

House Calendar

Monday, May 07, 2018

125th DAY OF THE ADJOURNED SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Unfinished Business of Saturday, May 5 2018

Third Reading

H. 928

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

S. 224

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

S. 234

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

S. 260

An act relating to funding the cleanup of State waters

S. 261

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

Amendment to be offered by Rep. Yacovone of Morristown to S. 261

report of the Committee on Human Services as follows:

First: After Sec. 7 and before Sec. 8, by inserting Secs. 7a–7c and a reader assistance heading as follows:

* * * Appropriations and Personal Income Tax Rates * * *

Sec. 7a. APPROPRIATION; CHILD CARE FINANCIAL ASSISTANCE PROGRAM

The amount of \$19,700,000.00 is appropriated to the Department for Children and Families' Child Development Division from the General Fund in fiscal year 2019 for the purposes of:

(1) providing all participants with a household income at or below 200 percent of the federal poverty level with a 100 percent subsidy benefit;

(2) providing all participants with a household income between 201 percent and 250 percent of the federal poverty level with a 50 percent subsidy benefit; and

(3) providing all participants with a household income between 251

percent and 300 percent of the federal poverty level with a graduated subsidy benefit that is no more than 50 percent of the full subsidy benefit.

Sec. 7b. 32 V.S.A. § 5828b(a) is amended to read:

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be ~~32~~ 85 percent of the earned income tax credit granted to the individual under the laws of the United States, multiplied by the percentage which the individual's earned income that is earned or received during the period of the individual's residency in this State bears to the individual's total earned income.

Sec. 7c. PERSONAL INCOME TAX RATES

(a) 2009 Spec. Sess. Acts and Resolves No. 2, Sec. 20 is repealed.

(b) For taxable year 2018 and after, income tax rates under 32 V.S.A. § 5822(a)(1)-(5), after taking into consideration any inflation adjustments to taxable income as required by 32 V.S.A. § 5822(b)(2), shall be as follows:

(1) taxable income that without the passage of this act would have been subject to a rate of 3.55 percent, 6.80 percent, or 7.80 percent shall continue to be taxed at those rates;

(2) taxable income that without the passage of this act would have been subject to a rate of 8.80 percent shall be taxed at the rate of 9.8 percent instead;

(5) taxable income that without the passage of this act would have been subject to a rate of 8.95 percent shall be taxed at the rate of 11 percent instead.

(c) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall revise the tables in 32 V.S.A. § 5822(a)(1)-(5) to reflect the changes to the tax rates and tax brackets made in this section.

Second: By striking out Sec. 8, effective date, and its reader assistance heading in their entireties and inserting in lieu thereof:

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except notwithstanding 2 V.S.A. § 214, Secs. 7b (earned income tax credit) and 7c (income tax rates) shall take effect retroactively on January 1, 2018 and apply to taxable year 2018 and after.

S. 280

An act relating to the Advisory Council for Strengthening Families

Senate Proposal of Amendment

H. 923

An act relating to capital construction and State bonding budget adjustment

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

Sec. 1. 2017 Acts and Resolves No. 84, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2018:

* * *

(13) Burlington, 108 Cherry Street, ~~parking garage, repairs design, engineering, and architectural costs for the repair of the parking garage and related eligible project costs:~~ \$5,000,000.00 \$2,281,094.00

(c) The following sums are appropriated in FY 2019:

(1) Statewide, planning, use, and contingency:

~~\$500,000.00~~ \$600,000.00

(2) Statewide, major maintenance: ~~\$5,707,408.00~~ \$6,900,000.00

* * *

(6) Montpelier, 120 State Street, life safety and infrastructure improvements: ~~\$700,000.00~~ \$1,968,000.00

* * *

(8) Waterbury, Waterbury State Office Complex, Weeks building, renovation and fit-up: ~~\$900,000.00~~ \$1,152,085.00

(9) Newport, Northern State Correctional Facility, door control replacement and perimeter control: ~~\$1,000,000.00~~ \$1,715,000.00

(10) Montpelier, 109 and 111 State Street, final design and construction: ~~\$4,000,000.00~~ \$1,000,000.00

(11) ~~Burlington, 108 Cherry Street, parking garage, repairs:~~ ~~\$5,000,000.00~~ [Repealed.]

* * *

(13) Montpelier, 115 State Street, State House, switchgear and emergency generator: \$450,000.00

(14) Rutland, Asa Bloomer building, rehabilitation of building

- components and systems, and planning and use study: \$1,050,000.00
- (15) Springfield, State Office Building, repair of the retaining wall, and environmental remediation associated with the retaining wall project: \$1,400,000.00
- (16) St. Albans, Franklin County Courthouse, ADA renovations, new handicap access ramp and related exterior renovations: \$300,000.00
- (17) Waterbury, Waterbury State Office Complex, Stanley and Wasson, demolition of Stanley Hall, and programming, schematic design, and design development for Wasson Hall: \$950,000.00
- (18) Rutland, Marble Valley Regional Correctional Facility, repair of the historic brick and stone masonry wall used as the perimeter security for the facility: \$600,000.00

* * *

(e)(1) On or before December 15, 2018, the Commissioner of Buildings and General Services shall submit to the House Committee on Corrections and Institutions and the Senate Committee on Institutions a report on the John J. Zampieri State Office Building at 108 Cherry Street in Burlington that shall include 20-year economic projections for each of the following options:

(A) selling 108 Cherry Street and leasing, purchasing, or building a new State office space; and

(B) renovating 108 Cherry Street and continuing to use it as State office space in its entirety for State employees; and

(C) renovating 108 Cherry Street and using it as State office space for all direct-service employees currently housed there and leasing the remainder of the space to a non-State entity.

(2) When the General Assembly is not in session, if, based on the projections calculated in subdivision (1) of this subsection (e), the Commissioner of Buildings and General Services determines it is in the best interests of the State to sell the John J. Zampieri State Office Building at 108 Cherry Street in Burlington, he or she may notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and request the approval to sell. The Chairs shall recommend to approve or deny the request to the Joint Fiscal Committee. The Joint Fiscal Committee may approve or deny the recommendation of the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions; provided, however, that an approval to sell shall also require that the proceeds from the sale be appropriated to future capital construction projects and expended within two years after the date of sale.

(f) For the amount appropriated in subdivision (c)(13) of this section, the Commissioner of Buildings and General Services shall evaluate all proposals for a generator, including the use of a generator or battery backup. After evaluation of the proposals, the Commissioner of Buildings and General Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions of the decision prior to the purchase of a generator or battery backup. If required by 29 V.S.A. chapter 6, the Commissioner of Buildings and General Services shall ensure that the Capitol Complex Commission is provided with the proposal.

(g) The Commissioner of Buildings and General Services is authorized to use up to \$250,000.00 from the amount appropriated in subdivision (c)(2) of this section to prepare a State-owned building for sale if any renovations are needed.

Appropriation – FY 2018	\$27,857,525.00	\$25,138,619.00
Appropriation – FY 2019	\$27,853,933.00	\$28,131,610.00
Total Appropriation – Section 2	\$55,711,458.00	\$53,270,229.00

Sec. 2. 2017 Acts and Resolves No. 84, Sec. 3 is amended to read:

Sec. 3. HUMAN SERVICES

* * *

(b) The sum of \$300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in subsection (a) of this section. The following sums are appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services:

- (1) Statewide correctional facilities, cameras, locks, perimeter intrusion at correctional facilities: \$300,000.00
- (2) Chittenden County Regional Correctional Facility and Northwest State Correctional Facility, renovations, beds for therapeutic placement: \$600,000.00
- (3) Essex, Woodside Juvenile Rehabilitation Center, design and construction documents: \$500,000.00
- (4) Brattleboro, Brattleboro Retreat, renovation and fit-up: \$4,500,000.00

(c) For the amount appropriated in subdivision (b)(2) of this section, it is the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and in the Northwest State Correctional Facility for persons in the custody of the

Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten beds in the Northwest State Correctional Facility.

(d) For the amount appropriated in subdivision (b)(4) of this section:

(1) The use of funds shall be restricted to capital renovations and fit-up costs and shall not be used for any periodic lease payments, usage fees, or other operating expenses.

(2)(A) The Department of Buildings and General Services shall not expend funds until the Commissioner of Buildings and General Services and the Secretary of Human Services have notified the Commissioner of Finance and Management and the Chairs of House Committee on Corrections and Institutions and the Senate Committee on Institutions that an agreement has been executed between the Brattleboro Retreat and the State of Vermont.

(B) The agreement described in subdivision (2)(A) of this subsection (d) shall include the following provisions:

(i) the Brattleboro Retreat shall provide a minimum of 12 beds, including level-1 beds, to the State for a period determined by the Secretary to be in the best interests to the State; and

(ii) terms and conditions that ensure the protection of State investment of capital appropriations.

(C) Prior to execution, the State Treasurer shall approve the agreement described in subdivision (2)(A) of this subsection (d) to ensure that it is in compliance with applicable tax-exempt bond requirements.

(D) The Commissioner of Buildings and General Services and Secretary of Human Services may also propose draft legislation to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that may be necessary to fulfill the agreement.

(3)(A) On or before October 15, 2018, the Secretary of Human Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions if an agreement between the Brattleboro Retreat and the State of Vermont cannot be reached and shall submit to them an alternative proposal for the 12 beds. The Secretary of Human Services shall also send the alternative proposal to the Joint Fiscal Committee.

(B) With approval of the Speaker of the House and the President Pro Tempore of the Senate, as appropriate, the House Committee on Corrections and Institutions and the Senate Committee on Institutions may meet up to two

times when the General Assembly is not in session to evaluate, approve, or recommend alterations to the proposal. The House Committee on Corrections and Institutions' and the Senate Committee on Institutions' members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

Appropriation – FY 2018	\$300,000.00
Appropriation – FY 2019	\$300,000.00 <u>\$5,900,000.00</u>
Total Appropriation – Section 3	\$600,000.00 <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	\$3,050,000.00 <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:	\$15,000.00 <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	\$370,000.00 <u>\$539,000.00</u>
Total Appropriation – Section 5	\$820,000.00 <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:

* * *

<u>(9) To the Enhanced 911 Board for the Enhanced 911 Compliance Grants Program for school safety:</u>	<u>\$400,000.00</u>
Appropriation – FY 2018	\$1,475,000.00
Appropriation – FY 2019	\$1,400,000.00 <u>\$1,800,000.00</u>
Total Appropriation – Section 6	\$2,875,000.00 <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	\$1,400,000.00 <u>\$1,650,000.00</u>
Total Appropriation – Section 8	\$2,800,000.00 <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	\$2,000,000.00 <u>\$3,000,000.00</u>
Total Appropriation – Section 9	\$4,000,000.00 <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	\$8,205,000.00 <u>\$5,627,259.00</u>
Total Appropriation – Section 10	\$19,119,000.00 <u>\$16,541,259.00</u>

Sec. 8. 2017 Acts and Resolves No. 84, Sec. 11 is amended to read:

Sec. 11. CLEAN WATER INITIATIVES

* * *

(b) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

* * *

(4) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, new projects (Ryegate, Springfield, ~~St. Johnsbury~~, and St. Albans): \$2,704,232.00

* * *

(d)(1) The following sums are appropriated in FY 2018 to the Vermont Housing and Conservation Board for the following projects:

~~(1)~~(A) Statewide water quality improvement projects or other conservation projects: \$2,800,000.00

~~(2)~~(B) Water quality farm improvement grants or fee purchase projects that enhance water quality impacts by leveraging additional funds: \$1,000,000.00

(2) A grant issued under subdivision (1)(B) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215,

subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient’s cost share requirements.

(e)(1) The following sum of \$2,000,000.00 is sums are appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for projects described in this subsection:

(A) Best Management Practices and, the Conservation Reserve Enhancement Program, and the Capital Equipment Assistance Program: \$3,615,000.00

(B) Phosphorus removal equipment: \$1,500,000.00

(2) Notwithstanding 6 V.S.A. § 4828(d), an applicant for a grant issued under subdivision (1)(B) of this subsection to purchase or implement phosphorus removal technology or equipment shall pay at least 20 percent of the total eligible project cost. Each grant awarded pursuant to this subsection (e) shall not exceed \$300,000.00.

(f) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

* * *

(2) EcoSystem restoration and protection Restoration and Protection grant programs: \$5,000,000.00

(A) Standard EcoSystem Restoration and Protection programs: \$3,760,000.00

(B) Municipal Roads Grant-in-Aid: \$3,090,000.00

(C) Multi-Sector Clean Water Block Grants: \$2,000,000.00

(D) Lake Carmi, aeration system or artificial circulation, or both: \$200,000.00

(3) Municipal Pollution Control Grants, new projects (Colchester, Rutland City, St. Albans, Middlebury, and St. Johnsbury): \$1,407,268.00 \$4,040,000.00

(4) Clean Water Act, implementation projects: \$11,112,944.00

The Commissioner of Environmental Conservation may use up to \$1,400,000.00 of the amounts appropriated in subdivision (2) of this subsection to support capital-eligible clean water projects for Lake Carmi; provided, however, that the Commissioner shall provide prior notification of any project and its cost to the Chairs of the House Committees on Corrections

and Institutions and on Natural Resources, Fish, and Wildlife and of the Senate Committees on Institutions and on Natural Resources and Energy.

(5) The Commissioner of Forests, Parks and Recreation may use up to \$50,000.00 of the amounts appropriated in subdivision (2)(A) of this subsection for skidder bridges.

(6) For the amount appropriated in subdivision (2)(B) of this subsection, on or before January 15, 2019, the Commissioner of Environmental Conservation shall report back to the House Committees on Corrections and Institutions and on Transportation and of the Senate Committees on Institutions and on Transportation with a description and cost of each project that received funding.

(g)(1) The sum of 2,750,000.00 is following sums are appropriated in FY 2019 to the Vermont Housing and Conservation Board for:

(A) statewide water quality improvement projects or other conservation projects: \$2,750,000.00

(B) water quality farm improvement grants or fee purchase projects: \$1,000,000.00

(2) A grant issued under subdivision (1)(B) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost-share requirements.

(h) It is the intent of the General Assembly that the Secretary of Natural Resources shall use the amount appropriated in ~~subdivision~~ subdivisions (b)(4) and (f)(6) of this section to fund new projects in Ryegate, Springfield, ~~St. Johnsbury~~, and St. Albans City, and in FY 2019 in Colchester, Rutland City, Middlebury, St. Johnsbury, and St. Albans; provided, however, that if the Secretary determines that one of these projects is not ready in FY 2018 or FY 2019, or the amount appropriated exceeds the amount needed to fund these projects, the funds may be used for an eligible new project as authorized by 10 V.S.A. chapter 55 and 24 V.S.A. chapter 120.

* * *

(l) The following sums are appropriated in FY 2019 to the Municipal Mitigation Assistance Program in the Agency of Transportation:

(1) Municipal Highway and Stormwater Mitigation Program: \$1,000,000.00

(2) Better Roads Program: \$1,400,000.00

(m) The sum of \$200,000.00 is appropriated in FY 2019 to the Agency of Commerce and Community Development for the Downtown Transportation Fund pilot project.

Appropriation – FY 2018 \$21,936,616.00

Appropriation – FY 2019 ~~\$23,470,212.00~~ \$25,755,000.00

Total Appropriation – Section 11 ~~\$45,406,828.00~~ \$47,691,616.00

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 <u>\$11,458,000.00</u>
Total Appropriation – Section 13	\$7,500,000.00 <u>\$13,385,000.00</u>

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>
Total Appropriation – Section 16	\$440,000.00 <u>\$540,000.00</u>

Sec. 12. 2017 Acts and Resolves No. 84, Sec. 16a is added to read:

Sec. 16a. DEPARTMENT OF LABOR

The sum of \$500,000.00 is appropriated in FY 2019 to the Department of Labor to fund the Adult Career and Technical Education Equipment Grant Pilot Program to provide equipment to support adult tech programs.

Sec. 13. 2017 Acts and Resolves No. 84, Sec. 16b is added to read:

Sec. 16b. SERGEANT AT ARMS

(a) The sum of \$15,000.00 is appropriated in FY 2019 to the Sergeant at

Arms to contract with a third party to conduct an assessment of the sound system in the State House and 1 Baldwin Street pursuant to 2 V.S.A. § 62(a)(8). The Sergeant at Arms shall submit a copy of the assessment to the Committee on Joint Rules.

(b) On or before November 15, 2018, the Sergeant at Arms shall develop a proposal for a sound system for the State House and 1 Baldwin Street based on the assessment described in subsection (a) of this section. As part of the proposal development process, the Sergeant at Arms may consult with the Commissioner of Buildings and General Services.

(c) The Sergeant at Arms shall submit the proposal described in subsection (b) of this section to the Committee on Joint Rules, and to the Secretary of Administration to request inclusion in the Governor's biennial capital budget report pursuant to 32 V.S.A. § 309.

Sec. 14. 2017 Acts and Resolves No. 84, Sec. 16c is added to read:

Sec. 16c. PUBLIC SERVICE

(a) The following sums are appropriated in FY 2019 to the Department of Public Service:

(1) VTA wireless network: \$900,000.00

(2) Northeast Kingdom Fiber Network, fiber access point construction: \$393,000.00

(b) On or before September 1, 2018, the Department of Public Service shall submit a report to the House Committees on Corrections and Institutions and on Energy and Technology and the Senate Committees on Finance and on Institutions with an update on the status of the two projects described in subsection (a) of this section. The report shall include an update on the progress of each project and whether any requests for proposals have been issued.

Total Appropriation – Section 16c \$1,293,000.00

Sec. 15. 2017 Acts and Resolves No. 84, Sec. 18 is amended to read:

Sec. 18. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

* * *

(22) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5(a) (County courthouses, ADA compliance, repairs and upgrades):

\$2,079.09

(23) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5(b) (County courthouses, ADA compliance, repairs and upgrades):
\$18,688.70

(24) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4(b)(1) (UVM Health Lab, colocation):
\$383.90

(25) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 5(b) (Lamoille County Courthouse, planning):
\$540.00

(26) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b) (Woodside Juvenile Rehabilitation Center, project design and planning):
\$52,003.54

(27) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 5 (Judiciary, ADA compliance, county courthouses):
\$157,394.00

(28) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 13(b) (Robert H. Wood Vermont Fire Academy, burn building):
\$10,646.82

(29) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 8 (Lyndon State College):
\$48,634.00

(30) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 11 (Public safety, Waterbury State Office Complex, blood analysis laboratory, renovations):
\$252,085.35

(31) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2 (Department of Libraries, centralized facility renovation):
\$447,739.00

* * *

(d) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

* * *

(4) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 11(a)(1) (water pollution control):
\$8,221.85

(5) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 11(a)(8) (municipal pollution control grants, Waterbury):
\$136,824.00

(e) The following unexpended funds appropriated to the Agency of Commerce and Community Development for capital construction projects are reallocated to defray expenditures authorized in Sec. 5(d) of this act,

placement and replacement of historic site markers:

(1) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 6(a)(2) (Bennington monument, structural repairs and ADA compliance):
\$1,224.51

(2) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(b) (Bennington monument, elevator, roof repairs): \$1,997.73

(3) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(c) (Bennington monument, elevator, roof repairs): \$6,469.60

(f) Of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 3 (cellular and broadband infrastructure) to the Vermont Telecommunications Authority for capital construction projects, the amount of \$1,972,322.98 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

Total Reallocations and Transfers – Section 18
\$14,822,286.78 \$17,939,541.85

Sec. 16. 2017 Acts and Resolves No. 84, Sec. 19 is amended to read:

Sec. 19. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of \$132,460,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The State Treasurer is authorized to issue additional general obligation bonds in the amount of \$10,936,961.00 that were previously authorized but unissued under this act for the purpose of funding the appropriations of this act.

Total Revenues – Section 19 \$132,460,000.00 \$143,396,961.00

Sec. 17. 2017 Acts and Resolves No. 84, Sec. 20 is amended to read:

Sec. 20. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

~~(b) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at~~

~~102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects. [Repealed.]~~

(c) The Commissioner of Buildings and General Services is authorized to sell or transfer the buildings and adjacent land located at 1987 Rockingham Road in Rockingham (Troop Headquarters and Garage) pursuant to the requirements of 29 V.S.A. § 166; provided, however, that if a transfer occurs, the buildings and adjacent land may only be transferred to another State agency for a State use. If the buildings and adjacent land are sold, the proceeds from the sale shall be appropriated to future capital construction projects and expended within two years after the date of sale.

(d) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects and expended within two years after the date of sale.

(e)(1) Notwithstanding 29 V.S.A. § 166(b), the Department of Buildings and General Services is authorized to sell or transfer to the City of Newport a portion of the remaining lands of the State of Vermont and boardwalk located north of the Emory A. Hebard State Office Building. The land and boardwalk to be sold or transferred is described as being the land north of the bike path up to the approximate shoreline of Lake Memphremagog, bounded on the west by lands owned by the City of Newport and the Northern VT Railroad Co., Inc, bounded on the east by lands owned by the City of Newport, and bounded on the south by the right-of-way retained by Newport & Richford R.R.

(2) On or before October 1, 2018, the Commissioner of Buildings and General Services shall have a survey prepared to more particularly describe and delineate the land and boardwalk to be sold or transferred that is described in subdivision (1) of this subsection.

Sec. 18. 2012 Acts and Resolves, No. 104, Sec. 14, amending 2011 Acts and Resolves, No. 40, Sec. 26, is further amended to read:

Sec. 16. Sec. 26 of No. 40 of the Acts of 2011 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

~~(a) The commissioner of buildings and general services may sell the Asa Bloomer State Office Building and the Rutland Multi-Modal Transit Center in accordance with the requirements of 29 V.S.A. § 166(d) and following negotiations with the City of Rutland. If negotiations with the city result in the city's management of the Transit Center, the commissioner may use \$81,000 in unexpended capital funds previously appropriated to the department for other~~

~~purposes to purchase a flexible parking machine for the Transit Center. It is the intent of the general assembly that state offices remain downtown. [Repealed.]~~

* * *

Sec. 19. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, 2015 Acts and Resolves No. 58, Sec. E.113.1, and 2017 Acts and Resolves No. 84, Sec. 29, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2018~~ July 1, 2019.

* * * Human Services * * *

Sec. 20. AGENCY OF HUMAN SERVICES; FACILITIES PLAN; UPDATE

On or before February 1, 2019, the Secretary of Human Services, in consultation with the Commissioner of Buildings and General Services, shall update the facilities plan and recommendations required by 2017 Acts and Resolves No. 84, Sec. 31, taking into consideration changes proposed in the 2018 legislative session. The Agency's update shall include a review of the populations and bed capacity needs described in 2017 Acts and Resolves No. 84, Sec. 31.

* * * Labor * * *

Sec. 21. 2017 Acts and Resolves No. 84, Secs. 33a and 33b are added to read:

Sec. 33a. ADULT CAREER AND TECHNICAL EDUCATION
EQUIPMENT GRANT PILOT PROGRAM

(a) The General Assembly hereby establishes a pilot grant program to authorize the Department of Labor, in consultation with the State Workforce Development Board, to administer the Adult Career and Technical Education Equipment Grant Pilot Program to support the purchase of equipment necessary for the delivery of occupational training for students enrolled in a postsecondary course offered by Vermont's Career and Technical Education Centers.

(b) An applicant's training program shall qualify for a grant described in subsection (a) of this section if it includes all of the following requirements:

(1) meets current occupational demand, as evidenced by current labor market information;

(2) aligns with a career pathway or set of stackable credentials involving a college or university accredited in Vermont;

(3) guarantees delivery of equipment to more than one region of the State;

(4) is supported with a business or industry partnership;

(5) sets forth how equipment will be maintained, insured, shared, and transported, if applicable; and

(6) is endorsed by the Adult Career and Technical Education Association.

(c) Grants awarded under this program shall be used to purchase capital-eligible equipment. Grants shall not be used to support curriculum development, instruction, or program administration.

(d) On or before July 15, 2018, the Department shall develop and publish a simplified grant application that meets the criteria described in subsection (b) of this section. The Department shall consult with the Agency of Education and the State Workforce Development Board in reviewing applications and selecting grantees.

(e) Grantees shall have ownership over any share of equipment purchased with the use of these funds. Any equipment purchased from this program may also be used by secondary career technical education programs.

(f) On or before February 15, 2019, the Department of Labor shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that includes the following:

(1) how the funds were used, expected outcomes, recommended performance metrics to ensure success of the program, and any other relevant information that would inform future decisions about the use of this program;

(2) assessment of the functionality and accessibility of shared-equipment agreements; and

(3) how, and the extent to which, the program shall be funded in the future.

* * * Sunset of Adult Career and Technical Education
Equipment Grant Program * * *

Sec. 33b. REPEAL OF ADULT CAREER AND TECHNICAL
EDUCATION EQUIPMENT GRANT PROGRAM

The Adult Career and Technical Education Equipment Grant Program established in Sec. 33a of this act shall be repealed on July 1, 2019.

* * * NATURAL RESOURCES * * *

Sec. 22. 3 V.S.A. § 2873(b) is amended to read:

(b) The Department ~~shall~~ may perform design and construction supervision services for major maintenance and capital construction projects for the Agency and all of its components.

Sec. 23. 2017 Acts and Resolves No. 84, Sec. 35b is added to read:

Sec. 35b. ALBURGH CEMETERY; LAND TRANSFER

(a) The Commissioner of Forests, Parks and Recreation may enter into an agreement with the Vermont Housing and Conservation Board and The Nature Conservancy to amend their easements not to exceed a total of one acre on land in the town of Alburgh that abuts the west side of the South Alburgh Cemetery to allow the State to convey that land to the Alburgh Cemetery Association.

(b) On or before January 15, 2019, the Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on whether the Vermont Housing and Conservation Board and The Nature Conservancy have amended their easements. If the easements have been amended, the Commissioner shall submit a proposal to the General Assembly, either by legislation or resolution, to approve the land transfer to the Alburgh Cemetery Association.

* * * School Safety and Security * * *

Sec. 24. 30 V.S.A. § 7051 is amended to read:

§ 7051. DEFINITIONS

As used in this chapter:

* * *

(14) “Dispatchable Location” means the location information delivered to the public safety answering point with a 911 call.

(15) “Enterprise Communications Systems (ECS)” means any networked communication system serving two or more stations, or living units, within an enterprise. ECS includes circuit-switched networks, such as multi-line telephone systems or legacy ECS, IP-enabled service, and cloud-based technology.

(16) “Station” means a telephone handset, customer premise equipment (CPE) or calling device that is capable of initiating a call to 911.

Sec. 25. 30 V.S.A. § 7057 is amended to read:

§ 7057. ~~PRIVATELY OWNED TELEPHONE SYSTEMS~~ ENTERPRISE COMMUNICATIONS SYSTEMS

~~Any privately owned telephone system~~ enterprise communications system

shall provide to those end users the same level of 911 service that other end users receive and shall provide ANI signaling, station identification data, including dispatchable location, and updates to Enhanced 911 databases under rules adopted by the Board. The Board may waive the provisions of this section for any ~~privately owned telephone system~~ enterprise communications system, provided that in the judgment of the Board, the owner of the system is actively engaged in becoming compliant with this section, is likely to comply with this section in a reasonable amount of time, and will do so in accordance with standards and procedures adopted by the Board by rule.

Sec. 26. 2017 Acts and Resolves No. 84, Secs. 36a and 37a are added to read:

Sec. 36a. SCHOOL SAFETY AND SECURITY GRANT PROGRAM

(a) Creation. There is created the School Safety and Security Grant Program to be administered by the Department of Public Safety to enhance safety and security in Vermont schools, as defined in 16 V.S.A. § 3447.

(b) Use of funds. Grants authorized in subsection (a) of this section shall be used for the planning, delivery, and installation of equipment for upgrades to existing school security equipment and new school security equipment identified through threat assessment planning and surveys designed to enhance building security.

(c) Guidelines. The following guidelines shall apply to capital grants for school safety measures:

(1) Grants shall be awarded competitively to schools for capital-eligible expenses to implement safety and security measures identified in a security assessment. Capital-eligible expenses may include video monitoring and surveillance equipment, intercom systems, window coverings, exterior and interior doors, locks, and perimeter security measures.

(2) Grants shall only be awarded after a security assessment has been completed by the Agency of Education and Department of Public Safety.

(3) The Program is authorized to award grants of up to \$25,000.00 per school.

(d) Administration. The Department of Public Safety, in coordination with the Agency of Education, shall administer and coordinate grants made pursuant to this section. Grant funds shall not be used to administer the Program.

(e) Reporting. The Department of Public Safety shall provide notice of any grants awarded under this section to the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions.

* * * Sunset of School Security Grant Program * * *

Sec. 36b. REPEAL OF SCHOOL SECURITY GRANT PROGRAM

The School Safety and Security Grant Program established in Sec. 17 of this act shall be repealed on July 1, 2019.

* * * School Planning Grants * * *

Sec. 27. APPLICATIONS FOR PLANNING GRANTS FOR CAPITAL CONSTRUCTION; UNIFIED UNION SCHOOL DISTRICTS; SCHOOL CONSOLIDATION

(a) Applications for planning grants. The Secretary of Education shall accept applications for planning grants for capital construction that would result in the consolidation of student populations and the closure of at least one building pursuant to the provisions of this section.

(b) Districts eligible to apply. A district is eligible to apply for a planning grant under this section (eligible district) if it:

(1) is a unified union school district created by the affirmative votes of the electorate between June 30, 2015 and December 31, 2018;

(2) is either its own supervisory district or is a member district within a supervisory union;

(3) is fully operational or will be fully operational before July 2, 2019; and

(4) provides or has intended to provide education for students in the same grade, after becoming fully operational, by operating more than one school building offering that grade.

(c) Eligible projects.

(1) An eligible district can apply for a grant to reimburse the cost of architects, engineers, or other professional planning costs under this section if the proposed project will:

(A) consolidate the provision of education for all resident students in at least four grade levels into one existing building that will house those grades either by renovating or adding additional square-footage to that building or both; and

(B) result in the closure of at least one existing building that houses those grades in the year prior to the proposed consolidation of students.

(2) Notwithstanding the provisions of subdivision (1)(A) of this subsection, if an eligible district operates more than two schools providing education in the pertinent grades, then a project is eligible under this section if the project will result in the closure of at least one school building and the

consolidation of students into one or more remaining buildings.

(d) Process.

(1) An eligible district shall submit a written application to the Secretary of Education on or before October 1, 2018. The application shall specify the purpose of and need for the proposed eligible project, shall include educational specifications based upon a facility analysis and enrollment projections, and shall concisely provide details addressing the ways in which the proposed project:

(A) will cause the eligible district to provide education in a manner that is more educationally appropriate;

(B) will cause the eligible district to provide education in a manner that provides greater educational opportunities in a more equitable manner;

(C) will result in or lead to sustained financial savings for the eligible district;

(D) will result in or lead to more efficient use of statewide education funds;

(E) will result in improvements that comply with standards for school construction adopted by the Division of Fire Safety, the Agency of Natural Resources, the Division for Historic Preservation, the Department of Health, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and any standards of other State or federal agencies and local or regional planning authorities; and

(F) will incorporate recommendations received after consultation with the School Energy Management Program and Efficiency Vermont, as appropriate.

(2) The Secretary, in consultation with other public and private entities at the Secretary's discretion, shall evaluate and rank all eligible projects based upon the proposed project's ability:

(A) to promote the goals outlined in subdivision (1) of this subsection (d);

(B) to support increased connectivity, energy efficiency, and use of renewable resources; and

(C) to cease using buildings that are inappropriate for direct instruction due to, for example, conditions that threaten the health or safety of students or employees, difficulty in complying with the requirements of the Americans with Disabilities Act or other State or federal laws or regulations, or excessive energy use.

(3) On or before January 15, 2019, the Secretary shall present a prioritized list of eligible projects to the General Assembly together with a request for capital funding not to exceed a total of \$300,000.00 to provide planning grants for some or all projects on the list. Nothing shall prohibit the Secretary from declining to include one or more projects on the prioritized list if the Secretary, in his or her sole judgment, determines that the project does not sufficiently promote the goals outlined in subdivision (1) of this subsection.

(e) Disclaimers. Nothing in this section shall be construed:

(1) to guarantee that the General Assembly shall appropriate funds during the 2019 Legislative Session or after for planning grants contemplated by this section; or

(2) to suggest that the General Assembly intends to lift the suspension of state aid for school construction imposed by 2013 Acts and Resolves No. 51, Sec. 45.

* * * Effective Date * * *

Sec. 28. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 27, 2018)

**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)

Action Postponed Until May 8, 2018

Senate Proposal of Amendment

H. 526

An act relating to regulating notaries public.

Pending Action: Consideration of the Senate proposal of amendment?

NEW BUSINESS

Favorable with Amendment

S. 40

An act relating to increasing the minimum wage

Rep. Stevens of Waterbury, for the Committee on General; Housing; and Military Affairs, recommends that the House propose to the Senate that the bill be amended as follows:

bill be amended as follows:

First: In Sec. 1, 21 V.S.A. § 384, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

(a)(1) An employer shall not employ any employee at a rate of less than \$9.15. ~~Beginning January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and beginning~~ Beginning on January 1, 2019, an employer shall

not employ any employee at a rate of less than \$11.10. Beginning on January 1, 2020, an employer shall not employ any employee at a rate of less than \$11.75. Beginning on January 1, 2021, an employer shall not employ any employee at a rate of less than \$12.50. Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than \$13.25. Beginning on January 1, 2023, an employer shall not employ any employee at a rate of less than \$14.10. Beginning on January 1, 2024, an employer shall not employ any employee at a rate of less than \$15.00, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01.

(2) An employer shall not employ a secondary school student at a rate of less than the minimum wage established pursuant to subdivision (1) of this subsection minus \$3.00.

(3) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, “a service or tipped employee” means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service.

(4) If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.

Second: In Sec. 4, 21 V.S.A. § 383, after the ellipsis and before subdivision (3) by inserting subdivisions (G), (H), and (I) to read:

(G) taxi-cab drivers; and

(H) outside salespersons; and

(I) ~~students working during all or any part of the school year or regular vacation periods.~~ [Repealed.]

Third: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. EFFECTIVE DATES

(a) In Sec. 1, 21 V.S.A. § 384, subdivision (a)(2) shall take effect on January 1, 2019. The remaining provisions of Sec. 1 shall take effect on

July 1, 2018.

(b) In Sec. 4, 21 V.S.A. § 383, the amendments to subdivisions (2)(G), (H), and (I) shall take effect on January 1, 2019. The remaining provisions of Sec. 4 shall take effect on July 1, 2018.

(c) The remaining sections of this act shall take effect on July 1, 2018.

(Committee vote: 7-4-0)

(For text see Senate Journal February 15, 2018)

Reported without recommendation by **Rep. Toll of Danville** for the Committee on **Appropriations**.

(Committee Vote: 6-4-1)

S. 94

An act relating to promoting remote work

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

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

* * * ThinkVermont Innovation Initiative * * *

Sec. 1. THINKVERMONT INNOVATION INITIATIVE

(a) Purpose.

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

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

(b) Process; grant distribution.

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

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

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

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

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

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

(c) Funding; matching requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

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

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

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

action.

Sec. 4. BROADBAND AVAILABILITY FOR REMOTE WORKERS

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

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

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

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

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

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

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

* * *

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

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(d) The State Board shall review a village center designation every ~~five~~ eight years and may review compliance with the designation requirements at more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the

State Board determines that the village center no longer meets the standards for designation established in subsection (a) of this section, it may take any of the following actions:

* * *

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

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

* * *

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

* * *

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

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

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

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

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

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

* * *

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

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

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

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

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

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

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

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

* * *

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

* * *

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

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE;

ENHANCED ENERGY PLANNING

* * *

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail or electronically with proof of receipt to the requesting regional planning

commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination in writing within two months of ~~of~~ after the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

* * *

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

§ 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING
COMMISSION

* * *

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

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

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

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

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

* * *

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

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

* * *

(c) A plan of a municipality or an amendment thereof shall be adopted by a

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

* * *

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

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

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

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

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

* * *

(D)(i) Mandatory provisions. Except as provided in subsection (c) of this section, all flood and other hazard area bylaws shall provide that no permit for new construction or substantial improvement shall be granted for a flood or other hazard area until after both the following:

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

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

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

* * *

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

§ 4441. PREPARATION OF BYLAWS AND REGULATORY TOOLS;

AMENDMENT OR REPEAL

* * *

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

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

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

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

* * *

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

§ 4445. AVAILABILITY AND DISTRIBUTION OF DOCUMENTS

Current copies of plans, bylaws, and capital budgets and programs shall be available to the public during normal business hours in the office of the clerk

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

* * *

* * * Wastewater and Potable Water Lending * * *

Sec. 16. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

Sec. 17. 24 V.S.A. § 4753 is amended to read:

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

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

* * *

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

* * *

Sec. 18. 24 V.S.A. § 4763b is amended to read:

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER

SYSTEMS AND FAILED POTABLE WATER SUPPLIES

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

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

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

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

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

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

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

(B) the individual applying for the loan certifies to the Secretary of Natural Resources that the proposed project has secured all State and federal permits, licenses, and approvals necessary to construct and operate the project to be financed by the loan;

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

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

* * * Rural Economic Development Districts * * *

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

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

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

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

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. ~~Voters within a municipality in which the~~

~~district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted.~~ The board shall elect from among its members a chair, vice chair, clerk, and treasurer. The board shall establish the fiscal year of the district and shall adopt rules of parliamentary procedure. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

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

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

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

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

§ 5705. OFFICERS

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

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The

chair shall perform all duties incident to the position and office as required by the general laws of the State.

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

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

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

* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 7-0-4)

(For text see Senate Journal March 23, 2018)

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

Committee on Commerce and Economic Development.

(Committee Vote: 11-0-0)

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 Commerce and Economic Development.

(Committee Vote: 10-0-1)

S. 123

An act relating to limiting liability for animal shelter and rescue organizations assisting law enforcement in animal cruelty investigations

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

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

Sec. 1. 10 V.S.A. chapter 159, subchapter 5 is added to read:

Subchapter 5. Strict Liability for Toxic Substance Release

§ 6685. DEFINITIONS

As used in this subchapter:

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

(2) “Farming” shall have the same meaning as in section 6001 of this title.

(3) “Harm” means any personal injury or property damage, excluding medical monitoring damages recoverable under 12 V.S.A. chapter 219.

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

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

(6) “Release” means any intentional or unintentional act or omission

that:

(A) is unpermitted or that violates law or a permit; and

(B) allows a toxic substance to enter the air, land, surface water, or groundwater.

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

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

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 6602 of this title or under rules adopted under chapter 159 of this title;

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

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

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under chapter 159 of this title; or

(vi) the user of the substance, mixture, or compound knew or should have known that the released substance, mixture, or compound posed a threat to human health or the environment.

(B) “Toxic substance” shall not mean:

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

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

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

§ 6686. LIABILITY FOR RELEASE OF TOXIC SUBSTANCES

(a) Any large user who releases a substance, mixture, or compound that meets the definition of toxic substance under section 6685 of this title at the time of the release shall be held strictly, jointly, and severally liable for any harm resulting from the release.

(b) A large user held liable under subsection (a) of this section shall have the right to seek contribution from any other person who caused or contributed to the release. The right to contribution under this subsection shall include the right of a large user to seek contribution from the manufacturer of the released toxic substance when a court determines that the manufacturer failed to warn the large user of the toxic substance's propensity to cause the harm complained of.

(c) Nothing in this section shall be construed to supersede or diminish in any way existing remedies available to a person or the State at common law or under statute.

Sec. 2. DEPARTMENT OF FINANCIAL REGULATION; REPORT ON INSURANCE POLICY PRICING AND AVAILABILITY

(a) The Commissioner of Financial Regulation shall monitor how the imposition of strict liability for toxic substance releases pursuant to 10 V.S.A. chapter 159, subchapter 5 affects the pricing and availability of commercial general liability insurance policies, residential homeowner's insurance policies, and other insurance policies in the State. The Commissioner of Financial Regulation shall evaluate whether:

(1) insurance policies in the State are more expensive or less available due to the strict liability provisions of 10 V.S.A. chapter 159, subchapter 5; and

(2) the insurance market in the State is negatively affected in comparison to the national market solely due to the strict liability provisions of 10 V.S.A. chapter 159, subchapter 5.

(b) On or before January 15, 2019, and annually thereafter, the Commissioner of Financial Regulation shall report to the Senate Committee on Finance and the House Committee on Commerce and Economic Development the results of its evaluation under subsection (a) of this section.

Sec. 3. WEBSITE; LINKS TO LIST OF TOXIC SUBSTANCES

The Commissioner of Health shall maintain on the Department of Health's website a link to each of the lists of substances, mixtures, or compounds referenced in the definition of "toxic substance" under 10 V.S.A. § 6685.

Sec. 4. EFFECTIVE DATES; IMPLEMENTATION

(a) This section and Secs. 2 (DFR report on insurance policy pricing), and 3 (website links) shall take effect on July 1, 2018.

(b) Sec. 1 (strict liability; toxic substance release) shall take effect July 1, 2019 and shall apply prospectively and only to releases that occur on or after July 1, 2019.

and that after passage the title of the bill be amended to read: "An act relating to strict liability for toxic substance release"

(Committee vote: 7-4-0)

(For text see Senate Journal February 16, 2018)

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.

* * *

~~(1) 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)

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.

(Committee Vote: 10-0-1)

S. 287

An act relating to aquatic nuisance control

Rep. Squirrell of Underhill, 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:

* * * Aquatic Nuisance and Rapid Response Control Activities * * *

Sec. 1. REPORT ON IMPLEMENTATION OF THE GENERAL PERMIT
FOR NONCHEMICAL AQUATIC NUISANCE AND RAPID
RESPONSE CONTROL ACTIVITIES

On or before January 15, 2019, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy a report regarding the implementation in 2018 of the general permit for the use of nonchemical aquatic nuisance and rapid response control activities issued under 10 V.S.A. § 1455(m) and 2017 Acts and Resolves No. 67, Sec. 9. The report shall include a summary of the implementation of the general permit, the process for approval of notices of intent for coverage under the general permit, the number of persons who applied for coverage under the general permit, the number of persons who were approved for coverage under the general permit, and any recommendations to improve the implementation of the general permit.

* * * Act 250 Corrective Actions * * *

Sec. 2. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(x)(1) No permit or permit amendment is required for the construction of improvements for any one of the actions or abatements authorized in this subdivision:

(A) a remedial or removal action for which the Secretary of Natural Resources has authorized disbursement under section 1283 of this title;

(B) abating a release or threatened release, as directed by the Secretary of Natural Resources under section 6615 of this title;

(C) a remedial or removal action directed by the Secretary of Natural Resources under section 6615 of this title;

(D) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under section 6615b of this title;

(E) a corrective action authorized in a corrective action plan approved by the Secretary of Natural Resources under chapter 159, subchapter 3 of this title; or

(F) the management of “development soils,” as that term is defined

in subdivision 6602(39) of this title, under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

(2) Any development subsequent to the construction of improvements for any one of the actions or abatements authorized in subdivision (1) of this subsection shall not be exempt from the provisions of this chapter.

* * * Beverage Container Redemption * * *

Sec. 3. WAIVER OF BEVERAGE CONTAINER REDEMPTION
REQUIREMENTS

After consultation with interested parties, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy recommended changes to the standards or criteria by which the Secretary of Natural Resources authorizes a retailer who sells beverage containers to refuse to redeem beverage containers. The Secretary shall submit the recommended changes as part of the report required under 10 V.S.A. § 6604(b).

Sec. 4. REPEAL; BEVERAGE CONTAINER REDEMPTION; REFUSAL
TO REDEEM

Subsection 10-105(d) of the Agency of Natural Resources' Environmental Protection Regulations for the Deposit for Beverage Containers shall be repealed on July 1, 2018.

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

(a) This section and Sec. 2 (Act 250 corrective action plans) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2018.

and that after passage the title of the bill be amended to read: "An act relating to aquatic nuisance control, Act 250 corrective actions, and beverage container redemption"

(Committee vote: 9-0-0)

(For text see Senate Journal March 15, 2018)

Senate Proposal of Amendment

H. 132

An act relating to limiting landowner liability for posting the dangers of swimming holes

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. 12 V.S.A. § 5793 is amended to read:

§ 5793. LIABILITY LIMITED

(a) Land. An owner shall not be liable for property damage or personal injury sustained by a person who, without consideration, enters or goes upon the owner's land for a recreational use unless the damage or injury is the result of the willful or wanton misconduct of the owner.

(b) Equipment, fixtures, machinery, or personal property.

(1) Unless the damage or injury is the result of the willful or wanton misconduct of the owner, an owner shall not be liable for property damage or personal injury sustained by a person who, without consideration and without actual permission of the owner, enters or goes upon the owner's land for a recreational use and proceeds to enter upon or use:

(A) equipment, machinery, or personal property; or

(B) structures or fixtures not described in subdivision 5792(2)(A)(iii) or (iv) of this title.

(2) Permission to enter or go upon an owner's land shall not, by itself, include permission to enter or go upon structures or to go upon or use equipment, fixtures, machinery, or personal property.

(c) Posting. An owner may post a sign warning against dangers on the owner's land or water. An owner who posts a sign pursuant to this subsection shall not be liable for any damage or injury allegedly arising out of the posting unless the damage or injury is the result of the willful or wanton misconduct of the owner.

Sec. 2. 9 V.S.A. chapter 152 is added to read:

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

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM
CONTRACTS PROHIBITED

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

(1) A requirement that resolution of legal claims take place in an inconvenient venue. An inconvenient venue is defined for State law claims as

a place other than the state in which the individual resides or the contract was consummated and for federal law claims as a place other than the federal judicial district where the individual resides or the contract was consummated.

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

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

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

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

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

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

(1) refuse to enforce the entire contract or the specific part, clause, or provision containing the illegal or unconscionable term; or

(2) so limit the application of the illegal or unconscionable term or the clause containing such term as to avoid any illegal or unconscionable result.

(d) Unfair and deceptive act and practice. It is an unfair and deceptive practice in violation of section 2453 of this title to include one of the presumptively unconscionable terms identified in subsection (a) of this section in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract. Notwithstanding any other provisions to the contrary, a party who prevails in a claim under this section shall be entitled to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(e) Separate violations. Each term found to be unconscionable pursuant to subsection (a) of this section shall constitute a separate violation of this section.

(f) Applicability. This section shall not apply to contracts to which one party is:

- (1) regulated by the Vermont Department of Financial Regulation; or
- (2) a financial institution as defined by 8 V.S.A. § 11101(32).

Sec. 3. 12 V.S.A. § 5652 is amended to read:

§ 5652. VALIDITY OF ARBITRATION AGREEMENTS

(a) General rule. Unless otherwise provided in the agreement, a written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties creates a duty to arbitrate, and is valid, enforceable, and irrevocable, except:

- (1) upon such grounds as exist for the revocation of a contract; and
- (2) as provided in 9 V.S.A. chapter 152.

* * *

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 and this section shall take effect on passage.

(b) Secs. 2 and Sec. 3 shall take effect on October 1, 2018.

(No House Amendments)

H. 660

An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification

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. 13 V.S.A. § 5451 is amended to read:

§ 5451. CREATION OF COMMISSION

(a) The Vermont ~~sentencing commission~~ Sentencing Commission is established for the purpose of overseeing criminal sentencing practices in the ~~state~~ State, reducing geographical disparities in sentencing, and making recommendations regarding criminal sentencing to the ~~general assembly~~ General Assembly.

(b) The ~~committee~~ Commission shall consist of the following members:

* * *

- (2) the ~~administrative judge~~ Chief Superior Judge or designee, provided

that the designee is a sitting or retired Vermont judge;

* * *

(16) ~~the executive director~~ Executive Director of the Vermont center for justice research Crime Research Group; and

* * *

Sec. 2. 13 V.S.A. § 5452 is amended to read:

§ 5452. DUTIES

* * *

(c) It shall be a priority for the Sentencing Commission to develop responses to the significant impacts that increased opioid addiction have had on the criminal justice system. The Commission shall consider:

(1) whether and under what circumstances offenses committed as a result of opioid addiction should be classified as civil rather than criminal offenses;

(2) whether the possession or sale of specific, lesser amounts of opioids and other regulated drugs should be classified as civil rather than criminal offenses;

(3) how to maximize treatment for offenders as a response to offenses committed as a result of opioid addiction.

Sec. 3. VERMONT SENTENCING COMMISSION; REPORT ON SENTENCING DISPARITIES AND CRIMINAL CODE RECLASSIFICATION

(a)(1) In order to improve the consistent and uniform application of criminal justice throughout Vermont, the Vermont Sentencing Commission established under 13 V.S.A. § 5451 shall review Vermont's criminal offenses and place each one in a standardized penalty classification system.

(2) The Commission shall develop a classification system that creates categories of criminal offenses on the basis of the maximum potential period of imprisonment and the maximum potential fine. The Commission shall propose legislation that places each of Vermont's criminal statutes into one of the classification offense categories it identifies.

(3) When determining the appropriate category for each offense, the Commission shall consider whether the existing statutory penalties for the offense are appropriate or in need of adjustment better to reflect prevailing average sentencing practices and the effective uses of criminal punishment. For purposes of this analysis, the Commission shall for each offense consider

the average sentence and the average amount of time actually served. If the Commission is unable to determine an appropriate classification for a particular offense, the Commission shall indicate multiple classification possibilities for that offense. Unless there is a compelling rationale, the Commission shall not propose establishing new mandatory minimum sentences or increasing existing minimum or maximum sentences.

(4) For purposes of the classification system developed pursuant to this section, the Commission shall consider the recommendations of the Criminal Code Reclassification Study Committee and shall consider whether to propose:

(A) rules of statutory interpretation specifically for criminal provisions;

(B) the consistent use of mens rea terminology in all criminal provisions;

(C) a comprehensive section of definitions applicable to all criminal provisions;

(D) the decriminalization of some or all fine-only offenses and the transferal of them to the Judicial Bureau for consideration as civil offenses; and

(E) a redefinition of what constitutes an attempt in Vermont criminal law, including whether the Model Penal Code's definition of attempt should be adopted in Vermont.

(b)(1) On or before December 15, 2018, the Commission shall report to the Joint Justice Oversight Committee on its progress toward achieving the goals of this section. The report required by this subdivision may be provided by oral testimony.

(2) On or before November 30, 2019, the Commission shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

Sec. 4. APPROPRIATION

The sum of \$50,000.00 is appropriated from the General Fund to the Judiciary in FY 2018 to carry forward to FY 2019 to carry out the purposes of this act. It is the intent of the General Assembly to fund at least the same amount in FY 2020.

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, 2021.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 13, 2018)

H. 736

An act relating to lead poisoning prevention

The Senate proposes to the House to amend the bill as follows:

First: By inserting a new Sec. 1 before the existing Sec. 1 to read as follows:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that the regulatory authority over lead poisoning prevention practices, which is currently divided between the State of Vermont and the U.S. Environmental Protection Agency (EPA), shall be assumed by the State. The Commissioner of Health shall take necessary steps to receive all appropriate authority from the EPA not later than December 2019.

Second: In Sec. 2, in 18 V.S.A. § 1751(b), in subdivision (18), following “or likely exposure to”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: ~~lead-based paint~~ lead

Third: In Sec. 2, in 18 V.S.A. § 1751(b), in subdivision (22)(B), by striking out the following: “lead-based paint” in the second instance in which it appears and inserting in lieu thereof the following: lead

Fourth: In Sec. 2, in 18 V.S.A. § 1751(b), by renumbering the existing subdivision (24) to appear after the existing subdivision (27) and by renumbering all affected subdivisions to be numerically correct

Fifth: In Sec. 2, 18 V.S.A. § 1759(f), by striking out the word “implantation” and inserting in lieu thereof implementation

Sixth: In Sec. 2, in 18 V.S.A. § 1763, in the first sentence, following “subsection 1759(e) of this chapter or”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: ~~lead-based paint~~ lead

Seventh: In Sec. 2, in 18 V.S.A. § 1764, following “under subsection”, by striking out the following: “1752(d)” and inserting in lieu thereof the following: ~~1752(d)~~ 1752(e)

Eighth: In Sec. 2, in 18 V.S.A. § 1765, in subsection (a), following “determines that”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: ~~lead-based paint~~ lead and following “rental target”, by striking out the word “property” and inserting in lieu thereof the following: ~~property~~ housing

Ninth: By inserting a new Sec. 3 to read as follows:

Sec. 3. STATUS UPDATES

On or before February 1 of 2019 and 2020, the Commissioner of Health shall provide a status update regarding the implementation of the lead poisoning prevention program and associated fees to the House Committees on Human Services and on Ways and Means and to the Senate Committees on Finance and on Health and Welfare.

And by renumbering the remaining sections to be numerically correct

(For text see House Journal March 16, 2018)

H. 899

An act relating to fees for records filed in town offices and a town fee report and request

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. [Deleted.]

Sec. 2. 32 V.S.A. § 606 is amended to read:

§ 606. LEGISLATIVE FEE REVIEW PROCESS; FEE BILL

When the consolidated fee reports and requests are submitted to the General Assembly pursuant to sections 605 ~~and~~, 605a, and 611 of this title, they shall immediately be forwarded to the House Committee on Ways and Means, which shall consult with other standing legislative committees having jurisdiction of the subject area of a fee contained in the reports and requests. As soon as possible, the Committee on Ways and Means shall prepare and introduce a “consolidated fee bill” proposing:

(1) The creation, change, reauthorization, or termination of any fee.

(2) The amount of a newly created fee, or change in amount of an existing or reauthorized fee.

(3) The designation, or redesignation, of the fund into which revenue from a fee is to be deposited.

Sec. 3. 32 V.S.A. chapter 7, subchapter 6A is added to read:

Subchapter 6A. Town Fee Report and Request

§ 611. CONSOLIDATED TOWN FEE REPORT AND REQUEST

(a) As used in this section:

(1) “Cost” shall be narrowly construed, and may include reasonable and

directly related costs of administration, maintenance, and other expenses due to providing the service or product or performing the regulatory function.

(2) “Fee” means a monetary charge collected by or on behalf of a town for a service or product provided to, or the regulation of, specified classes of individuals or entities.

(3) “Town” means a town, city, unorganized town or gore, and the unified towns and gores in Essex County.

(b) On or before the third Tuesday of the legislative session of 2019 and every three years thereafter, the Vermont Municipal Clerks’ and Treasurers’ Association and the Vermont League of Cities and Towns shall jointly submit a consolidated town fee report and request. The report shall be submitted to the House Committee on Ways and Means, the Senate Committee on Finance, and the House and Senate Committees on Government Operations. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(c) For each fee in existence on the preceding July 1, the report shall specify:

(1) its statutory authorization and termination date, if any;

(2) its current rate or amount and the date it was last set or adjusted by the General Assembly;

(3) the fund into which its revenues are deposited; and

(4) for each town, in each of the two previous fiscal years, the revenues derived from each fee.

(d) A fee request shall contain any proposal to:

(1) Create a new fee, or change, reauthorize, or terminate an existing fee, which shall include a description of the services provided or the function performed.

(2) Set a new or adjust an existing fee rate or amount. Each new or adjusted fee rate shall be accompanied by information justifying the rate, which may include:

(A) the relationship between the revenue to be raised by the fee or change in the fee and the cost or change in the cost of the service, product, or regulatory function supported by the fee;

(B) the inflationary pressures that have arisen since the fee was last set;

(C) the effect on budgetary adequacy if the fee is not increased;

(D) the existence of comparable fees in other jurisdictions;

(E) policies that might affect the acceptance or the viability of the fee amount; and

(F) other considerations.

(3) Designate, or redesignate, the fund into which revenue from a fee is to be deposited.

Sec. 4. 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 a town fee report and request.

(For text see House Journal March 21, 2018)

H. 912

An act relating to the health care regulatory duties of the Green Mountain Care Board

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 4, 18 V.S.A. § 9405(b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) ~~The Plan shall include~~ In developing the Plan, the Board shall:

(A) ~~A statement of principles reflecting the policies consider the principles in section 9371 of this title, as well as the purposes enumerated in sections 9401 and 9431 of this chapter to be used in allocating resources and in establishing priorities for health services. title;~~

(B) ~~Identification of the current supply and distribution of hospital, nursing home, and other inpatient services; home health and mental health services; treatment and prevention services for alcohol and other drug abuse; emergency care; ambulatory care services, including primary care resources, federally qualified health centers, and free clinics; major medical equipment; and health screening and early intervention services.~~

(C) ~~Consistent with the principles set forth in subdivision (A) of this subdivision (1), recommendations for the appropriate supply and distribution of resources, programs, and services identified in subdivision (B) of this subdivision (1), options for implementing such recommendations and mechanisms which will encourage the appropriate integration of these services on a local or regional basis. To arrive at such recommendations, the Green Mountain Care Board shall consider at least the following factors:~~

- ~~(i) the values and goals reflected in the State Health Plan;~~
- ~~(ii) the needs of the population on a statewide basis;~~
- ~~(iii) the needs of particular geographic areas of the State, as identified in the State Health Plan;~~
- ~~(iv) the needs of uninsured and underinsured populations;~~
- ~~(v) the use of Vermont facilities by out-of-state residents;~~
- ~~(vi) the use of out-of-state facilities by Vermont residents;~~
- ~~(vii) the needs of populations with special health care needs;~~
- ~~(viii) the desirability of providing high quality services in an economical and efficient manner, including the appropriate use of midlevel practitioners;~~
- ~~(ix) the cost impact of these resource requirements on health care expenditures;~~
- ~~(x) the overall quality and use of health care services as reported by the Vermont Program for Quality in Health Care and the Vermont Ethics Network;~~
- ~~(xi) the overall quality and cost of services as reported in the annual hospital community reports;~~
- ~~(xii) individual hospital four-year capital budget projections; and~~
- ~~(xiii) the four-year projection of health care expenditures prepared by the Board~~

(B) identify priorities using information from:

- (i) the State Health Improvement Plan;
- (ii) the community health needs assessments required by section 9405a of this title;
- (iii) available health care workforce information;
- (iv) materials provided to the Board through its other regulatory processes, including hospital budget review, oversight of accountable care organizations, issuance and denial of certificates of need, and health insurance rate review; and
- (v) the public input process set forth in this section;

(C) use existing data sources to identify and analyze the gaps between the supply of health resources and the health needs of Vermont residents and to identify utilization trends to determine areas of

underutilization and overutilization; and

(D) consider the cost impacts of fulfilling any gaps between the supply of health resources and the health needs of Vermont residents.

Second: By striking out Sec. 11, 32 V.S.A. § 307(d), in its entirety and inserting in lieu thereof the following:

Sec. 11. [Deleted.]

Third: By inserting a reader assistance heading and a new section to be Sec. 13a to read as follows:

* * * Accountable Care Organizations; Fair and Equitable
Payment Amounts * * *

Sec. 13a. 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:

* * *

(3) The ACO has established appropriate mechanisms to receive and distribute payments to its participating health care providers in a fair and equitable manner. To the extent that the ACO has the authority and ability to establish provider reimbursement rates, the ACO shall minimize differentials in payment methodology and amounts among comparable participating providers across all practice settings, as long as doing so is not inconsistent with the ACO's overall payment reform objectives.

* * *

Fourth: By striking out Sec. 15 in its entirety and adding six new sections to read as follows:

* * * Medicaid Budget Estimates * * *

Sec. 15. 32 V.S.A. § 305a(c) is amended to read:

(c)(1)(A) The January estimates shall include estimated caseloads and

estimated per-member per-month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the Agency and the Joint Fiscal Office for State Health Care Assistance Programs or premium assistance programs supported by the State Health Care Resources and Global Commitment Funds, and for the Programs under any Medicaid Section 1115 waiver.

(B) For Board consideration, there shall be provided ~~two~~ three versions of the next succeeding fiscal year's estimated per-member per-month expenditures:

(i) ~~one version shall include an increase in Medicaid provider reimbursements in order to ensure that the expenditure estimates reflect amounts attributable to health care inflation as required by subdivisions 307(d)(5) and (d)(6) of this title and~~ inflation trends as set forth in subdivision 307(d)(5) of this title;

(ii) one version shall be without the inflationary adjustment; and

(iii) one version shall reflect any additional increase or decrease to Medicaid provider reimbursements that would be necessary to attain Medicare levels as set forth in subdivision 307(d)(6) of this title.

(C) For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category.

(D) The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down State contribution payment and for the disproportionate share hospital payments.

(2) In July, the Administration and the Joint Fiscal Office shall make a report to the Emergency Board on the most recently ended fiscal year for all Medicaid and Medicaid-related programs, including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the Emergency Board may adopt revised estimates for the current fiscal year and estimates for the next succeeding fiscal year.

Sec. 16. 32 V.S.A. § 307(d) is amended to read:

(d) The Governor's budget shall include his or her recommendations for an annual budget for Medicaid and all other health care assistance programs administered by the Agency of Human Services. The Governor's proposed Medicaid budget shall include a proposed annual financial plan, and a proposed five-year financial plan, with the following information and analysis:

* * *

(5) health care inflation trends ~~consistent with~~ that reflect consideration of provider reimbursements approved under 18 V.S.A. § 9376 and expenditure trends reported under 18 V.S.A. § 9375a 9383;

* * *

* * * Green Mountain Care Board Billback Formula * * *

Sec. 17. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) The Board may assess and collect from each regulated entity the actual costs incurred by the Board, including staff time and contracts for professional services, in carrying out its regulatory duties for health insurance rate review under 8 V.S.A. § 4062; hospital budget review under chapter 221, subchapter 7 of this title; and accountable care organization certification and budget review under section 9382 of this title.

(2)(A) ~~Except~~ In addition to the assessment and collection of actual costs pursuant to subdivision (1) of this subsection and except as otherwise provided in subdivision (2) subdivisions (2)(C) and (3) of this subsection, all other expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by of the Board shall be borne as follows:

~~(A)(i)~~ 40 percent by the State from State monies;

~~(B)(ii)~~ 15 30 percent by the hospitals;

~~(C)(iii)~~ 15 24 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

~~(D)~~ 15 percent by, health insurance companies licensed under 8 V.S.A. chapter 101; and

~~(E)~~ 15 percent by, and health maintenance organizations licensed under 8 V.S.A. chapter 139; and

(iv) six percent by accountable care organizations certified under section 9382 of this title.

(B) Expenses under subdivision (A)(iii) of this subdivision (2) shall be allocated to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this subdivision (2) shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care, limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

(C) Expenses incurred by the Board for regulatory duties associated with certificates of need shall be assessed pursuant to the provisions of section

9441 of this title and not in accordance with the formula set forth in subdivision (A) of this subdivision (2).

~~(2)(3)~~ The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision ~~(1)(2)~~ of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

~~(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.~~

(4) If the amount of the proportional assessment to any entity calculated in accordance with the formula set forth in subdivision (2)(A) of this subsection would be less than \$150.00, the Board shall assess the entity a minimum fee of \$150.00. The Board shall apply the amounts collected based on the difference between each applicable entity's proportional assessment amount and \$150.00 to reduce the total amount assessed to the regulated entities pursuant to subdivisions (2)(A)(ii)-(iv) of this subsection.

* * * Composition of Green Mountain Care Board and Advisory Group * * *

Sec. 18. 18 V.S.A. § 9374 is amended to read:

§ 9374. BOARD MEMBERSHIP; AUTHORITY

(a)(1) On July 1, 2011, the Green Mountain Care Board is created and shall consist of a chair and four members. The Chair and all of the members shall be State employees and shall be exempt from the State classified system. The Chair shall receive compensation equal to that of a Superior judge, and the compensation for the remaining members shall be two-thirds of the amount received by the Chair.

(2) The Chair and the members of the Board shall be nominated by the Green Mountain Care Board Nominating Committee established in subchapter 2 of this chapter using the qualifications described in section 9392 of this chapter and shall be otherwise appointed and confirmed in the manner of a Superior judge. The Governor shall not appoint a nominee who was denied confirmation by the Senate within the past six years. At least one member of the Board shall be an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as a registered nurse or an advanced practice registered nurse under 26 V.S.A. chapter 28.

* * *

(c)(1) No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to supervision or regulation by the Board; ~~provided that for a health care practitioner, the employment restriction in this subdivision shall apply only to administrative or managerial employment or affiliation with a hospital or other health care facility, as defined in section 9432 of this title, and shall not be construed to limit generally the ability of the health care practitioner to practice his or her profession~~ these restrictions shall not preclude a Board member who is a health care professional from participating in an accountable care organization as long as the Board member is not otherwise affiliated in any way with a person subject to supervision or regulation by the Board.

* * *

* * * Regulation of Freestanding Health Care Facilities * * *

Sec. 19. REGULATION OF FREESTANDING HEALTH CARE FACILITIES; WORKING GROUP; REPORT

(a) The Secretary of Human Services or designee shall convene a working group to develop recommendations for the regulation of freestanding health care facilities and their role in a coordinated and cohesive health care delivery system. The recommendations shall include:

(1) whether and how the State should license and regulate ambulatory surgical centers, freestanding birth centers, urgent care clinics, retail health clinics, and other freestanding health care facilities; and

(2) whether and to what extent these facilities should participate in Vermont's health care reform initiatives.

(b) The working group shall comprise representatives of ambulatory surgical centers, urgent care clinics, hospitals, the Green Mountain Care Board, the Department of Vermont Health Access, the Department of Health, the Office of the Health Care Advocate, the Vermont Program for Quality in Health Care, Inc., and other interested stakeholders.

(c) On or before February 1, 2019, the working group shall provide its recommendations to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

(a) Secs. 6 (certificate of need) and 17 (billback formula) shall take effect on July 1, 2018, provided that for applications for a certificate of need that are

already in process on that date, the rules and procedures in place at the time the application was filed shall continue to apply until a final decision is made on the application.

(b) Sec. 18 shall take effect on passage and shall apply beginning with the first vacancy occurring on the Green Mountain Care Board on or after that date; provided, however, that it shall not be construed to disqualify a non-health care professional member serving on the Board on the date of passage of this act from being reappointed after the date of passage to serve one or more additional terms.

(c) The remaining sections of this act shall take effect on passage.

(For text see House Journal March 14, 2018)

H. 913

An act relating to boards and commissions

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

* * * Merger of Groundwater and Well Water Committees * * *

Sec. 1. 10 V.S.A. § 1392 is amended to read:

§ 1392. DUTIES; POWERS OF SECRETARY

(a) The Secretary shall develop a comprehensive groundwater management program to protect the quality of groundwater resources by:

* * *

(c)(1) The Secretary shall establish a groundwater coordinating committee, with representation from the Division of Drinking Water and Groundwater Protection within the Department, the Division of Geology and Mineral Resources within the Department, the Agency of Agriculture, Food and Markets, and the Departments of Forests, Parks and Recreation and of Health to provide advice in the development of the program and its implementation, on issues concerning groundwater quality and quantity, and on groundwater issues relevant to well-drilling activities and the licensure of well drillers.

(2) In carrying out his or her duties under this subchapter, the Secretary shall give due consideration to the recommendations of the groundwater coordinating committee.

(3) The Secretary may request representatives of other agencies and the private sector, including licensed well drillers, to serve on the groundwater coordinating committee.

* * *

Sec. 2. 10 V.S.A. § 1395b is amended to read:

~~§ 1395b. WATER WELL ADVISORY COMMITTEE~~

~~(a) The Vermont water well advisory committee is created. The committee shall consist of seven members: the director of the groundwater and water supply division, the state geologist, a representative from the department of health, and four members appointed by the governor. Three of the four public members shall be licensed well drillers, with at least five years of experience. The fourth public member shall be a person not associated with the well-drilling business who has an interest in wells and water quality.~~

~~(b) The purpose of the committee is to advise and assist agency personnel in the formulation of policy, including recommended statutory and regulatory changes, regarding the proper installation and maintenance of water wells, licensing of well drillers, and groundwater issues impacted by well-drilling activities. The committee shall promote and encourage cooperation and communication between governmental agencies, licensed well drillers, and members of the general public.~~

~~(c) Members shall be appointed for terms of five years, with the initial appointments of the public members made for lesser terms, so that the appointments do not all expire simultaneously. Vacancies shall be filled by the governor for the length of an unexpired term.~~

~~(d) The committee shall elect a chair and a secretary, and shall meet from time to time as may be necessary, but not less than quarterly.~~

~~(e) The public members of the committee shall be volunteers, and will serve without compensation. [Repealed.]~~

Sec. 3. IMPLEMENTATION

~~(a) The terms of the members of the Vermont Water Well Advisory Committee shall expire on the effective date of this act.~~

~~(b) The Secretary of Natural Resources may provide those members with the opportunity to serve on the groundwater coordinating committee.~~

* * * Repeal of Valuation Appeal Board * * *

Sec. 4. 32 V.S.A. § 5407 is amended to read:

~~§ 5407. VALUATION APPEAL BOARD~~

~~(a) There is established a Valuation Appeal Board to consist of five members. The members shall be appointed by the Governor with the advice and consent of the Senate, for three-year terms beginning February 1 of the year in which the appointment is made, except that one of the initial appointments shall be for a term of one year and two of the initial~~

~~appointments shall be for a term of two years. A vacancy in the Board shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

~~(b) Persons serving on the Appeal Board shall be knowledgeable and experienced in at least one of the following fields: agriculture, business management, law, taxation, appraisal and valuation techniques, municipal affairs, or related areas. No member of the Valuation Appeal Board shall be otherwise employed by the State or be a lister. In making appointments, attention shall be given to the desirability of providing geographical balance to the degree reasonably practical.~~

~~(c) A Chair shall be designated biennially by the Governor from among the members of the Board and any vacancy in the Office of the Chair shall be filled by designation of the Governor.~~

~~(d) Members of the Valuation Appeal Board shall receive a sum not to exceed \$80.00 per diem for each day of official duties of the Board together with reimbursement of reasonable expenses incurred in the performance of their duties, as determined by the Director of Property Valuation and Review.~~

~~(e) The Board shall be attached for administrative purposes to the Division of Property Valuation and Review of the Department of Taxes of the Agency of Administration. [Repealed.]~~

Sec. 5. 32 V.S.A. § 5408 is amended to read:

§ 5408. PETITION FOR REDETERMINATION

(a) Not later than 35 days after mailing of a notice under section 5406 of this title, a municipality may petition the Director of Property Valuation and Review for a redetermination of the municipality's equalized education property value and coefficient of dispersion. ~~Such~~ The petition shall be in writing and shall be signed by the chair of the legislative body of the municipality or his or her designee.

(b)(1) Upon receipt of a petition for redetermination under subsection (a) of this section, the Director shall, after written notice, grant a hearing upon the petition to the aggrieved town.

(2) The Director shall thereafter notify the town and the Secretary of Education of his or her redetermination of the equalized education property value and coefficient of dispersion of the town or district, in the manner provided for notices of original determinations under section 5406 of this title.

(c)(1) A municipality, within 30 days of ~~after~~ after the Director's redetermination, may appeal the redetermination to the ~~Valuation Appeal Board~~. ~~The Board shall notify the appellee of the filing of the appeal. The~~

appeal shall be heard de novo in the manner provided by 3 V.S.A. chapter 25 for the hearing of contested cases.

~~(d) A municipality or the Division of Property Valuation and Review may appeal from a decision of the Valuation Appeal Board to the Superior Court of the county in which the municipality is located. The Superior Court shall hear the matter de novo in the manner provided by V.R.C.P. Rule 74 of the Vermont Rules of Civil Procedure.~~

(2) An appeal from the decision of the Superior Court shall be to the Supreme Court under the Vermont Rules of Appellate Procedure.

* * * Permitting Per Diems Currently Prohibited * * *

Sec. 6. 3 V.S.A. § 22 is amended to read:

§ 22. THE COMMISSION ON WOMEN

(a)(1) The Commission on Women is created as the successor to the Governor's Commission on Women established by Executive Order No. 20-86. The Commission shall be organized and have the duties and responsibilities as provided in this section.

(2) The Commission shall be an independent agency of the government of Vermont and shall not be subject to the control of any other department or agency.

(3) Members of the Commission shall be drawn from throughout the State and from diverse racial, ethnic, religious, age, sexual orientation, and socioeconomic backgrounds, and shall have had experience working toward the improvement of the status of women in society.

(b) The Commission shall consist of 16 members, appointed as follows:

(1) Eight members shall be appointed by the Governor; ~~no~~, not more than four of whom shall be from one political party.

(2)(A) ~~Six~~ Eight members shall be appointed by the legislature General Assembly, ~~three~~ four by the Senate Committee on Committees, and ~~three~~ four by the Speaker of the House; ~~no~~.

(B) Not more than two appointees shall be members of the legislature. ~~Each~~ General Assembly, and each appointing authority shall appoint ~~no~~ not more than two members from the same political party.

~~(3) Two members, one each from the two major political parties.~~

(c) The terms of members shall be four years. ~~Members of the Commission currently appointed and serving pursuant to Executive Order No. 20-86 on July 1, 2002 may continue to serve for the duration of the four year~~

term to which they were appointed. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of subsection (b) of this section, and made in the following order:

(1) ~~For terms expiring on June 30, 2002, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the speaker.~~

(2) ~~For terms expiring on June 30, 2003, two shall be made by the Governor, and one each shall be made by the two major political parties.~~

(3) ~~For terms expiring on June 30, 2004, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the speaker.~~

(4) ~~For terms expiring on June 30, 2005, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the Speaker. Thereafter, appointments~~ Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term.

(d)(1) Members of the Commission shall elect biennially by majority vote a the Chair of the Commission.

(2) Members of the Commission shall ~~receive no~~ be entitled to receive per diem compensation for their services, but shall be entitled to and reimbursement for of expenses in the manner and amount provided to employees of the State as permitted under 32 V.S.A. § 1010, which shall be paid by the Commission.

* * *

(i)(1) No part of any funds appropriated to the Commission by the legislature General Assembly shall, in the absence of express authorization by the Legislature General Assembly, be used directly or indirectly for legislative or administrative advocacy. The Commission shall review and amend as necessary all existing contracts and grants to ensure compliance with this subsection.

(2) ~~For purposes of~~ As used in this subsection, legislative or administrative advocacy means employment of a lobbyist as defined in 2 V.S.A. chapter 11, or employment of, or establishment of, or maintenance of, a lobbyist position whose primary function is to influence legislators or State officials with respect to pending legislation or ~~regulations~~ rules.

Sec. 7. COMMISSION ON WOMEN; CURRENT TERMS

A member of the Commission on Women on the effective date of this act whose appointing authority is repealed under the provisions of Sec. 6 of this

act may serve the remainder of her or his term.

Sec. 8. 10 V.S.A. § 1372 is amended to read:

§ 1372. MEMBERS₅₂; APPOINTMENT₅₂; TERM

(a) Within 30 days after he or she has executed the ~~compact~~ Compact with any or all of the states legally joined therein, the ~~governor~~ Governor shall appoint three persons to serve as commissioners to the New England Interstate Water Pollution Control Commission. The ~~commissioner of environmental conservation~~ Commissioner of Environmental Conservation and the ~~commissioner of health~~ Commissioner of Health shall serve as ex officio commissioners ~~thereon~~ on the Commission.

(b) The commissioners so appointed shall hold office for six years. ~~Vacancies~~ A vacancy occurring in the office of the ~~commissioners~~ a commissioner shall be filled by the ~~governor~~ Governor for the unexpired portion of the term.

(c) The commissioners shall ~~serve without~~ be entitled to per diem compensation ~~but shall be paid for their actual and reimbursement of expenses incurred in and incident to the performance of their duties~~ as permitted under 32 V.S.A. § 1010.

(d) The commissioners shall have the powers and duties and be subject to limitations as set forth in the ~~compact~~ Compact.

* * * Joint Information Technology Oversight Committee * * *

Sec. 9. 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY
OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT
COMMITTEE

(a) Creation. There is created the Joint Information Technology Oversight Committee to oversee investments in and use of information technology in Vermont.

(b) Membership. The Committee shall be composed of six members as follows:

(1) three members of the House of Representatives, not all of whom shall be from the same political party, who shall be appointed by the Speaker of the House; and

(2) three members of the Senate, not all of whom shall be from the same

political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall oversee, evaluate, and make recommendations on the following:

(1) the State's current deployment, management, and oversight of information technology in the furtherance of State governmental activities, including data processing systems, telecommunications networks, and related technologies, particularly with regard to issues of compatibility among existing and proposed technologies;

(2) issues related to the storage of, maintenance of, access to, privacy of, and restrictions on use of computerized records;

(3) issues of public policy related to the development and promotion of the private, commercial, and nonprofit information infrastructure in the State, its relationship to the State government information infrastructure, and its integration with national and international information networks; and

(4) cybersecurity.

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

(e) Meetings.

(1) The Speaker of the House and the Committee on Committees shall appoint one member from the House and one member of the Senate as co-chairs of the Committee.

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

(3) The Committee may meet when the General Assembly is in session or at the call of the co-chairs.

(f) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

* * * Sunset Advisory Commission * * *

Sec. 10. 3 V.S.A. § 268 is added to read:

§ 268. BOARDS AND COMMISSIONS; SUNSET ADVISORY COMMISSION

(a) Creation.

(1) There is created the Sunset Advisory Commission to review existing State boards and commissions, to recommend the elimination of any board or commission that it deems no longer necessary or the revision of any of the

powers and duties of a board or commission, and to recommend whether members of the boards and commissions should be entitled to receive per diem compensation.

(2) As used in this section, “State boards and commissions” means professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, and any other boards or commissions of the State.

(b) Membership.

(1) The Commission shall be composed of the following six members:

(A) two current members of the House of Representatives who shall not both be from the same political party and one of whom shall be appointed co-chair, who shall be appointed by the Speaker of the House;

(B) two current members of the Senate, who shall not both be from the same political party and one of whom shall be appointed co-chair, who shall be appointed by the Committee on Committees; and

(C) two persons appointed by the Governor.

(2) Members shall be appointed at the beginning of each biennium. A member shall serve biennially and until his or her successor is appointed, except that a legislative member’s term on the Commission shall expire on the date he or she ceases to be a member of the General Assembly.

(c) Powers and duties. The Commission shall have the following powers and duties:

(1) Inventory; group; review schedule.

(A)(i) The Commission shall inventory all of the State boards and commissions, organize them into groups, and establish a schedule to conduct a review of one group each biennium.

(ii) The inventory shall include the names of the members of the State boards and commissions, their term length and expiration, and their appointing authority.

(B) The Commission shall provide its inventory of the State boards and commissions to the Secretary of State for the Secretary to maintain as set forth in section 116a of this title.

(2) Biennial review.

(A) Each biennium, the Commission shall review all of the State boards and commissions within one of its inventoried groups and shall take

testimony regarding whether each of those boards and commissions should continue to operate or be eliminated and whether the powers and duties of any of those boards and commissions should be revised.

(B) In its review of each State board and commission, the Commission shall consider:

(i) the purpose of the board or commission and whether that purpose is still needed;

(ii) how well the board or commission performs in executing that purpose; and

(iii) if the purpose is still needed, whether State government would be more effective and efficient if the purpose were executed in a different manner.

(C) Each board and commission shall have the burden of justifying its continued operation.

(D) For any board or commission that the Commission determines should continue to operate, the Commission shall also determine whether members of that board or commission should be entitled to receive per diem compensation and if so, the amount of that compensation.

(3) Biennial report. On or before the end of the biennium during which it reviews a group, the Commission shall submit to the House and Senate Committees on Government Operations its findings, any recommendation to eliminate a State board or commission within that group or to revise the powers and duties of a board or commission within the group, its recommendations regarding board or commission member per diem compensation, and any other recommendations for legislative action. The Commission shall also specifically recommend whether there should be changes to the information the Secretary of State provides in his or her inventory of the State boards and commissions as set forth in 3 V.S.A. § 116a. 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.

(d) Assistance. The Commission shall have the administrative, technical, and legal assistance of the Office of Legislative Council, the Joint Fiscal Office, and the Agency of Administration.

(e) Compensation and expense reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings per year. These payments shall be made from

monies appropriated to the General Assembly.

(2) Other members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings per year. These payments shall be made from monies appropriated to the Agency of Administration.

Sec. 11. TRANSITIONAL PROVISION; INITIAL SUNSET ADVISORY COMMISSION

The members of the initial Sunset Advisory Commission established in 3 V.S.A. § 268 in Sec. 10 of this act shall be appointed on or before October 1, 2018 and shall meet prior to the 2019-2020 biennium in order to inventory all of the State boards and commissions and organize them into groups as described in Sec. 10 of this act in 3 V.S.A. § 268(c) so as to be able to review all groups within two bienniums, and during the 2019-2020 biennium those members shall conduct the first biennial review of a group in accordance with that subsection.

Sec. 12. SUNSET OF THE SUNSET ADVISORY COMMISSION

3 V.S.A. § 268 (boards and commissions; Sunset Advisory Commission) is repealed on January 4, 2023.

* * * Secretary of State; Inventory of Boards and Commissions * * *

Sec. 13. 3 V.S.A. § 116a is added to read:

§ 116a. MAINTENANCE OF INVENTORY OF STATE BOARDS AND COMMISSIONS

(a)(1) The Secretary of State shall maintain and make available on his or her official website an inventory of the State boards and commissions, and shall update that inventory when changes are made that affect the information provided in the inventory.

(2)(A) The inventory shall include the names of the members of each State board and commission, their term length and expiration, and their appointing authority.

(B) Each State board and commission shall be responsible for providing to the Secretary of State this inventory information and any updates to it.

(b) As used in this section, “State boards and commissions” means professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, and any other boards or commissions of the State.

* * * Membership of Health Reform Oversight Committee * * *

Sec. 13a. 2 V.S.A. § 691 is amended to read:

§ 691. COMMITTEE CREATION

There is created the legislative Health Reform Oversight Committee. The Committee shall be composed of the following eight members:

* * *

(8) ~~the Chair of the Senate Committee on Economic Development, Housing and General Affairs~~ one member of the Senate appointed by the Committee on Committees.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except that Sec. 9. 2 V.S.A. chapter 18 shall take effect on passage and Sec. 13, 3 V.S.A. § 116a (Secretary of State; maintenance of inventory of State boards and commissions) shall take effect on January 1, 2019.

(No House Amendments)

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

H. 143

An act relating to automobile insurance requirements and transportation network companies

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

First: In Sec. 2, 23 V.S.A. chapter 10, in § 750(b)(3), by striking out subdivision (A) in its entirety and by inserting in lieu thereof a new subdivision (A) to read as follows:

(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage;

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(iii) \$10,000.00 in medical payments coverage (Med Pay).

Second: In Sec. 2, 23 V.S.A. chapter 10, in § 751(c)(3), by striking out the

word “seven” and by inserting in lieu thereof three

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

Committee of Conference Report

S. 29

An act relating to decedents’ estates

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S. 29 An act relating to decedents’ estates

Respectfully report that they have met and considered the same and recommend that the Senate accede to the House proposal of amendment and the House proposal be further amended as follows:

In Sec. 9, 14 V.S.A. chapter 75, in § 1651, by striking out subdivision (12) in its entirety.

Eileen G. Dickinson

Maxine Jo Grad

Janssen D. Willhoit

Committee on the part of the House

Margaret K. Flory

Alice W. Nitka

Joseph C. Benning

Committee on the part of the Senate

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?

Action Postponed Indefinitely

H. 167

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