the words "in violation of the criminal laws of this State"

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof the following:

Sec. 2. 13 V.S.A. § 1703 is added to read:

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

(1) “Domestic terrorism” means engaging in or taking a substantial step to commit a violation of the criminal laws of this State with the intent to:

(A) cause death or serious bodily injury to multiple persons; or

(B) threaten any civilian population with mass destruction, mass killings, or kidnapping.

(2) “Serious bodily injury” shall have the same meaning as in section 1021 of this title.

(3) “Substantial step” shall mean conduct that is strongly corroborative of the actor’s intent to complete the commission of the offense.

(b) A person who willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

(c) It shall be an affirmative defense to a charge under this section 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.

**(For House Proposal of Amendment see House Journal May 2, 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?

#### **S. 267**

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

Pending Question: Shall the report of the committee on Judiciary be substituted by the amendment offered by Rep. LaLonde of South Burlington and other?

### **Consent Calendar**

#### **Concurrent Resolutions for Adoption Under Joint Rule 16a**

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

resolutions, see Addendum to House Calendar and Senate Calendar of May 3, 2018.

**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 Biliteracy

**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

**Action Postponed Indefinitely**

**H. 167**

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