

# House Calendar

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Tuesday, May 08, 2018

126th DAY OF THE ADJOURNED SESSION

House Convenes at 10:00 A.M.

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## ORDERS OF THE DAY

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### ACTION CALENDAR

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**Action Postponed Until May 8, 2018**

**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)**

#### **Amendment to be offered by Rep. Browning of Arlington to S. 40**

That the recommendation of the Committee on General, Housing, and Military Affairs be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

#### **Sec. 1. DISTRIBUTION OF MINIMUM WAGE WORKERS AND UNEMPLOYMENT; JOINT FISCAL OFFICE; REPORT**

(a) The Joint Fiscal Office, in consultation with the legislative economist and the Department of Labor, shall:

(1) examine Vermont industries with significant concentrations of minimum wage workers and the regional rates of unemployment in Vermont;

(2) determine whether any industries with significant concentrations of minimum wage workers are primarily located in or employ a significant portion of the workforce in regions with rates of unemployment that are above the State average; and

(3) estimate the potential rate of disemployment resulting from an increase in the minimum wage to \$15.00 by 2025 in regions with rates of unemployment that are above the State average and in industries in those regions that have significant concentrations of minimum wage workers.

(b) On or before January 15, 2019, the Joint Fiscal Office shall submit a written report containing its findings to the House Committees on Appropriations, on General, Housing, and Military Affairs, and on Ways and Means and to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance.

## Sec. 2. DISINCENTIVES TO HIRING WORKERS; LEGISLATIVE COUNCIL; REPORT

(a) The office of Legislative Council, in consultation with the Joint Fiscal Office, shall identify and examine:

(1) State and federal laws and rules that create financial disincentives to hire and retain workers;

(2) State and federal laws and rules that comparatively incentivize investments in capital over the creation and retention of jobs; and

(3) statutory changes that have been proposed or adopted in other states to more effectively incentivize the creation and retention of jobs.

(b) On or before January 15, 2019, the Office of Legislative Council shall submit a written report containing its findings to the House Committees on Appropriations, on General, Housing, and Military Affairs, and on Ways and Means and to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Finance.

## Sec. 3. VOLUNTARY PARENTAL AND FAMILY LEAVE PROGRAM; LEGISLATIVE COUNCIL; REPORT

(a) The Office of Legislative Council, in consultation with the State Treasurer and the Joint Fiscal Office, shall examine the potential for creating a

voluntary parental and family leave insurance program administered by the State Treasurer and offered in conjunction with the Green Mountain Secure Retirement Plan. In particular, the Office of Legislative Council shall examine the feasibility of a voluntary parental and family leave insurance program, any potential legal issues related to offering such a program in conjunction with the Green Mountain Secure Retirement Plan, and any legislative, regulatory, and administrative changes necessary to implement a voluntary parental and family leave insurance program.

(b) On or before January 15, 2019, the Office of Legislative Council shall submit a written report containing its findings to the House Committees on Appropriations, on General, Housing, and Military Affairs, on Government Operations, and on Ways and Means and to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, on Finance, and on Government Operations.

Sec. 4. 21 V.S.A. § 383 is amended to read:

§ 383. DEFINITIONS

Terms used in this subchapter have the following meanings, unless a different meaning is clearly apparent from the language or context:

(1) “Commissioner;” means the Commissioner of Labor or designee;

(2) “Employee;” means any individual employed or permitted to work by an employer except:

\* \* \*

(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.]

(3) “Occupation;” means an industry, trade, ~~or~~ business or branch thereof, or a class of work in which workers are gainfully employed.

(4) “Tip” means a sum of money gratuitously and voluntarily left by a customer for service, or indicated on a bill or charge statement, to be paid to a service or tipped employee for directly and personally serving the customer in a hotel, motel, tourist place, or restaurant. An employer-mandated service charge shall not be considered a tip.

Sec. 5. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

(a)(1) An employer shall not employ any employee at a rate of less than

~~\$9.15. Beginning on January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning on 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 on January 1, 2019 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.

\* \* \*

(e)(1) A tip shall be the sole property of the employee or employees to whom it was paid, given, or left. An employer that permits patrons to pay tips by credit card shall pay an employee the full amount of the tip that the customer indicated, without any deductions for credit card processing fees or costs that may be charged to the employer by the credit card company.

(2) An employer shall not collect, deduct, or receive any portion of a tip left for an employee or credit any portion of a tip left for an employee against the wages due to the employee pursuant to subsection (a) of this section.

(3) This subsection shall not be construed to prohibit the pooling of tips among service or tipped employees as defined pursuant to subsection (a) of this section.

## Sec. 6. EFFECTIVE DATES

(a) 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.

(b) In Sec. 5, 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.

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

**Amendment to be offered by Rep. Helm of Fair Haven to S. 40**

Moves that the recommendation of the committee on General, Housing and Military Affairs be amended as follows:

First: Before Sec. 1, 21 V.S.A. § 384, by inserting a new Sec. 1 to read:

**Sec. 1. FINDINGS**

(a) The General Assembly finds that:

(1) Vermont has a population of 623,657 persons. Approximately, 43 percent of the State's population, or 268,793 persons, reside in Chittenden, Franklin, and Washington counties. Within those counties, 161,382 persons reside in Chittenden County, 48,799 persons reside in Franklin County, and 58,612 persons reside in Washington County.

(2) A significant portion of the State's economic growth is currently located in Chittenden, Franklin, and Washington counties.

(3) Because of their stronger economic growth, Chittenden, Franklin, and Washington counties can more easily support an increase in the minimum wage than the other regions of the State.

(b) Therefore, the General Assembly deems it prudent to increase the minimum wage in Chittenden, Franklin, and Washington counties to \$15.00 by 2024, while increasing the minimum wage by the rate of inflation in the other regions of the State.

and by renumbering the remaining sections to be numerically correct.

Second: In renumbered Sec. 2, 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 on January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning on January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018~~ Except as otherwise provided in subdivision (2) of this subsection, an employer shall not employ any employee at a rate of less than \$10.50, and beginning on January 1, 2019 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.

(2) An employer shall not employ any employee working in Chittenden, Franklin, or Washington County at a rate of less than:

(A) \$10.50;

(B) \$11.10 beginning on January 1, 2019;

(C) \$11.75 beginning on January 1, 2020;

(D) \$12.50 beginning on January 1, 2021;

(E) \$13.25 beginning on January 1, 2022;

(F) \$14.10 beginning on January 1, 2023;

(G) \$15.00 beginning on January 1, 2024; and

(H) a minimum wage rate on each subsequent January 1 that equals the previous minimum wage rate 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 established pursuant to this subdivision (2) be decreased.

(3) The minimum wage shall be rounded off to the nearest \$0.01.

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

(5) 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 applicable 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.

(5) If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont pursuant to subdivision (1) or (2) of this subsection for any year, the minimum wage rate pursuant to the affected subdivision for that year shall be the rate established by the U.S. government.

**Amendment to be offered by Rep. Poirier of Barre City to S. 40**

Representative Poirier of Barre City moves to amend the recommendation of the Committee on General, Housing, and Military Affairs as follows:

First: In Sec. 1, 21 V.S.A. § 384, by striking out the section in its entirety and inserting a new Sec. 1 to read:

Sec. 1. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

(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 \$12.00. Beginning on January 1, 2020, an employer shall not employ any employee at a rate of less than \$13.50. Beginning on January 1, 2021, 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.

\* \* \*

(e)(1) A tip shall be the sole property of the employee or employees to whom it was paid, given, or left. An employer that permits patrons to pay tips

by credit card shall pay an employee the full amount of the tip that the customer indicated, without any deductions for credit card processing fees or costs that may be charged to the employer by the credit card company.

(2) An employer shall not collect, deduct, or receive any portion of a tip left for an employee or credit any portion of a tip left for an employee against the wages due to the employee pursuant to subsection (a) of this section.

(3) This subsection shall not be construed to prohibit the pooling of tips among service or tipped employees as defined pursuant to subsection (a) of this section.

Second: In Sec. 3, minimum wage, report regarding adjustments for inflation, after “On or before January 15,” by striking out “2023” and inserting in lieu thereof “2020”

Third: In Sec. 3, minimum wage, report regarding adjustments for inflation, after “inflation after” by striking out “2024” and inserting in lieu thereof “2021”

## **Senate Proposal of Amendment**

### **H. 526**

An act relating to regulating notaries public

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

Sec. 1. 26 V.S.A. chapter 103 is added to read:

#### CHAPTER 103. NOTARIES PUBLIC

##### Subchapter 1. General Provisions

##### § 5301. SHORT TITLE

This chapter may be cited as the Uniform Law on Notarial Acts.

##### § 5302. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

##### § 5303. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b)

of that act, 15 U.S.C. § 7003(b).

#### § 5304. DEFINITIONS

As used in this chapter:

(1) “Acknowledgment” means a declaration by an individual before a notary public that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(2) “Certificate” or “notarial certificate” means the part of, or attachment to, a notarized document that is completed by a notary public, bears the required information set forth in section 5367 of this chapter, and states the facts attested to or certified by the notary public in a particular notarization.

(3) “Commission term” means the two-year period commencing on February 1 and continuing through January 31 of the second year following the commencement of the term.

(4) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(5) “Electronic signature” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(6) “In a representative capacity” means acting as:

(A) an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(B) a public officer, personal representative, guardian, administrator, executor, trustee, or other representative, in the capacity stated in a record;

(C) an agent or attorney-in-fact for a principal; or

(D) an authorized representative of another in any other capacity.

(7)(A) “Notarial act” means an act, whether performed with respect to a tangible or an electronic record, that a notary public may perform under the law of this State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, attesting a signature, and noting a protest of a negotiable instrument.

(B) “Notarial act” does not include a corporate officer attesting to another corporate officer’s signature in the ordinary course of the corporation’s business.

(C) Nothing in this chapter shall be construed to require the use of a notary public to witness a signature that is allowed by law to be witnessed by an individual who is not a notary public.

(8) “Notarial officer” means a notary public or other individual authorized to perform a notarial act.

(9) “Notary public” means an individual commissioned to perform a notarial act by the Office.

(10) “Office” means the Office of Professional Regulation within the Office of the Secretary of State.

(11) “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic process, seal, or image or electronic information attached to or logically associated with an electronic record.

(12) “Person” means an individual, corporation, business trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(15) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

(16) “Stamping device” means:

(A) a physical device capable of affixing to or embossing on a tangible record an official stamp; or

(B) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

(17) “State” means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notary public, that a statement in a record is true.

§ 5305. EXEMPTIONS

(a) Generally.

(1) The persons set forth in subdivision (2) of this subsection, when acting within the scope of their official duties, are exempt from all of the requirements of this chapter, except for the requirements:

(A) to apply for a commission as set forth in section 5341(a), (b)(1)–(3), (c), (d), and (e) of this chapter; and

(B) unless exempted under subsection (c) of this section, to pay the fee set forth in section 5324 of this chapter:

(2)(A) Persons employed by the Judiciary, including judges, Superior Court clerks, court operations managers, Probate registers, case managers, docket clerks, assistant judges, county clerks, and after-hours relief from abuse contract employees.

(B) Persons employed as law enforcement officers certified under 20 V.S.A. chapter 151; who are noncertified constables; or who are employed by a Vermont law enforcement agency, the Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of Liquor Control, or for Children and Families, the Office of the Defender General, the Office of the Attorney General, or a State’s Attorney or Sheriff.

(3) As used in subdivision (1) of this subsection, “acting within the scope of official duties” means that a person is notarizing a document that:

(A) he or she believes is related to the execution of his or her duties and responsibilities of employment or is the type of document that other employees notarize in the course of employment;

(B) is useful or of assistance to any person or entity identified in subdivision (2) of this subsection (a);

(C) is required, requested, created, used, submitted, or relied upon by any person or entity identified in subdivision (2) of this subsection (a);

(D) is necessary in order to assist in the representation, care, or protection of a person or the State;

(E) is necessary in order to protect the public or property;

(F) is necessary to represent or assist crime victims in receiving restitution or other services;

(G) relates to a Vermont or federal court rule or statute governing any criminal, postconviction, mental health, family, juvenile, civil, probate, Judicial Bureau, Environmental Division, or Supreme Court matter; or

(H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33 of the Vermont Statutes Annotated.

(b) Attorneys.

(1) Attorneys licensed and in good standing in this State are exempt from:

(A) the examination requirement set forth in subsection 5341(b) of this chapter; and

(B) the continuing education requirement set forth in section 5343 of this chapter.

(2) If a complaint of a violation of this chapter is filed in regard to a Vermont licensed attorney, the Office shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

(c) Fees. The following persons are exempt from the fee set forth in section 5324 of this chapter:

(1) a judge, clerk, or other court staff, as designated by the Court Administrator;

(2) State's Attorneys and their deputies and Assistant Attorneys General, public defenders, and their staff;

(3) justices of the peace and town clerks and their assistants; and

(4) State Police officers, municipal police officers, fish and game wardens, sheriffs and deputy sheriffs, motor vehicle inspectors, employees of the Department of Corrections, and employees of the Department for Children and Families.

## Subchapter 2. Administration

### § 5321. SECRETARY OF STATE'S OFFICE DUTIES

The Office shall:

(1) provide general information to applicants for commissioning as a notary public;

(2) administer fees as provided under section 5324 of this chapter;

(3) explain appeal procedures to notaries public and applicants and explain complaint procedures to the public; and

(4) receive applications for commissioning, review applications, and grant and renew commissions when appropriate under this chapter.

### § 5322. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint two notaries public to serve as advisors in matters relating to notarial acts. One of the advisors shall be an attorney selected from a list of at least three licensed attorneys provided by the Vermont Bar Association. The advisors shall be appointed for staggered five-year terms and serve at the pleasure of the Secretary. One of the initial appointments shall be for less than a five-year term.

(b) Each appointee shall have at least three years of experience as a notary public during the period immediately preceding appointment and shall be actively commissioned in Vermont and remain in good standing during incumbency.

(c) The Office shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The appointees shall be entitled to compensation and reimbursement of expenses as set forth in 32 V.S.A. § 1010 for attendance at any meeting called by the Office for this purpose.

#### § 5323. RULES

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking or otherwise disciplining a notary public and assuring the trustworthiness of an individual holding a commission as notary public; and

(5) include provisions to prevent fraud or mistake in the performance of notarial acts.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;



(2) standards, practices, and customs of other jurisdictions that substantially enact this chapter; and

(3) the views of governmental officials and entities and other interested persons.

#### § 5324. FEES

For the issuance of a commission as a notary public, the Office shall collect a fee of \$15.00.

### Subchapter 3. Commissions

#### § 5341. COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO IMMUNITY OR BENEFIT

(a) An individual qualified under subsection (b) of this section may apply to the Office for a commission as a notary public. The applicant shall comply with and provide the information required by rules adopted by the Office and pay the application fee set forth in section 5324 of this chapter.

(b) An applicant for a commission as a notary public shall:

(1) be at least 18 years of age;

(2) be a citizen or permanent legal resident of the United States;

(3) be a resident of or have a place of employment or practice in this State;

(4) not be disqualified to receive a commission under section 5342 of this chapter; and

(5) pass a basic examination approved by the Office based on the statutes, rules, and ethics relevant to notarial acts.

(c) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the Office.

(d) Upon compliance with this section, the Office shall issue a commission as a notary public to an applicant, which shall be valid through the then current commission term end date.

(e) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this State on public officials or employees.

#### § 5342. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC

(a) The Office may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(1) failure to comply with this chapter;

(2) a fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Office;

(3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;

(4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(5) failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the Office, or any federal or State law;

(6) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;

(7) violation by the notary public of a rule of the Office regarding a notary public;

(8) denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; or

(9) committing any of the conduct set forth in 3 V.S.A. § 129a(a).

(b) If the Office denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with 3 V.S.A. chapter 25.

#### § 5343. RENEWALS; CONTINUING EDUCATION

(a) Biennially, the Office shall provide a renewal notice to each commissioned notary public. Upon receipt of a notary public's completed renewal, payment of the fee as set forth in section 5324 of this chapter, and evidence of eligibility, the Office shall issue to him or her a new commission.

(b) A notary public applying for renewal shall complete continuing education approved by the Office, which shall not be required to exceed two hours, during the preceding two-year period.

(c) The Office, with the advice of the advisor appointees, shall establish by rule guidelines and criteria for continuing education credit.

#### § 5344. DATABASE OF NOTARIES PUBLIC

The Office shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts; and

(2) that indicates whether a notary public has notified the Office that the notary public will be performing notarial acts on electronic records.

#### § 5345. PROHIBITIONS; OFFENSES

(a) A person shall not perform or attempt to perform a notarial act or hold himself or herself out as being able to do so in this State without first having been commissioned.

(b) A person shall not use in connection with the person's name any letters, words, or insignia indicating or implying that the person is a notary public unless commissioned in accordance with this chapter.

(c) A person shall not perform or attempt to perform a notarial act while his or her commission has been revoked or suspended.

(d) A person who violates a provision of this section shall be subject to a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Prosecution may occur upon the complaint of the Attorney General or a State's Attorney and shall not act as a bar to civil or administrative proceedings involving the same conduct.

(e) A commission as a notary public shall not authorize an individual to assist a person in drafting legal records, give legal advice, or otherwise practice law.

(f) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person who seeks performance of a notarial act by the notary public.

#### Subchapter 4. Notarial Acts

#### § 5361. NOTARIAL ACTS IN THIS STATE; AUTHORITY TO PERFORM

(a) A notarial act may only be performed in this State by a notary public commissioned under this chapter.

(b) The signature and title of an individual performing a notarial act in this State are prima facie evidence that the signature is genuine and that the individual holds the designated title.

#### § 5362. AUTHORIZED NOTARIAL ACTS

(a) A notary public may perform a notarial act authorized by this chapter or otherwise by law of this State.

(b) A notary public shall not perform a notarial act with respect to a record to which the notary public or the notary public's spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

#### § 5363. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS

(a) Acknowledgments. A notary public who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(b) Verifications. A notary public who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(c) Signatures. A notary public who attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(d) Protests. A notary public who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 9A V.S.A. § 3-505(b), protest; certificate of dishonor.

#### § 5364. PERSONAL APPEARANCE REQUIRED

(a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

(b) A personal appearance does not include an acknowledgment using video conferencing software that uses the transmission of video images, or any other form of communication in which the notary public and the person requesting the notarial act are not in the same physical location at the same time.

#### § 5365. IDENTIFICATION OF INDIVIDUAL

(a) Personal knowledge. A notary public has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(b) Satisfactory evidence. A notary public has satisfactory evidence of the

identity of an individual appearing before the officer if the officer can identify the individual:

(1) by means of:

(A) a passport, driver's license, or government issued non-driver identification card, which is current or expired not more than three years before performance of the notarial act; or

(B) another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government issued non-driver identification card, which is current or expired not more than three years before performance of the notarial act.

(c) Additional information. A notary public may require an individual to provide additional information or identification credentials necessary to assure the notary public of the identity of the individual.

#### § 5366. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN

If an individual is physically unable to sign a record, the individual may direct an individual other than the notary public to sign the individual's name on the record. The notary public shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

#### § 5367. CERTIFICATE OF NOTARIAL ACT

(a) A notarial act shall be evidenced by a certificate. The certificate shall:

(1) be executed contemporaneously with the performance of the notarial act;

(2) be signed and dated by the notary public and be signed in the same manner as on file with the Office;

(3) identify the jurisdiction in which the notarial act is performed;

(4) contain the title of office of the notary public; and

(5) indicate the date of expiration of the officer's commission.

(b)(1) If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate or, in the alternative, the notary shall clearly print or type the notary public's name

and commission number on the certificate.

(2) If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in subdivisions (a)(2)–(4) of this section, an official stamp may be attached to or logically associated with the certificate.

(c) A certificate of a notarial act is sufficient if it meets the requirements of subsections (a) and (b) of this section and:

(1) is in a short form as set forth in section 5368 of this chapter;

(2) is in a form otherwise permitted by the law of this State;

(3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(4) sets forth the actions of the notary public and the actions are sufficient to meet the requirements of the notarial act as provided in sections 5362–5364 of this chapter or a law of this State other than this chapter.

(d) By executing a certificate of a notarial act, a notary public certifies that the notary public has complied with the requirements and made the determinations specified in sections 5363–5365 of this chapter.

(e) A notary public shall not affix the notary public’s signature to, or logically associate it with, a certificate until the notarial act has been performed.

(f)(1) If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record.

(2) If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record.

(3) If the Office has established standards by rule pursuant to section 5323 of this chapter for attaching, affixing, or logically associating the certificate, the process shall conform to those standards.

#### § 5368. SHORT-FORM CERTIFICATES

The following short-form certificates of notarial acts shall be sufficient for the purposes indicated, if completed with the information required by subsections 5367(a) and (b) of this chapter:

(1) For an acknowledgment in an individual capacity:

State of Vermont [County] of \_\_\_\_\_

This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_

Signature of notary public

Stamp [\_\_\_\_\_]

Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

(2) For an acknowledgment in a representative capacity:

State of Vermont [County] of \_\_\_\_\_

This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_

Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_

as \_\_\_\_\_ (type of authority, such as officer or  
trustee) of \_\_\_\_\_ (name of party on behalf of

whom \_\_\_\_\_ record \_\_\_\_\_ was \_\_\_\_\_ executed).

Signature of notary public

Stamp [\_\_\_\_\_]

Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

(3) For a verification on oath or affirmation:

State of Vermont [County] of \_\_\_\_\_

Signed and sworn to (or affirmed) before me on \_\_\_\_\_

by \_\_\_\_\_

Date \_\_\_\_\_

Name(s) of individual(s) making statement \_\_\_\_\_

Signature of notary public

Stamp [\_\_\_\_\_]

Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

(4) For attesting a signature:

State of Vermont [County] of \_\_\_\_\_

Signed [or attested] before me on \_\_\_\_\_ by \_\_\_\_\_

Date \_\_\_\_\_ Name(s) of individual(s) \_\_\_\_\_

Signature of notary public

Stamp [\_\_\_\_\_]

Title of office \_\_\_\_\_ [My commission expires: \_\_\_\_\_]

#### § 5369. OFFICIAL STAMP

The official stamp of a notary public shall:

(1) include the notary public's name, jurisdiction, and other information  
required by the Office; and

(2) be capable of being copied together with the record to which it is  
affixed or attached or with which it is logically associated.

#### § 5370. STAMPING DEVICE

(a) A notary public is responsible for the security of the notary public's  
stamping device and shall not allow another individual to use the device to  
perform a notarial act.

(b) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the Office on discovering that the device is lost or stolen.

§ 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL  
ACT ON ELECTRONIC RECORD; SELECTION OF  
TECHNOLOGY

(a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records from the tamper-evident technologies approved by the Office by rule. A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, the notary public shall notify the Office that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use from the list of technologies approved by the Office by rule. If the Office has established standards by rule for approval of technology pursuant to section 5323 of this chapter, the technology shall conform to the standards. If the technology conforms to the standards, the Office shall approve the use of the technology.

§ 5372. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

(a) A notary public may refuse to perform a notarial act if the notary public is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record; or

(2) the individual's signature is knowingly and voluntarily made.

(b) A notary public may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

§ 5373. VALIDITY OF NOTARIAL ACTS

(a) Except as otherwise provided in subsection 5372(b) of this chapter, the failure of a notary public to perform a duty or meet a requirement specified in this chapter shall not impair the marketability of title or invalidate a notarial act or a certification evidencing the notarial act.

(b) An acknowledgment that contains a notary commission expiration date that is either inaccurate or expired shall not invalidate the acknowledgment if it can be established that on the date the acknowledgment was taken, the notary public's commission was active.



(c) The validity of a notarial act under this chapter shall not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this State other than this chapter or law of the United States.

(d) Defects in the written evidence of acknowledgment in a document in the public records may be cured by the notary public who performed the original notarial act. The notary public shall, under oath and before a different notary public, execute a writing correcting any defect. Upon recording, the corrective document corrects any deficiency and ratifies the original written evidence of acknowledgment as of the date the acknowledgment was originally taken.

(e) Notwithstanding any provision of law to the contrary, a document that conveys an interest in real property shall be recordable in the land records and, if recorded, shall be sufficient for record notice to third parties, notwithstanding the failure of a notary public to perform any duty or meet any requirement specified in this chapter. Such failure includes the failure to comply in full or in part with the requirements of sections 5367-5369 of this title.

(f) This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

#### § 5374. NOTARIAL ACT IN ANOTHER STATE

(a) A notarial act performed in another state has the same effect under the law of this State as if performed by a notary public of this State, if the act performed in that state is performed by:

(1) a notary public of that state;

(2) a judge, clerk, or deputy clerk of a court of that state; or

(3) any other individual authorized by the law of that state to perform the notarial act.

(b) If a deed or other conveyance or a power of attorney for the conveyance of land, the acknowledgment or proof of which is taken out of State, is certified agreeably to the laws of the state in which the acknowledgment or proof is taken, it shall be valid as though it were taken before a proper officer in this State.

(c) An acknowledgment for a deed or other conveyance or a power of attorney for the conveyance of land that is taken out of State before a proper officer of this State shall be valid as if taken within this State.

(d) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the

individual holds the designated title.

(e) The signature and title of a notarial officer described in subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 5375. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY  
RECOGNIZED INDIAN TRIBE

(a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notary public of this State, if the act performed in the jurisdiction of the tribe is performed by:

(1) a notary public of the tribe;

(2) a judge, clerk, or deputy clerk of a court of the tribe; or

(3) any other individual authorized by the law of the tribe to perform the notarial act.

(b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 5376. NOTARIAL ACT UNDER FEDERAL AUTHORITY

(a) A notarial act performed under federal law has the same effect under the law of this State as if performed by a notary public of this State, if the act performed under federal law is performed by:

(1) a judge, clerk, or deputy clerk of a court;

(2) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(3) an individual designated a notarizing officer by the U.S. Department of State for performing notarial acts overseas; or

(4) any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an officer described in subdivision (a)(1), (2), or (3) of this section shall conclusively establish the authority of the officer to perform the notarial act.

§ 5377. EVIDENCE OF AUTHENTICITY OF NOTARIAL ACT  
PERFORMED IN THIS STATE

(a) The authenticity of the official notarial stamp and signature of a notary public may be evidenced by either:

(1) A certificate of authority from the Secretary of State authenticated as necessary.

(2) An apostille from the Secretary of State in the form prescribed by the Hague convention of October 5, 1961 abolishing the requirement of legalization of foreign public documents.

(b) An apostille as specified by the Hague convention shall be attached to any document that requires authentication and that is sent to a nation that has signed and ratified this convention.

§ 5378. FOREIGN NOTARIAL ACT

(a) In this section, “foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.

(b) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this State as if performed by a notary public of this State.

(c) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(d) The signature and official stamp of an individual holding an office described in subsection (c) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(e) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(f) A consular authentication issued by an individual designated by the U.S. Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is

performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

Sec. 2. 27 V.S.A. § 341 is amended to read:

§ 341. REQUIREMENTS GENERALLY; RECORDING

(a) Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a ~~town clerk, notary public, master, or county clerk~~ and recorded at length in the clerk's office of the town in which such lands lie. Such acknowledgment before a notary public shall be valid without an official seal stamp being affixed to his or her signature.

(b) A deed or other conveyance of land ~~which~~ that includes a reference to a survey prepared or revised after July 1, 1988 may be recorded only if it is accompanied by the survey to which it refers, or cites the volume and page in the land records showing where the survey has previously been recorded.

(c) A lease of real property that has a term of more than one year from the making of the lease need not be recorded at length if a notice or memorandum of lease, which is executed and acknowledged as provided in subsection (a) of this section, is recorded in the land records of the town in which the leased property is situated. The notice of lease shall contain at least the following information:

- (1) the names of the parties to the lease as set forth in the lease;
- (2) a statement of the rights of a party to extend or renew the lease;
- (3) any addresses set forth in the lease as those of the parties;
- (4) the date of the execution of the lease;
- (5) the term of the lease, the date of commencement, and the date of termination;
- (6) a description of the real property as set forth in the lease;
- (7) a statement of the rights of a party to purchase the real property or exercise a right of first refusal with respect thereto;
- (8) a statement of any restrictions on assignment of the lease; and
- (9) the location of an original lease.

Sec. 3. 27 V.S.A. § 342 is amended to read:

§ 342. ACKNOWLEDGMENT AND RECORDING REQUIRED

A deed of bargain and sale, a mortgage or other conveyance of land in fee simple or for term of life, or a lease for more than one year from the making

thereof shall not be effectual to hold such lands against any person but the grantor and his or her heirs, unless the deed or other conveyance is acknowledged and recorded as ~~provided in this chapter~~.

Sec. 4. 27 V.S.A. § 463 is amended to read:

§ 463. BY SEPARATE INSTRUMENT

(a) Mortgages may be discharged by an acknowledgment of satisfaction, executed by the mortgagee or his or her attorney, executor, administrator, or assigns, which shall be substantially in the following form:

I hereby certify that the following described mortgage is paid in full and satisfied, viz: \_\_\_\_\_ mortgagor to \_\_\_\_\_ mortgagee, dated \_\_\_\_\_ 20\_\_\_\_, and recorded in book \_\_\_\_\_, page \_\_\_\_\_, of the land records of the town of \_\_\_\_\_.

(b) When such satisfaction is acknowledged before a ~~town clerk~~, notary public, ~~master, or county clerk~~, and recorded, it shall discharge such mortgage and bar actions brought thereon.

Sec. 5. REPEALS

The following are repealed:

- (1) 24 V.S.A. chapter 5, subchapter 9 (notaries public);
- (2) 27 V.S.A. § 379 (conveyance of real estate; execution and acknowledgment; acknowledgment out of state);
- (3) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge or fee);
- (4) 32 V.S.A. § 1436 (fee for certification of appointment as notary public); and
- (5) 32 V.S.A. § 1759 (notaries public fees).

Sec. 6. APPLICABILITY; NOTARY PUBLIC COMMISSION IN EFFECT

(a)(1) This act shall apply to a notarial act performed on or after the effective date of this act.

(2) A notary public, in performing notarial acts on and after the effective date of this act, shall comply with the provisions of this act.

(b)(1) A commission as a notary public in effect on the effective date of this act shall continue until its date of expiration.

(2) A notary public who applies to renew a commission as a notary public on or after the effective date of this act shall comply with the provisions of this act.

## Sec. 7. SAVINGS CLAUSE

This act shall not affect the validity or effect of a notarial act performed prior to the effective date of this act.

## Sec. 8. POTENTIAL ENACTMENT OF UNIFORM UNSWORN DECLARATIONS ACT; REPORT BY AFFECTED ENTITIES

(a) The General Assembly is considering enacting a law similar to the April 2015 draft of the Uniform Unsworn Declarations Act (UUDA) prepared by the National Conference of Commissioners on Uniform State Laws.

(b) In order to understand the UUDA's potential effect on State operations, on or before June 30, 2019, the Secretary of Administration on behalf of the Administration and the State's boards, councils, and commissions; the Attorney General; the Secretary of State; the Executive Director of the Department of State's Attorneys and Sheriffs; the Defender General; the Auditor of Accounts; the State Treasurer; and the Court Administrator shall each submit to the General Assembly a summary regarding the effect of the enactment of the UUDA on each entity and the users of its operations. The summary shall include the following in regard to the entity's operations:

(1) an identification of forms requiring a notarial act and any proceeding or action requiring the use of such forms that are created, used, or required by the entity;

(2) an explanation of whether continued use of a notarial act on a particular form is recommended and if so, why;

(3) any recommendations for amendments to the UUDA;

(4) a draft of any suggested legislation, rules, or forms, including amendments to existing rules and forms, as may be necessary to address issues arising from the enactment of the UUDA;

(5) an identification of the resources, timeline, and expenses related to any necessary rulemaking or form change based on the enactment of the UUDA.

## Sec. 9. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

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

(1) this section shall take effect on passage;

(2) the Office of Professional Regulation may adopt rules in accordance with the provisions of Sec. 1 prior to the effective date of that section;

(3) beginning on December 1, 2018, the Office of Professional Regulation shall perform the duties of the assistant judges and county clerks in

regard to receiving applications and commissioning notaries public as set forth in 24 V.S.A. chapter 5, subchapter 9 (county officers; notaries public) for the two-year notaries public commission terms that begin on February 1, 2019 in accordance with Sec. 1; and

(4) in Sec. 1, the examination requirement for new notaries public applicants set forth in 26 V.S.A. § 5341(b)(5) and the continuing education requirement for notaries public renewal applicants set forth in 26 V.S.A. § 5343(b) shall take effect on February 1, 2021 and shall apply to those applicants for the notaries public commission terms that begin on that date.

(For text see House Journal March 23, 2018 )

**Amendment to be offered by Rep. Townsend of South Burlington to H. 526**

Rep. Townsend of South Burlington moves that the House concur in the Senate proposal of amendment with a further amendment as follows:

First: In Sec. 1, 26 V.S.A. chapter 103 (notaries public), by striking out § 5323 (rules) in its entirety and inserting in lieu thereof a new § 5323 to read:

§ 5323. RULES

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking the commission of or otherwise disciplining a notary public and assuring the trustworthiness of an individual holding a commission as notary public;

(5) include provisions to prevent fraud or mistake in the performance of notarial acts; and

(6) prescribe standards for remote online notarization, including standards for credential analysis, the process through which a third person affirms the identity of an individual, the methods for communicating through a secure communication link, the means by which the remote notarization is certified, and the form of notice to be appended disclosing the fact that the

notarization was completed remotely on any document acknowledged through remote online notarization.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records and remote online notarization may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records and remote online notarization, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records and remote online notarization promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that substantially enact this chapter; and

(3) the views of governmental officials and entities and other interested persons.

(c) Neither electronic notarization nor remote online notarization shall be allowed until the Secretary of State has adopted rules and prescribed standards in these areas.

Second: In Sec. 1, 26 V.S.A. chapter 103, by striking out § 5364 (personal appearance required) in its entirety and inserting in lieu thereof a new § 5364 to read:

#### § 5364. PERSONAL APPEARANCE REQUIRED

(a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

(b) The requirement for a personal appearance is satisfied if:

(1) the notary public and the person executing the signature are in the same physical place; or

(2) the notary public and the person are communicating through a secure communication link using protocols and standards prescribed in rules adopted by the Secretary of State pursuant to the rulemaking authority set forth in this chapter.

### **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 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. MEMBERS<sub>2</sub>; APPOINTMENT<sub>2</sub>; 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 )

**Amendment to be offered by Rep. Gannon of Wilmington to H. 913**

Moves that the House concur in the Senate proposal of amendment with a further amendment thereto as follows:

First: By striking out Sec. 9, 2 V.S.A. chapter 18 (Joint Information Technology Oversight Committee) in its entirety and inserting in lieu thereof the following:

Sec. 9. [Deleted.]

Second: In Sec. 14 (effective dates), following “This act shall take effect on July 1, 2018, except that” by striking out “Sec. 9. 2 V.S.A. chapter 18 shall take effect on passage and”

**H. 923**

An act relating to capital construction and State bonding budget adjustment

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

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

Sec. 2. STATE BUILDINGS

\* \* \*

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

\* \* \*

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

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

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

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

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

\* \* \*

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

\* \* \*

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

(9) Newport, Northern State Correctional Facility, door control

replacement and perimeter control: \$1,000,000.00 \$1,715,000.00

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

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

\* \* \*

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

(14) Rutland, Asa Bloomer building, rehabilitation of building components and systems, and planning and use study: \$1,050,000.00

(15) Springfield, State Office Building, repair of the retaining wall, and environmental remediation associated with the retaining wall project: \$1,400,000.00

(16) St. Albans, Franklin County Courthouse, ADA renovations, new handicap access ramp and related exterior renovations: \$300,000.00

(17) Waterbury, Waterbury State Office Complex, Stanley and Wasson, demolition of Stanley Hall, and programming, schematic design, and design development for Wasson Hall: \$950,000.00

(18) Rutland, Marble Valley Regional Correctional Facility, repair of the historic brick and stone masonry wall used as the perimeter security for the facility: \$600,000.00

\* \* \*

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

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

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

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

(2) When the General Assembly is not in session, if, based on the projections calculated in subdivision (1) of this subsection (e), the

Commissioner of Buildings and General Services determines it is in the best interests of the State to sell the John J. Zampieri State Office Building at 108 Cherry Street in Burlington, he or she may notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and request the approval to sell. The Chairs shall recommend to approve or deny the request to the Joint Fiscal Committee. The Joint Fiscal Committee may approve or deny the recommendation of the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions; provided, however, that an approval to sell shall also require that the proceeds from the sale be appropriated to future capital construction projects and expended within two years after the date of sale.

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

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

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

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

### Sec. 3. HUMAN SERVICES

\* \* \*

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

(1) Statewide correctional facilities, cameras, locks, perimeter intrusion at correctional facilities: \$300,000.00

(2) Chittenden County Regional Correctional Facility and Northwest

State Correctional Facility, renovations, beds for therapeutic placement:

\$600,000.00

(3) Essex, Woodside Juvenile Rehabilitation Center, design and construction documents:

\$500,000.00

(4) Brattleboro, Brattleboro Retreat, renovation and fit-up:

\$4,500,000.00

(c) For the amount appropriated in subdivision (b)(2) of this section, it is the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and in the Northwest State Correctional Facility for persons in the custody of the Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten beds in the Northwest State Correctional Facility.

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

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

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

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

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

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

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

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

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

(B) With approval of the Speaker of the House and the President Pro Tempore of the Senate, as appropriate, the House Committee on Corrections and Institutions and the Senate Committee on Institutions may meet up to two times when the General Assembly is not in session to evaluate, approve, or recommend alterations to the proposal. The House Committee on Corrections and Institutions' and the Senate Committee on Institutions' members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

Appropriation – FY 2018	\$300,000.00
Appropriation – FY 2019	<del>\$300,000.00</del> <u>\$5,900,000.00</u>
Total Appropriation – Section 3	<del>\$600,000.00</del> <u>\$6,200,000.00</u>

Sec. 3. 2017 Acts and Resolves No. 84, Sec. 4 is amended to read:

Sec. 4. JUDICIARY

\* \* \*

(c) The sum of \$1,496,398.00 is appropriated in FY 2019 to the Judiciary for the case management IT system.

Appropriation – FY 2018	\$3,050,000.00
<u>Appropriation – FY 2019</u>	<u>\$1,496,398.00</u>
Total Appropriation – Section 4	<del>\$3,050,000.00</del> <u>\$4,546,398.00</u>

Sec. 4. 2017 Acts and Resolves No. 84, Sec. 5 is amended to read:

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

\* \* \*

(c) The sum of ~~\$200,000.00~~ \$300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at historic sites statewide.

(d) The following sums are appropriated in FY 2019 to the Agency of Commerce and Community Development for the following projects described in this subsection:

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

\* \* \*

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

Sec. 5. 2017 Acts and Resolves No. 84, Sec. 6 is amended to read:

Sec. 6. GRANT PROGRAMS

\* \* \*

(b) The following sums are appropriated in FY 2019 for Building Communities Grants established in 24 V.S.A. chapter 137:

\* \* \*

(9) <u>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	<del>\$1,400,000.00</del> <u>\$1,800,000.00</u>
Total Appropriation – Section 6	<del>\$2,875,000.00</del> <u>\$3,275,000.00</u>

Sec. 6. 2017 Acts and Resolves No. 84, Sec. 8 is amended to read:

Sec. 8. UNIVERSITY OF VERMONT

\* \* \*

(b) The sum of ~~\$1,400,000.00~~ \$1,650,000.00 is appropriated in FY 2019 to the University of Vermont for the projects described in subsection (a) of this section.

Appropriation – FY 2018	\$1,400,000.00
Appropriation – FY 2019	<del>\$1,400,000.00</del> <u>\$1,650,000.00</u>
Total Appropriation – Section 8	<del>\$2,800,000.00</del> <u>\$3,050,000.00</u>

Sec. 6a. 2017 Acts and Resolves No. 84, Sec. 9 is amended to read:

Sec. 9. VERMONT STATE COLLEGES

\* \* \*

(b) The sum of ~~\$2,000,000.00~~ \$3,000,000.00 is appropriated in FY 2019 to the Vermont State Colleges for the projects described in subsection (a) of this section.

Appropriation – FY 2018	\$2,000,000.00
Appropriation – FY 2019	<del>\$2,000,000.00</del> <u>\$3,000,000.00</u>
Total Appropriation – Section 9	<del>\$4,000,000.00</del> <u>\$5,000,000.00</u>

Sec. 7. 2017 Acts and Resolves No. 84, Sec. 10 is amended to read:

Sec. 10. NATURAL RESOURCES

\* \* \*

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

\* \* \*

(3) State's share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine and Ely Mine): ~~\$2,755,000.00~~ \$177,259.00

\* \* \*

Appropriation – FY 2018	\$10,914,000.00
Appropriation – FY 2019	<del>\$8,205,000.00</del> <u>\$5,627,259.00</u>
Total Appropriation – Section 10	<del>\$19,119,000.00</del> <u>\$16,541,259.00</u>

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

Sec. 11. CLEAN WATER INITIATIVES

\* \* \*

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

\* \* \*

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

\* \* \*

(d)(1) The following sums are appropriated in FY 2018 to the Vermont  
- 2975 -



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~~ \$11,458,000.00

Total Appropriation – Section 13 ~~\$7,500,000.00~~ \$13,385,000.00

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

Sec. 16. VERMONT VETERANS' HOME

\* \* \*

(c) The sum of ~~\$50,000.00~~ is following sums are appropriated in FY 2019 to the Vermont Veterans' Home for:

(1) resident care furnishings: \$50,000.00

(2) security, access system, and safety upgrades: \$100,000.00

(d) It is the intent of the General Assembly that the amounts appropriated in subsections subsection (a) and subdivision (c)(1) of this section shall be used to match federal funds to purchase resident care furnishings for the Veterans' Home.

(e) The Veterans' Home shall only use the funds appropriated in 2015 Acts and Resolves No. 26, Sec. 16 for an electronic medical records system. These funds shall be used to match federal funds and shall only become available after the Veterans' Home notifies the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that the electronic medical records system is in compliance with the criteria for creating and maintaining connectivity established by the Vermont Information Technology Leaders pursuant to 18 V.S.A. § 9352(i).

Appropriation – FY 2018 \$390,000.00

Appropriation – FY 2019 ~~\$50,000.00~~ \$150,000.00

Total Appropriation – Section 16 ~~\$440,000.00~~ \$540,000.00

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.





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 )

### **Amendment to be offered by Rep. Emmons of Springfield to H. 923**

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

First: In Sec. 1, amending 2017 Acts and Resolves No. 84, Sec. 2, in subdivision (b)(13), by striking out “\$2,281,094.00” and inserting in lieu thereof “\$2,181,094.00”, in (e)(2), in the first sentence, by striking out “may” and inserting in lieu thereof “shall” and by striking out all after subsection (g) and inserting in lieu thereof the following:

Appropriation – FY 2018	<del>\$27,857,525.00</del> <u>\$25,038,619.00</u>
Appropriation – FY 2019	<del>\$27,853,933.00</del> <u>\$28,131,610.00</u>

Total Appropriation – Section 2

\$55,711,458.00 \$53,170,229.00

Second: In Sec. 2, amending 2017 Acts and Resolves No. 84, Sec. 3, by striking out all after the ellipses and inserting in lieu thereof the following:

(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

(5) Serenity House, residential treatment center, addition and renovations: \$300,000.00

(c) For the amount appropriated in subdivision (b)(2) of this section:

(1) 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 or more beds in the Alpha Unit at the Northwest State Correctional Facility.

(2) the Commissioner of Buildings and General Services may use up to \$100,000.00 of the funds appropriated in subdivision (b)(1) of this section to support this project.

(d) For the amount appropriated in subdivision (b)(3) of this section, the Commissioner of Buildings and General Services shall consult with the Secretary of Human Services on the design and construction documents.

(e) 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 State of Vermont shall execute an agreement with the Brattleboro Retreat for the renovation and fit-up project at the Brattleboro Retreat. The agreement shall include the following provisions:

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

(ii) the Brattleboro Retreat shall target a completion date for the renovation and fit-up project of December 2019; and

(iii) terms and conditions that ensure the protection of State investment of capital appropriations, including:

(I) an initial strategic plan for long-term reuse of renovated facilities;

(II) authority for the Agency of Human Services to access Brattleboro Retreat's financials to ensure the success of the strategic plan described in subdivision (I) of this subdivision (2)(A)(iii); and

(III) a process for sharing information necessary to the Department of Mental Health for its statutory oversight responsibilities.

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

(3) 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 the House Committees on Corrections and Institutions and on Health Care, and of the Senate Committees on Health and Welfare and on Institutions that the agreement described in subdivision (2)(A) of this subsection (e) has been executed.

(4) The Commissioner of Buildings and General Services and the Secretary of Human Services may also propose draft legislation to the House Committees on Corrections and Institutions and on Health Care, and the Senate Committees on Health and Welfare and on Institutions that may be necessary to fulfill the agreement.

(5)(A) On or before October 15, 2018, the Secretary of Human Services shall notify the Chairs of the House Committees on Corrections and Institutions and on Health Care, and of the Senate Committees on Health and Welfare and 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. With approval of the Speaker of the House and the President Pro Tempore of the Senate, as appropriate, the House Committees on Corrections and Institutions and on Health Care and the Senate Committees on Health and Welfare and 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. Members of the House Committees on Corrections and Institutions and on Health Care, and the Senate Committees on Health and Welfare and on Institutions shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

(B) The Secretary of Human Services shall submit a copy of the alternative proposal described in subdivision (A) of this subdivision (5) to the Joint Fiscal Committee.

Appropriation – FY 2018	\$300,000.00
Appropriation – FY 2019	<del>\$300,000.00</del> <u>\$6,200,000.00</u>
Total Appropriation – Section 3	<del>\$600,000.00</del> <u>\$6,500,000.00</u>

Third: In Sec. 4, amending 2017 Acts and Resolves No. 84, Sec. 5, by striking out all after subsection (c) and inserting in lieu thereof the following:

(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) Lake Champlain Maritime Museum:

(A) Underwater preserves: \$30,000.00

(B) Schooner Lois McClure project, repairs and upgrades:  
\$25,000.00

(2) Placement and replacement of roadside historic markers:  
\$15,000.00 \$29,000.00

(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping: \$125,000.00

(4) Civil War Heritage Trail, signs: \$30,000.00

(e) The amounts appropriated in subdivisions (a)(2) ~~and~~, (a)(3), (d)(1)(B), and (d)(4) of this section shall be used as a one-to-one matching grant. The funds shall become available after the Agency notifies the Department that the funds have been matched.

(f) It is the intent of the General Assembly that any requests for capital funds be submitted to the Agency of Commerce and Community Development

for inclusion in the Governor's annual consolidated capital budget request, pursuant to 32 V.S.A. § 309.

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

Fourth: In Sec. 8, amending 2017 Acts and Resolves No. 84, Sec. 11, in subdivision (e)(1)(B), by striking out “\$1,500,000.00” and inserting in lieu thereof “\$1,400,000.00”, in subdivision (f)(4), by striking out “subdivision (2)” and inserting in lieu thereof “subdivision (2)(A)”, in subdivision (g)(1)(B), by striking out “\$1,000,000.00” and inserting in lieu thereof “\$1,100,000.00”, and in subsection (m), by striking out “\$200,000.00” and inserting in lieu thereof “\$100,000.00”

Fifth: In Sec. 10, amending 2017 Acts and Resolves No. 84, Sec. 13, by striking out all after subsection (c) and inserting in lieu thereof the following:

(c)(1) 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.

(2) It is the intent of the General Assembly that the amount appropriated in subdivision (1) of this subsection (c) shall be supported by an additional \$1,000,000.00 in federal funds.

Appropriation – FY 2018	\$1,927,000.00
Appropriation – FY 2019	<del>\$5,573,000.00</del> <u>\$11,458,000.00</u>
Total Appropriation – Section 13	<del>\$7,500,000.00</del> <u>\$13,385,000.00</u>

Sixth: In Sec. 12, adding 2017 Acts and Resolves No. 84, Sec. 16a, by striking out “\$500,000.00” and inserting in lieu thereof “\$400,000.00”

Seventh: By striking out Sec. 26 (amending 2017 Acts and Resolves No. 84, by adding Secs. 36a and 37a) in its entirety and inserting in lieu thereof a new Sec. 26 to read:

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

Sec. 36a. SCHOOL SAFETY AND SECURITY CAPITAL GRANT PROGRAM

(a) Creation. There is created the School Safety and Security Capital 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. The amount appropriated in Sec. 10 of this act, adding 2017 Acts and Resolves No. 84, Sec. 13(c)(1), shall be used to fund this Program.

(b) Use of funds. Capital 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 for 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 capital grants of up to \$25,000.00 per school. Each school shall be required to provide a 25 percent match to the grant amount. The required match shall be met through dollars raised and not in-kind services.

(d) Administration. The Department of Public Safety, in coordination with the Agency of Education, shall administer and coordinate capital 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 capital 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 Safety Advisory Group \* \* \*

#### Sec. 36c. SCHOOL SAFETY ADVISORY GROUP; REPORT

(a) Creation. There is created the School Safety Advisory Group to develop statewide guidelines and best practices concerning school safety and the prevention of school shootings.

(b) Membership. The Advisory Group shall be composed of the following six members:

- (1) the Secretary of Administration or designee;
- (2) the Secretary of Education or designee;
- (3) the Commissioner of Public Safety or designee;
- (4) the Executive Director of the Vermont School Boards Association or designee;
- (5) the President of the Vermont-National Education Association or designee; and
- (6) a representative of the Vermont Principals' Association.

(c) Powers and duties. The Advisory Group shall study the following issues and develop specific guidelines and best practices for Vermont schools concerning them:

- (1) improving security in and around school buildings and property;
- (2) ensuring staff and students know what they should do in the event of a school shooting or other incident;
- (3) training for staff and students, including the type and frequency of the training;
- (4) sharing information with parents and community if an event occurs; and
- (5) gathering information on security measures implemented in schools from corresponding state education and public safety departments in states where school shootings have occurred.

(d) Assistance. The Advisory Group shall have the administrative, technical, and legal assistance of the Agency of Education and the Department of Public Safety.

(e) Report. On or before July 1, 2018, the Advisory Group shall submit a written report to the General Assembly with its findings, including specific guidelines and best practices, and any recommendations for legislative action necessary to ensure that all schools in Vermont begin implementing those guidelines and best practices and have a plan for compliance before the beginning of the next school year.

(f) Meetings.

- (1) The Secretary of Education shall call the first meeting of the Advisory Group.
- (2) The Commissioner of Public Safety or designee shall be the Chair.
- (3) A majority of the membership shall constitute a quorum.

(4) The Advisory Group shall cease to exist on July 1, 2019.

(g) Compensation and reimbursement. Members of the Advisory Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for meetings. These payments shall be made from monies appropriated to the General Assembly.

Eighth: In Sec. 27, by striking out all after subdivision (d)(1) and inserting in lieu thereof the following:

(2) On or before October 15, 2018, the Secretary shall present a prioritized list of eligible projects, if any, to the Secretary of Administration for inclusion in the Governor's annual consolidated capital budget request, pursuant to 32 V.S.A. § 309.

(e) Notwithstanding the grant program authorized in this section, State aid for school construction remains suspended pursuant to the terms of 2008 Acts and Resolves No. 200, Sec. 45 as amended by 2009 Acts and Resolves No. 54, Sec. 22, as further amended by 2013 Acts and Resolves No. 51, Sec. 45.

Ninth: By striking out all after Sec. 27, and inserting in lieu thereof the following:

\* \* \* Corrections \* \* \*

Sec. 28. 28 V.S.A. § 1354 is amended to read:

§ 1354. ARTICLE IV; THE STATE COUNCIL

(a) ~~A The Vermont state council for interstate adult offender supervision~~ State Council for Interstate Adult Offender Supervision is created. ~~The state council~~ State Council shall consist of ~~five~~ six members:

(1) ~~one representative of the legislative branch appointed by the general assembly pursuant to a process determined by the joint rules committee~~ one member of the House of Representatives, who shall be appointed by the Speaker, and one member of the Senate, who shall be appointed by the Committee on Committees;

(2) ~~one representative of the judicial branch~~ Judicial Branch appointed by the ~~chief justice~~ Chief Justice of the ~~supreme court~~ Supreme Court;

(3) ~~one representative of the executive branch~~ Executive Branch appointed by the ~~governor~~ Governor;

(4) ~~one representative of a victims group appointed by the governor~~ Governor; and

(5) one individual who in addition to serving as a member of the ~~council~~ Council shall serve as the compact administrator for this ~~state~~ State, appointed by the ~~governor~~ Governor after consultation with the ~~general assembly~~ General Assembly and the ~~supreme court~~ Supreme Court.

\* \* \*

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

#### Sec. 29. EFFECTIVE DATE

This act shall take effect on passage.

### NOTICE CALENDAR

#### Favorable with Amendment

#### S. 204

An act relating to the registration of short-term rentals

**Rep. Read of Fayston**, for the Committee on General; Housing; and Military Affairs, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

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

Sec. 1. 18 V.S.A. § 4301 is amended to read:

#### § 4301. DEFINITIONS

(a) As used in this ~~subchapter~~ chapter:

\* \* \*

(14) “Short-term rental” means a furnished ~~home~~ house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

\* \* \*

Sec. 2. 32 V.S.A. chapter 225 is amended to read:

### CHAPTER 225. MEALS AND ROOMS TAX

\* \* \*

#### § 9202. DEFINITIONS

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

indicates a different meaning:

\* \* \*

(3) "Hotel" means an establishment ~~which~~ that holds itself out to the public by offering sleeping accommodations for a consideration, whether or not the major portion of its operating receipts is derived therefrom and whether or not the sleeping accommodations are offered to the public by the owner or proprietor or lessee, sublessee, mortgagee, licensee, or any other person or the agent of any of the foregoing. The term includes inns, motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes, rooming houses, furnished-room houses, boarding houses, and private clubs, as well as any building or structure or part thereof to the extent to which any such building or structure or part thereof in fact is held out to the public by offering sleeping accommodations for a consideration. As used in this chapter, the term includes "short-term rental" as defined in 18 V.S.A. § 4301. The term shall not include the following:

(A) a hospital, licensed under 18 V.S.A. chapter 43 or a nursing home, residential care home, assisted living residence, home for the terminally ill, therapeutic community residence as defined pursuant to 33 V.S.A. chapter 71, or independent living facility;

(B) any establishment operated by any state or U.S. agency or institution, except the Department of Forests, Parks and Recreation of the State of Vermont;

(C) an establishment operated by a nonprofit corporation or association organized and operated exclusively for religious, charitable, or educational purposes, one or more, which, in furtherance of any of the purposes for which it was organized, operates a hotel as defined herein; ~~and~~

(D) a continuing care retirement community certified under 8 V.S.A. chapter 151.

\* \* \*

#### § 9271. LICENSES REQUIRED

(a) Each operator prior to commencing business shall register with the Commissioner each place of business within the State where he or she operates a hotel or sells taxable meals or alcoholic beverages; provided, however, that an operator who sells taxable meals through a vending machine shall not be required to hold a license for each individual machine. Upon receipt of an application in such form and containing such information as the Commissioner may require for the proper administration of this chapter, the Commissioner shall issue without charge a license for each ~~such~~ the place in such form as he or she may determine, attesting that ~~such~~ the registration has been made. No



person shall engage in serving taxable meals or alcoholic beverages or renting hotel rooms without the license provided in this section. The license shall be nonassignable and nontransferable and shall be surrendered to the Commissioner if the business is sold or transferred or if the registrant ceases to do business at the place named.

(b)(1) Each application shall indicate whether a license is sought for a hotel or to sell taxable meals or alcoholic beverages. If the application is sought for a hotel, it shall further specify if the license is for a short-term rental.

(2) A short-term rental operator shall post the corresponding meals and rooms tax account number on any advertisement for the short-term rental.

(c) An operator submitting an application for a short-term rental shall certify on the application forms published by the Department that the short-term rental is in compliance with the following provisions:

(1) The unit does not have any known violations of relevant State and local fire, life safety, and zoning laws and rules, and has all smoke and carbon monoxide detectors as required by 20 V.S.A. chapter 173.

(2) The unit is free of any evidence of insects, rodents, and other pests.

(3) If the unit uses water from a nonpublic water supply system, it does not have any known violations of Vermont's water supply rules.

(4) If applicable, all sewage is disposed of through an approved facility, including either:

(A) a public sewage treatment plant; or

(B) an individual sewage disposal system that does not have any known violations of the Department of Environmental Conservation's rules and other applicable sanitation requirements.

(5) Any advertisement for the short-term rental contains the operator's meals and rooms tax account number provided by the Department.

(6) There is posted within the unit a telephone number for the person responsible for the unit and the contact information for the Attorney General's Consumer Assistance Program and the Department of Public Safety's Division of Fire Safety.

(d) The Department of Taxes shall use existing information technology systems to maintain information about each short-term rental in the State for which an operator has obtained a meals and rooms tax account number, including the operator's name and contact information and documentation received pursuant to subsection (c) of this section.

(e) The following data maintained by the Department in accordance with

subsection (d) of this section shall be available to the Department of Health and to the Department of Public Safety's Division of Fire Safety pursuant to subdivision 3102(d)(4) of this title for the purpose of ensuring the health and safety of the transient, traveling, or vacationing public:

- (1) name of the operator;
- (2) address of the operator's primary residence or mailing address;
- (3) operator's primary telephone number and e-mail address;
- (4) short-term rental address; and
- (5) meals and rooms tax account number associated with short-term rental.

### **Sec. 3. EDUCATIONAL MATERIALS; SHORT-TERM RENTALS**

(a) The Commissioners of Health and of Taxes and the Executive Director of the Department of Public Safety's Division of Fire Safety shall jointly prepare and publish on the websites of the Departments of Health, of Taxes, and of Public Safety educational materials for short-term rental operators, including:

- (1) an explanation of the requirements in 32 V.S.A. chapter 225;
- (2) a description of health and safety precautions that short-term rental operators are advised to take; and
- (3) information regarding the importance of and coverage options for liability insurance.

(b) The Department of Taxes shall annually disseminate materials prepared and published pursuant to subsection (a) of this section to operators of short-term rentals licensed pursuant to 32 V.S.A. chapter 225. The Department may disseminate the materials electronically.

(c) As used in this section, "short-term rental" shall have the same meaning as in 18 V.S.A. § 4301.

### **Sec. 4. DATA COLLECTION; REPORTS**

(a) The Attorney General's Consumer Assistance Program and the Department of Public Safety's Division of Fire Safety shall maintain records on all complaints received between July 1, 2018 and January 1, 2020 pertaining to a short-term rental located in Vermont or the licensure process established pursuant to 32 V.S.A. chapter 225. This information shall be available to the Departments of Taxes and of Health for the purpose of completing the reports required pursuant to subsection (b) of this section.

(b) The Commissioner of Taxes, in collaboration with the Commissioner of

Health and the Executive Director of the Department of Public Safety's Division of Fire Safety, shall submit the following written reports to the House Committees on General, Housing, and Military Affairs and on Human Services and to the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare:

(1) on or before January 1, 2019, a report detailing the progress in preparing for implementation of 32 V.S.A. chapter 225; and

(2) on or before January 1, 2020, a report addressing:

(A) any gaps or weaknesses related to the regulation of short-term rentals pursuant to 32 V.S.A. chapter 225;

(B) data related to the number of licensed short-term rental units and the collection of taxes;

(C) the types of educational materials distributed to short-term rental operators and manner of distribution;

(D) the number of new short-term rental accounts opened pursuant to 32 V.S.A. chapter 225 since the passage of this act;

(E) the manner and extent to which the Departments of Health and of Taxes and the Department of Public Safety's Division of Fire Safety have been in communication with municipalities and the transient, traveling, or vacationing public as a result of this act; and

(F) whether any complaints have been received about short-term rentals or the licensure process established pursuant to 32 V.S.A. chapter 225, and if so, the nature of the complaints, the name of the entity receiving the complaints, and the process by which the complaints are addressed.

#### Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except Sec. 2 shall take effect on January 1, 2019.

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

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

**Rep. Baser of Bristol**, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on General; Housing; and Military Affairs and when further amended as follows:

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

Sec. 1. 18 V.S.A. § 4301 is amended to read:

§ 4301. DEFINITIONS

(a) As used in this ~~subchapter~~ chapter:

\* \* \*

(14) “Short-term rental” means a furnished ~~home~~ house, condominium, or other dwelling room or self-contained dwelling unit rented to the transient, traveling, or vacationing public for a period of fewer than 30 consecutive days and for more than 14 days per calendar year.

\* \* \*

Sec. 2. 32 V.S.A. chapter 225 is amended to read:

CHAPTER 225. MEALS AND ROOMS TAX

\* \* \*

§ 9202. DEFINITIONS

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

\* \* \*

(3) “Hotel” means an establishment ~~which~~ that holds itself out to the public by offering sleeping accommodations for a consideration, whether or not the major portion of its operating receipts is derived therefrom and whether or not the sleeping accommodations are offered to the public by the owner or proprietor or lessee, sublessee, mortgagee, licensee, or any other person or the agent of any of the foregoing. The term includes inns, motels, tourist homes and cabins, ski dormitories, ski lodges, lodging homes, rooming houses, furnished-room houses, boarding houses, and private clubs, as well as any building or structure or part thereof to the extent to which any such building or structure or part thereof in fact is held out to the public by offering sleeping accommodations for a consideration. As used in this chapter, the term includes “short-term rental” as defined in 18 V.S.A. § 4301. The term shall not include the following:

(A) a hospital, licensed under 18 V.S.A. chapter 43 or a nursing home, residential care home, assisted living residence, home for the terminally ill, therapeutic community residence as defined pursuant to 33 V.S.A. chapter 71, or independent living facility;

(B) any establishment operated by any state or U.S. agency or institution, except the Department of Forests, Parks and Recreation of the State of Vermont;

(C) an establishment operated by a nonprofit corporation or association organized and operated exclusively for religious, charitable, or educational purposes, one or more, which, in furtherance of any of the purposes for which it was organized, operates a hotel as defined herein; and

(D) a continuing care retirement community certified under 8 V.S.A. chapter 151.

\* \* \*

#### § 9282. OBLIGATIONS OF SHORT-TERM RENTAL OPERATORS

(a) A short-term rental operator shall post the corresponding meals and rooms tax account number on any advertisement for the short-term rental.

(b) A short-term rental operator shall post within the unit a telephone number for the person responsible for the unit and the contact information for the Attorney General's Consumer Assistance Program and the Department of Public Safety's Division of Fire Safety.

(c) The Department of Taxes shall prepare a packet of information pertaining to the financial and regulatory obligations of short-term rental operators. The Department shall disseminate the information packet to a short-term rental operator when the operator first registers a unit.

#### Sec. 3. DATA COLLECTION; REPORTS

(a)(1) The Attorney General's Consumer Assistance Program and the Department of Public Safety's Division of Fire Safety shall maintain records on all complaints received between July 1, 2018 and January 1, 2020 pertaining to a short-term rental located in Vermont. This information shall be available to the Department of Health for the purpose of completing the report required pursuant to subdivision (2) of this subsection.

(2) On or before January 15, 2020, the Commissioner of Health, in collaboration with the Executive Director of the Department of Public Safety's Division of Fire Safety, shall submit a written report to the House Committees on General, Housing, and Military Affairs and on Human Services and to the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare addressing whether any complaints have been received about short-term rentals, and if so, the nature of the complaints, the name of the entity receiving the complaints, and the process by which the complaints are addressed.

(b) On or before January 15, 2020, the Commissioner of Taxes shall present to the House Committee on Ways and Means and to the Senate Committee on Finance information on the number of short-term rental units in Vermont, the number of short-term rental operators, and the Department's

progress to date in improving compliance with 32 V.S.A. chapter 225 among short-term rental operators.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

( Committee Vote: 8-0-3)

S. 257

An act relating to miscellaneous changes to education law

**Rep. Sharpe of Bristol**, for the Committee on Education, 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:

\* \* \* Out-of-State Independent Schools \* \* \*

Sec. 1. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR  
PAY TUITION

(a) Each school district shall maintain one or more approved high schools in which high school education is provided for its resident students unless:

(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an independent school meeting education quality standards, to be selected by the parents or guardians of the student, ~~within or outside the State~~; or

\* \* \*

Sec. 2. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

(a) A school district shall not pay the tuition of a student except to:

(1) a public school;

(2) an approved independent school, in Vermont;

(3) an independent school in Vermont meeting education quality standards;

(4) a tutorial program approved by the State Board;

(5) an approved education program, ~~or~~;

(6) an independent school in another state ~~or country~~ that is approved under the laws of that state ~~or country~~, ~~nor shall payment~~; provided, however, that the state is contiguous to Vermont;

(7) a public or independent school in the Province of Quebec approved under the laws of Canada; or

(8) a school to which a student on an individualized education plan has been referred or placed by the student's individualized education plan team or local education agency.

(b) Payment of tuition on behalf of a person shall not be denied on account of age.

(c) Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the State Board and its decision shall be final.

### Sec. 3. TRANSITION

Notwithstanding any provision to the contrary in Sec. 2 of this act, a school district may pay tuition on behalf of a student to a school located in another country or to an approved independent school that is located in a state that is not contiguous to Vermont if, during the 2017–2018 school year, the student attended that school; provided, however, that tuition shall be paid for not more than four years after enactment of this act.

\* \* \* Elections \* \* \*

### Sec. 4. ELECTIONS; UNIFIED UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of law to the contrary, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district's annual meeting unless otherwise provided in the district's articles of agreement.

(b) Notwithstanding any provision of law to the contrary, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk of the unified union district shall immediately notify the selectboard of the town. Within 30 days after the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held at an annual or special meeting, unless otherwise provided in accordance with the unified union school district's articles of agreement.

(c) Notwithstanding any provision of law to the contrary, the clerk,

treasurer, and moderator of a unified union school district elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of up to three years or until their successors are elected and qualified, except that if the voters at an annual meeting so vote, moderators elected at an annual meeting shall assume office upon election and shall serve for a term of up to three years or until their successors are elected and qualified.

(d) This section is repealed on July 1, 2020.

Sec. 5. 16 V.S.A. § 706k is amended to read:

#### § 706k. ELECTION OF DISTRICT OFFICERS

(a)(1) A school director representing a member district who is to serve on the union school district board after the expiration of the terms provided for school directors in the final report shall be elected by that member district at an annual or special meeting. ~~Such~~ The election shall be by Australian ballot in those member districts that so elect their town school district directors. School directors elected at an annual meeting shall assume office upon election and shall serve a term of three years or until their successors are elected and qualified.

(2) Union district officers, except the clerk, treasurer, and moderator, elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of one year or until their successors are elected and qualified. The clerk, treasurer, and moderator elected at an annual meeting shall enter upon their duties on July 1 following their election and shall serve a term of up to three years or until their successors are elected and qualified, except that if the voters at an annual meeting so vote, moderators elected at an annual meeting shall assume office upon election and shall serve for a term of ~~one year~~ up to three years or until their successors are elected and qualified. ~~School directors elected at an annual meeting shall assume office upon election and shall serve a term of three years or until their successors are elected and qualified.~~

(3) The clerk of the union district shall, within ten days after the election or appointment of any officer or director, give notice of the results to the Secretary of State.

\* \* \*

\* \* \* School Radon Mitigation \* \* \*

#### Sec. 6. SCHOOL RADON MITIGATION; FUNDING OPPORTUNITIES

The Secretaries of Education and of Administration and the Commissioner of Health shall explore funding opportunities for testing and mitigating



elevated radon concentrations in schools and contingency plans for the loss of related federal funding. On or before December 1, 2018, the Secretaries and the Commissioner shall jointly submit a written report to the House Committees on Corrections and Institutions and on Education and to the Senate Committees on Education and on Institutions with viable options for testing all schools for radon and for funding the mitigation of elevated radon concentrations in schools.

Sec. 7. PILOT; RADON TESTING IN SCHOOLS

The Commissioner of Health shall establish a pilot program to test schools in five supervisory unions for elevated concentrations of radon during the 2018–2019 school year with the goal of testing 30 schools. Schools that have been tested for radon within the previous five years need not be retested. The Agency of Education, in collaboration with the Department of Health, shall seek supervisory unions to volunteer for the pilot program.

\* \* \* Technical Correction \* \* \*

Sec. 8. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

\* \* \*

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

\* \* \*

\* \* \* Prekindergarten Education \* \* \*

Sec. 9. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION

(a) Definitions. As used in this section:

(1) “Prekindergarten child” means a child who, as of the date established by the district of residence for kindergarten eligibility, is:

(A) three or four years of age or is five years of age but is not yet eligible to be enrolled in kindergarten; or

(B) five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973 and the child’s individualized education program team or evaluation and planning team recommends that the child

receive prekindergarten education services.

(2) “Prekindergarten education” means services designed to provide to prekindergarten children developmentally appropriate early development and learning experiences based on Vermont’s early learning standards.

(3) “Prequalified private provider” means a private provider of prekindergarten education that is qualified pursuant to subsection (c) of this section.

(4)(A) “Prequalified public provider” means a provider of prekindergarten education that is a school district that is qualified pursuant to subsection (c) of this section.

(B) “Prequalified public provider” does not mean a school district that contracts with a prequalified private provider for the provision of prekindergarten education services.

(b) Access to publicly funded prekindergarten education.

(1) ~~No~~ Not fewer than ten hours per week of publicly funded prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, prequalified program operated by a public school or a private provider.

(2) If a parent or guardian chooses to enroll a prekindergarten child in an available, prequalified program, then, pursuant to the parent or guardian’s choice, the school district of residence shall:

(A) pay tuition pursuant to subsections (d) and (h) of this section upon the request of the parent or guardian to:

(i) a prequalified private provider; or

(ii) a prequalified public school provider that operates a prekindergarten program ~~that has been prequalified pursuant to subsection (c) of this section~~ located outside the district; or

(B) if the school district of residence is a prequalified public provider, enroll the child in the prekindergarten education program that it operates.

(3) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified ~~program operated by a private provider or a public school in another district~~ private provider or a prequalified public provider that operates a prekindergarten program located outside the district even if the district of residence is a prequalified public provider that operates a prekindergarten education program.

~~(4) If the supply of prequalified private and public providers is insufficient to meet the demand for publicly funded prekindergarten education in any region of the State, nothing~~ Nothing in this section shall be construed to require the State or a district to begin or expand a prekindergarten education program to satisfy that a demand; but rather, in collaboration with the Agencies of Education and of Human Services, the local Building Bright Futures Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity for prekindergarten education.

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries Secretary of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly Agency of Education may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, and shall identify the minimum quality standards for prequalification, and shall include the following requirement. In order to be eligible for tuition payments:

~~(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received private provider shall meet minimum program quality by:~~

(A) Having:

~~(i)~~ (i) National Association for the Education of Young Children (NAEYC) accreditation; ~~or~~

~~(B)(ii)~~ (ii) at least four stars in the Department for Children and Families' STARS system ~~with a plan to get to at least two points in each of the five arenas; or~~

~~(C)(iii)~~ (iii) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families ~~and the Secretary of Education~~, to achieve four or more stars with at least two points in each of the five arenas in no more than three years, and the provider has met intermediate milestones.

(B) For a:

(i) private provider that is regulated as a center-based child care program, employing or contracting for the services of at least one licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title who is present at the private provider's program site during the hours that are publicly

funded; or

(ii) private provider that is regulated as a family child care home that is not licensed and endorsed in early childhood education or early childhood special education, employing or contracting for the services of at least one licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title for at least three hours per week during each of the 35 weeks per year in which prekindergarten education is paid for with publicly funded tuition to provide regular, active supervision and training of the private provider's staff.

(2) A licensed public provider shall ~~employ or contract~~ meet minimum program quality by:

(A) employing or contracting for the services of at least one teacher who is licensed and endorsed licensed professional educator with an endorsement in early childhood education or in early childhood special education under chapter 51 of this title to provide direct instruction during the hours that are publicly funded; and

(B)(i) until the date upon which the State Board of Education implements safety and quality rules under subdivision (e)(12) of this section, meeting safety and quality rules adopted by the Department for Children and Families; and

(ii) on and after the date upon which the State Board of Education implements safety and quality rules under subdivision (e)(12) of this section, meeting safety and quality rules adopted by the State Board of Education.

~~(3) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.~~

(d) Tuition, budgets, and average daily membership.

(1) On behalf of a resident prekindergarten child, a district shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a prequalified private provider or to a ~~public school~~ prequalified public provider that is outside the district ~~that is prequalified pursuant to subsection (c) of this section;~~ provided, however, that the district shall pay tuition for weeks that are within the district's academic year. Tuition paid under this section shall be at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the Agencies Agency of Education and of Human Services.

A district shall pay tuition upon:

(A) receiving notice from the child's parent or guardian that the child is or will be admitted to the prekindergarten education program operated by the prequalified private provider or the other district; and

(B) concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining average daily membership.

(2) In addition to any direct costs of operating a prekindergarten education program, a district of residence shall include anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning, or other prekindergarten-related costs in its annual budget presented to the voters.

(3) Pursuant to subdivision 4001(1)(C) of this title, the district of residence may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education or on whose behalf it has paid tuition pursuant to this section.

(4) A prequalified private provider may receive additional payment directly from the parent or guardian only for prekindergarten education in excess of the hours paid for by the district pursuant to this section or for child care services, or both. The prequalified private provider is not bound by the statewide rate established in this subsection when determining the rates it will charge the parent or guardian for these excess hours. A prequalified private provider shall not impose additional fees for the publicly funded hours.

(e) Rules. The Secretary of Education ~~and the Commissioner for Children and Families~~ shall jointly develop ~~and agree to~~ rules and present them to the State Board for adoption under 3 V.S.A. chapter 25 as follows:

(1) To permit private providers that are not prequalified pursuant to subsection (c) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subdivision (c)(2) ~~or (3)~~ (1)(B), and through which the district may or may not make in-kind payments as a component of the statewide tuition established under this section.

~~(2) To authorize a district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the Secretaries of Education and of Human Services, which shall be based upon analysis of the number of prekindergarten children residing in the district and the availability of enrollment opportunities with prequalified private providers in the region. Where the data are not clear or there are other complex considerations, the Secretaries may choose to~~

~~conduct a community needs assessment.~~ [Repealed.]

(3) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.

(4) To establish a process by which:

(A) a parent or guardian notifies the district that the prekindergarten child is or will be admitted to a prekindergarten education program not operated by the district and concurrently enrolls the child in the district pursuant to subdivision (d)(1) of this section;

(B) a district:

(i) pays tuition pursuant to a schedule that does not inhibit the ability of a parent or guardian to enroll a prekindergarten child in a prekindergarten education program or the ability of a prequalified private provider to maintain financial stability; and

(ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; agreements entered into on or after August 1, 2018 shall be in a form prescribed by the Secretary of Education; and

(C) a provider that has received tuition payments under this section on behalf of a prekindergarten child notifies a district that the child is no longer enrolled.

(5) To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all ~~established~~ required quality standards and to allow for regional adjustments to the rate.

(6) [Repealed.]

(7) To require a district to include identifiable costs for prekindergarten programs and essential early education services in its annual budgets and reports to the community.

(8) To require a district to report to the Agency of Education annual expenditures made in support of prekindergarten education, with distinct figures provided for expenditures made from the General Fund, from the Education Fund, and from all other sources, which shall be specified.

(9) To provide an administrative process for:

(A) a parent, guardian, or provider to challenge an action of a school district or the State when the complainant believes that the district or State is in violation of State statute or rules regarding prekindergarten education; and

(B) a school district to challenge an action of a provider or the State when the district believes that the provider or the State is in violation of State statute or rules regarding prekindergarten education.

(10) To establish a system by which the Agency of Education ~~and Department for Children and Families~~ shall jointly monitor and evaluate prekindergarten education programs to promote optimal results for children that support the relevant population-level outcomes set forth in 3 V.S.A. § 2311 and to collect data that will inform future decisions. The Agency ~~and Department~~ shall be required to report annually to the General Assembly in January. At a minimum, the system shall monitor and evaluate:

(A) programmatic details, including the number of children served, the number of private and public programs operated, and the public financial investment made to ensure access to quality prekindergarten education;

(B) the quality of public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and

(C) the results for children, including school readiness and proficiency in numeracy and literacy.

(11) To establish a process for documenting the progress of children enrolled in prekindergarten education programs and to require public and private providers to use the process to:

(A) help individualize instruction and improve program practice; and

(B) collect and report child progress data to the Secretary of Education on an annual basis.

(12) To establish safety and quality requirements for prequalified public providers.

(f) Other provisions of law. Section 836 of this title shall not apply to this section.

(g) Limitations. Nothing in this section shall be construed to permit or require payment of public funds to a private provider of prekindergarten education in violation of Chapter I, Article 3 of the Vermont Constitution or in violation of the Establishment Clause of the U.S. Constitution.

(h) Geographic limitations.

(1) Notwithstanding the requirement that a district pay tuition to any prequalified public or private provider in the State, a school board may choose to limit the geographic boundaries within which the district shall pay tuition by paying tuition solely to those prequalified providers in which parents and

guardians choose to enroll resident prekindergarten children that are located within the district's "prekindergarten region" as determined in subdivision (2) of this subsection.

(2) For purposes of this subsection, upon application from the school board, a district's prekindergarten region shall be determined ~~jointly~~ by the ~~Agencies~~ Agency of Education and of Human Services in consultation with the school board, private providers of prekindergarten education, parents and guardians of prekindergarten children, and other interested parties pursuant to a process adopted by rule under subsection (e) of this section. A prekindergarten region:

(A) shall not be smaller than the geographic boundaries of the school district;

(B) shall be based in part upon the estimated number of prekindergarten children residing in the district and in surrounding districts, the availability of prequalified private and public providers of prekindergarten education, commuting patterns, and other region-specific criteria; and

(C) shall be designed to support existing partnerships between the school district and private providers of prekindergarten education.

(3) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to access publicly funded prekindergarten education within that region, then the child's parent or guardian may request and in its discretion the district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified provider located outside the prekindergarten region.

(4) Except for the narrow exception permitting a school board to limit geographic boundaries under subdivision (1) of this subsection, all other provisions of this section and related rules shall continue to apply.

Sec. 10. 16 V.S.A. § 4010 is amended to read:

#### § 4010. DETERMINATION OF WEIGHTED MEMBERSHIP

(a) On or before the first day of December during each school year, the Secretary shall determine the average daily membership of each school district for the current school year. The determination shall list separately:

(1) resident prekindergarten children;

(2) resident students being provided elementary ~~or kindergarten~~ education, excluding prekindergarten children; and

(3) resident students being provided secondary education.

\* \* \*



(c) The Secretary shall determine the weighted long-term membership for each school district using the long-term membership from subsection (b) of this section and the following weights for each class:

(1) Prekindergarten except as otherwise provided in this subsection, prekindergarten—0.46;

(2) for a resident prekindergarten child who is enrolled in a prekindergarten program with a duration of 20 hours or more per week for 35 weeks annually—0.70;

(3) Elementary or elementary, excluding prekindergarten—1.0; and

(4) Secondary secondary—1.13

\* \* \*

Sec. 11. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC  
SCHOOLS; 21ST CENTURY FUND

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family child care home without registration from the Department.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

\* \* \*

(5) an after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by the Agency of Education, unless the after-school program asks to participate in the child care subsidy program; and

(6) a public provider of prekindergarten education, as defined under 16 V.S.A. § 829(a)(4), unless the public provider participates in the child care subsidy program.

\* \* \*

Sec. 12. 16 V.S.A. § 11 is amended to read:

§ 11. CLASSIFICATIONS AND DEFINITIONS

(a) As used in this title, unless the context otherwise clearly requires:

\* \* \*

(31) “Early childhood education,” “early education,” or

“prekindergarten education” means services designed to provide developmentally appropriate early development and learning experiences based on Vermont’s early learning standards to ~~children~~ a child who are ~~three to four years of age and to five-year-old children who are not eligible for or enrolled in kindergarten~~ is:

(A) three or four years of age or is five years of age but is not yet eligible to be enrolled in kindergarten; or

(B) five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973 and the child’s individualized education program team or evaluation and planning team recommends that the child receive prekindergarten education services.

\* \* \*

### Sec. 13. PREKINDERGARTEN ADVISORY COMMITTEE; REPORT

(a) Creation. There is created the Prekindergarten Advisory Committee to make recommendations on how to improve the funding and delivery models for prekindergarten education in Vermont.

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

(1) two current members of the House of Representatives, not from the same political party, who shall be appointed by the Speaker of the House;

(2) two current members of the Senate, not from the same political party, who shall be appointed by the Committee on Committees; and

(3) one member appointed by the Governor, which member shall serve as the Committee’s Chair.

(c) Powers and duties. The Committee shall study the funding and delivery of prekindergarten education in Vermont, including the following issues:

(1) whether the current delivery and funding models are working effectively to provide prekindergarten educational services, and if not, the issues with the current models and proposals to enhance the quality and effectiveness of these models;

(2) whether the statutory changes in Secs. 9–12 of this act adequately address concerns with the current delivery and funding models for prekindergarten educational services;

(3) whether to extend the publicly funded entitlement to prekindergarten education beyond the 10 hours per week for 35 weeks a year that is currently required by requiring public elementary schools to offer prekindergarten

education either directly or by contract;

(4) whether to extend kindergarten education to include children who are four years of age;

(5) how to simplify regulatory oversight and administration of prekindergarten education;

(6) how to ensure that funding for prekindergarten education is equitable and does not create undesirable outcomes for prekindergarten students, their parents or guardians, or providers of prekindergarten educational services or child care services; and

(7) whether prekindergarten regions established under 16 V.S.A. § 829 serve the purpose for which they were designed and allow reasonable and equitable access to prekindergarten education, and whether the authority to create prekindergarten regions should continue.

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

(e) Report. On or before December 15, 2018, the Committee shall submit a written report to the House and Senate Committees on Education, the House Committee on Human Services, and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Chair shall call the first meeting of the Committee to occur on or before July 15, 2018.

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

(3) The Committee shall cease to exist on December 16, 2018.

(g) Compensation, reimbursement, and appropriations.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. The sum of \$5,256.00 is appropriated to the General Assembly from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Committee who are members of the General Assembly.

(2) If the other member of the Committee is not an employee of the State of Vermont and is not otherwise compensated or reimbursed for his or her attendance, he or she shall be entitled to per diem compensation and

reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than six meetings. The sum of \$732.00 is appropriated to the Governor's office from the General Fund in fiscal year 2019 for per diem compensation and reimbursement of expenses for the member of the Committee appointed by the Governor.

\* \* \* Educator Licensing Requirements \* \* \*

#### Sec. 14. EDUCATOR LICENSING REQUIREMENTS

The Vermont Standards Board for Professional Educators shall consider whether the educator licensing requirements are appropriate or should be updated. As part of its review, the Board shall consider whether educator licensing should be required for schools that have adopted a school-based teacher quality and performance measurement program approved by the New England Association of Schools and Colleges and whether other examination options, other than the Praxis examination, should be available for educator licensure, such as examinations offered by the Smarter Balanced Assessment Consortium. On or before December 1, 2018, the Board shall report its findings and recommendations to the House and Senate Committees on Education.

\* \* \* Ethnic and Social Equity Standards Advisory

Working Group \* \* \*

#### Sec. 15. ETHNIC AND SOCIAL EQUITY STANDARDS ADVISORY

##### WORKING GROUP

##### (a) Findings.

(1) In 1999, the Vermont Advisory Committee to the U.S. Commission on Civil Rights published a report titled Racial Harassment in Vermont Public Schools and described the state of racism in public schools. The Committee held various hearings and received reports from stakeholders and concluded that "racial harassment" appeared "pervasive in and around the State's public schools," and observed that "the elimination of this harassment" was "not a priority among school administrators, school boards, elected officials, and State agencies charged with civil rights enforcement."

(2) In 2003, the Commission released a follow-up report concluding that, although some positive efforts had been made since the original report was published, the problem persisted. One of the many problems highlighted was the "curriculum issues in the State's public schools. In some instances, teachers employ curriculum materials and lesson plans that promote racial stereotypes." One of the conclusions was that there was a need for a bias-free curriculum.

(3) On December 2017, the Act 54 report on Racial Disparities in State Systems, issued by the Attorney General and Human Rights Commission Task Force, was released. According to the report, education is one of the five State systems in which racial disparities persist and need to be addressed. The Attorney General and Human Rights Commission held three stakeholder meetings and found “a surprising amount of coalescence around the most important issues” and “the primary over-arching theme was that we will be able to reduce racial disparities by changing the underlying culture of our state with regard to race.” One of the main suggestions for accomplishing this was to “teach children from an integrated curriculum that fairly represents both the contributions of People of Color (as well as indigenous people, women, people with disabilities, etc.), while fairly and accurately representing our history of oppression of these groups.” The other suggestions were to educate State employees about implicit bias, white privilege, white fragility, and white supremacy, and increase the representation of people of color in the State and school labor forces by focusing on recruitment, hiring, and retention, as well as promotion of people of color into positions of authority and responsibility on boards and commissions.

(4) The harassment of lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, and nonbinary communities; other students of color; and students with disabilities and the lack of understanding of people in power about the magnitude of the systemic impacts of harassment and bias damage the whole community.

(b) Definitions. As used in this act:

(1) “Ethnic groups” means nondominant racial and ethnic groups in the United States, including people who are indigenous and people of African, Asian, Pacific Island, Chicanx, Latinx, or Middle Eastern descent.

(2) “Ethnic studies” means the instruction of students in prekindergarten through grade 12 in the historical contributions and perspectives of ethnic groups and social groups.

(3) “Social groups” means females, people with disabilities, immigrants, refugees, and individuals who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, or nonbinary.

(c) Creation and composition. The Ethnic and Social Equity Standards Advisory Working Group is established. The Working Group shall comprise the following 17 members:

(1) eight members who are members of, and represent the interests of, ethnic groups and social groups;

(2) a Vermont-based, college-level faculty expert in ethnic studies;

- (3) the Secretary of Education or designee;
- (4) the Executive Director of the Vermont-National Education Association or designee;
- (5) an Assistant Attorney General in the Office of the Vermont Attorney General with experience working with the Agency of Education on racial and social justice issues in schools;
- (6) the Executive Director of the Vermont School Boards Association or designee;
- (7) a representative for the Vermont Principals' Association with expertise in the development of school curriculum;
- (8) a representative for the Vermont Curriculum Leaders Association;
- (9) the Executive Director of the Vermont Superintendents Association or designee; and
- (10) the Executive Director of the Vermont Independent Schools' Association or designee.

(d) Appointment and operation.

(1) The Vermont Coalition for Ethnic and Social Equity in Schools (Coalition) shall appoint the eight members who represent ethnic groups and social groups and the member identified under subdivision (c)(2) of this section. Appointments of members to fill vacancies to these positions shall be made by the Coalition.

(2) As a group, the Working Group shall represent the breadth of geographic areas within the State and shall have experience in the areas of ethnic standards or studies, social justice, inclusivity, and advocacy for the groups they represent.

(3)(A) The Secretary of Education or designee shall call the first meeting of the Working Group to occur on or before September 1, 2018.

(B) The Working Group shall select a chair from among its members at the first meeting.

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

(D) The Working Group shall cease to exist on July 1, 2021.

(e) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten meetings per year. These payments shall be made from monies

appropriated to the Agency of Education.

(f) Appropriation. The sum of \$13,420.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Ethnic and Social Equity Standards Advisory Working Group. The Agency shall include in its budget request to the General Assembly for fiscal years 2020 and 2021 the amount of \$13,420.00 for the per diem compensation and expense reimbursements authorized by this section to be paid to members of the Working Group.

(g) Duties of the Working Group.

(1) The Working Group shall review statewide curriculum standards adopted by the State Board of Education and, on or before June 30, 2020, recommend to the State Board updates and additional standards to recognize fully the history, contribution, and perspectives of ethnic groups and social groups. These recommended additional standards shall be designed to:

(A) increase cultural competency of students in prekindergarten through grade 12;

(B) increase attention to the history, contribution, and perspectives of ethnic groups and social groups;

(C) promote critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(D) commit the school to eradicating any racial bias in its curriculum;

(E) provide, across its curriculum, content and methods that enable students to explore safely questions of identity, race equality, and racism; and

(F) ensure the basic curriculum and extracurricular programs are welcoming to all students and take into account parental concerns about religion or culture.

(2) The Working Group may review all existing State statutes regarding school policies and recommend to the General Assembly proposed statutory changes with the following goals:

(A) Ensuring that the school curriculum:

(i) promotes critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(ii) includes content and related instructional materials and methods that enable students to explore safely questions of identity and membership in ethnic groups and social groups, race equality, and racism; and

(iii) facilitates a welcoming environment for all students while taking into account parental concerns about bias or exclusion of ethnic groups or social groups.

(B) Ensuring engagement opportunities that provide families a welcoming means of raising any concern about their child's experience as it bears on race or ethnic or social group identity at school.

(3) The Working Group shall include in its report to the General Assembly under subdivisions (h)(2) and (3) of this section any statute, State Board rule, or school district policy that it has identified as needing review or amendment in order to:

(A) promote an overarching focus on preparing all students to participate effectively in an increasingly racially, culturally, and socially diverse Vermont and in global communities;

(B) ensure every student is in a safe, secure, and welcoming learning and social environment in which bias, whether implicit or explicit, toward others based on their membership in ethnic or social groups is acknowledged and addressed appropriately;

(C) challenge racist, sexist, gender, or ability-based bias or bias based on socioeconomic status when it occurs, using principles aligned with restorative practice;

(D) specify prohibited conduct as it relates to racism, sexism, ableism, and other social biases and refers to the process through which alleged misconduct will be addressed, including disciplinary action as appropriate;

(E) establish disciplinary responses to racial or ethnic and social group incidents that include the utilization of restorative practices where appropriate; and

(F) ensure that the school provides all its personnel training in how best to address bias incidents.

(h) Reports.

(1) The Working Group shall, on or before March 1, 2019, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) its plan to accomplish the work described in subdivision (g)(1) of this section, including the timeline for reviewing all statewide curriculum standards and for its recommendation to the State Board of additional standards to recognize fully the history, contribution, and perspectives of



ethnic groups and social groups; and

(C) its plan to accomplish the work described in subdivisions (g)(2) and (3) of this section, including the timeline for reviewing all existing State statutes regarding school policies and drafting proposed legislation.

(2) The Working Group shall, on or before December 15, 2019, submit a report to the General Assembly, including:

(A) the membership of the Working Group and its meeting schedule;

(B) recommended statutory changes under subdivisions (g)(2) and (3) of this section; and

(C) recommendations for training and appropriations to support implementation of the recommended statutory changes.

(3) The Working Group shall, on or before July 1, 2021, submit a report to the General Assembly, including:

(A) any further recommended statutory changes under subdivision (g)(2) of this section; and

(B) recommendations for training and appropriations to support implementation of the recommended changes.

(i) Duties of the State Board of Education. The Board of Education shall, on or before June 30, 2021, consider adopting ethnic and social equity studies standards into existing statewide curriculum standards for students in prekindergarten through grade 12. The State Board shall consider the report submitted by the Working Group under subdivision (g)(1) of this section when determining the standards to adopt.

Sec. 16. 16 V.S.A. § 164 is amended to read:

#### § 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

\* \* \*

(17) Report annually on the condition of education statewide and on a ~~school-by-school~~ supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of harassment, hazing, or bullying made pursuant to chapter 9, subchapter 5 of

this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on student performance and hazing, harassment, or bullying incidents shall be disaggregated by student groups, including ethnic and racial groups, poverty status, disability status, English language learner status, and gender. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

\* \* \*

\* \* \* Expanded Learning Opportunities \* \* \*

Sec. 17. 16 V.S.A. chapter 100 is added to read:

CHAPTER 100. EXPANDED LEARNING OPPORTUNITIES

§ 2911. DEFINITIONS

As used in this title:

(1) “Expanded Learning Opportunity (ELO)” means a structured program designed to serve prekindergarten through secondary school-aged children and youths outside the school day and year on a regular basis, including before and after school and during the summer, by providing opportunities for personal, emotional, and academic growth for children and youths.

(2) “ELO Committee” means the Expanded Learning Opportunities Committee created by section 2912 of this chapter.

(3) “ELO Special Fund” means the Vermont Expanded Learning Opportunities Special Fund, under section 2913 of this chapter.

§ 2912. EXPANDED LEARNING OPPORTUNITIES COMMITTEE;

REPORT

(a) Creation; membership. There is created the Expanded Learning Opportunities Committee, to be composed of the following 12 members:

(1) the Secretary of Education or designee;

(2) the Commissioner for Children and Families or designee;

(3) the Commissioner of Labor or designee;

(4) the Director of Vermont Afterschool, Inc. or designee;

(5) one current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(6) one current member of the Senate, who shall be appointed by the Committee on Committees;

(7) one member representing private foundations or Vermont's philanthropic community, one member representing the business community, and one member representing the education community, appointed by the Prekindergarten-16 Council; and

(8) three members representing ELO programs that have been in operation since at least July 1, 2017, with one member to be appointed each by the Governor, the Speaker of the House, and the Committee on Committees.

(b) Duties. The Committee shall:

(1) recommend to the Agency of Education grants to be awarded from the ELO Special Fund; and

(2) work with the philanthropic and business communities in Vermont to pursue and accept grants or other funding from any public or private source for the ELO Special Fund.

(c) Terms. ELO Committee members shall serve, commencing on January 1, three-year terms or until the member's earlier resignation or removal, except for legislative members, who shall be appointed to two-year terms that mirror their legislative terms. A nonlegislative ELO Committee member may be appointed prior to January 1, 2019, in which case the initial term of that member shall extend to January 1, 2022. A legislative ELO Committee member may be appointed after the beginning of the legislator's legislative term and prior to January 1, 2019, in which case the initial term of that member shall extend to the end of the legislator's next two-year legislative term. The respective appointing authority shall fill a vacancy for the remainder of any unexpired term. An appointed member shall not serve more than three full consecutive terms. A legislator's service on the ELO Committee shall terminate on the date that the legislator no longer serves as a member of the General Assembly.

(d) Officers; subcommittees; rules. The ELO Committee shall elect a chair from among its members. It may elect other officers, establish subcommittees, and adopt procedural rules as it determines necessary and appropriate to perform its work.

(e) Quorum; voting; meetings.

(1) A majority of all members shall constitute a quorum.

(2) Action is taken by the ELO Committee if authorized by a majority of the members present and voting at any regular or special meeting at which a quorum is present.

(3) The ELO Committee may permit any or all members to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of electronic communication by which all members participating may simultaneously or sequentially communicate with each other during the meeting. A member participating in a meeting by this means is deemed to be present in person at the meeting.

(4) On or before September 1, 2018, two legislative members shall convene the first meeting of the ELO Committee.

(f) Administrative support. The Office of Legislative Council shall provide administrative support to the ELO Committee.

(g) Compensation, reimbursement, and appropriations.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the ELO Committee shall be entitled to compensation and reimbursement for expenses pursuant to 2 V.S.A. § 406 for not more than 12 meetings per year. The sum of \$2,628.00 is appropriated to the General Assembly from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Committee who are members of the General Assembly.

(2) Other members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than 12 meetings per year. The sum of \$8,784.00 is appropriated to the Agency of Education from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to these members of the Committee. The Agency shall include in its budget request to the General Assembly for each subsequent fiscal year the amount of \$8,784.00 for the per diem compensation and expense reimbursements authorized by this section to be paid to these members of the Committee.

(h) Report. Notwithstanding 2 V.S.A. § 20(d), the ELO Committee shall report to the House and Senate Committees on Education and on Appropriations on or before January 15 annually regarding the ELO Committee's activities, including:

(1) its recommendations to improve access to expanded learning opportunities for children and youths from families with low income where

expanded learning opportunities are not readily available;

(2) its recommendations to build workforce readiness skills in the fields of science, technology, engineering, and mathematics; and

(3) the extent to which transportation is a barrier to expanded learning opportunities.

(i) Sunset. This section is repealed on July 1, 2023.

§ 2913: VERMONT EXPANDED LEARNING OPPORTUNITIES SPECIAL FUND

(a) There is established the Vermont Expanded Learning Opportunities Special Fund comprising grants, donations, and contributions from any private or public source. Monies in the ELO Special Fund shall be available to the Agency of Education for the purpose of increasing access to ELOs throughout Vermont. The Commissioner of Finance and Management may draw warrants for disbursements from the Fund in anticipation of receipts. The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned and any remaining balance at the end of the fiscal year shall be retained and carried forward in the Fund.

(b) The Agency of Education shall report annually in its budget presentation to the House and Senate Committees on Education and on Appropriations on the number and amount of ELO grants disbursed and the geographic locations of the recipients.

Sec. 18. 16 V.S.A. § 2906 is amended to read:

§ 2906. VERMONT EXPANDED LEARNING OPPORTUNITIES SPECIAL FUND ESTABLISHED

~~(a) As used in this section, “Expanded Learning Opportunity” means a structured program designed to serve prekindergarten through secondary school-age children and youth outside the school day and year on a regular basis, including before and after school and during the summer, by providing opportunities for personal, emotional, and academic growth for children and youth.~~

~~(b) There is established a Vermont Expanded Learning Opportunities Special Fund comprising grants, donations, and contributions from any private or public source. Monies in the Fund shall be available to the Agency for the purpose of increasing access to expanded learning opportunities throughout Vermont. The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts. The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned and any remaining balance at the end of the fiscal year shall be~~

retained and carried forward in the Fund. [Repealed.]

\* \* \* Postsecondary Educational Institutions; Closing \* \* \*

Sec. 19. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1) promptly inform the State Board;

(2) prepare the academic record of each current and former student in a form satisfactory to the State Board and including interpretive information required by the Board; and

(3) deliver the records to a person designated by the State Board to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

\* \* \*

(d) When an institution of higher education is unable or unwilling to comply substantially with the record preparation and delivery requirements of subsection (a) of this section, the State Board shall bring an action in Superior Court to compel compliance with this section, and may in a proper case obtain temporary custody of the records.

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

\* \* \*

~~(g)(1) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:~~

~~(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a)~~

of this section; and

~~(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section. If an institution of higher education is placed on probation for financial reasons by its accrediting agency, the institution shall, not later than two days after learning that it has been placed on probation, inform the State Board of Education of its status, and not later than 90 days after being placed on probation, shall submit a student record plan to the State Board for approval.~~

(2) The student record plan shall include an agreement with an institution of higher education or other entity to act as a repository for the institution's records with funds set aside, if necessary, for the permanent maintenance of the student records.

(3) If the State Board does not approve the plan, the State may take action under subsections (d) and (e) of this section.

\* \* \* Statewide Negotiation of Health Care Benefits  
for School Employees \* \* \*

## Sec. 20. STUDY COMMITTEE ON STATEWIDE NEGOTIATION OF HEALTH CARE BENEFITS FOR SCHOOL EMPLOYEES

(a) The Study Committee on Statewide Negotiation of Health Care Benefits for School Employee (Committee) is created to determine how to transition to a single, statewide health benefit plan for all school employees of supervisory unions and school districts.

(b)(1) The Committee shall comprise the following six members:

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

(B) three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(2) If a member of the Committee ceases to serve as a member of the General Assembly, a replacement appointee who is a member of the General Assembly shall be appointed in the same manner as the initial appointment.

(c) The Committee shall propose draft legislation that addresses the following matters concerning the transition to a single, statewide health benefit plan for all school employees of supervisory unions and school districts:

- (1) the structure and composition of parties to a statewide negotiation;
- (2) a timeline for negotiations and impasse procedures;
- (3) a process for statewide ratification of the agreement resulting from the statewide negotiation; and
- (4) how income sensitization will be decided as part of the negotiations.
- (d) The Committee's draft legislation shall include a requirement that any fact-finding required for impasse resolution shall give weight to:
  - (1) the financial capacity of the school district;
  - (2) the interest and welfare of the public and the financial ability of the school board to pay for increased costs of public services, including the cost of labor;
  - (3) comparisons of the wages, hours, and conditions of employment of the employees involved in the dispute with the wages, hours, and conditions of employment of State and municipal employees who are not employed by supervisory unions or school districts;
  - (4) the overall compensation currently received by the employees, including direct wages, fringe benefits, and continuity conditions and stability of employment, and all other benefits received; and
  - (5) the rate of growth of the economy of the State of Vermont for the year of negotiation as well as during the prior three-year period.
- (e)(1) The Committee shall consult with the Secretary of Education and the Vermont Education Health Initiative as necessary.
- (2) The Committee shall have the administrative, technical, and legal assistance of the Office of Legislative Council.
- (f) On or before December 15, 2018, the Committee shall provide its proposed legislation to the House Committees on Education, on General, Housing, and Military Affairs, and on Ways and Means and the Senate Committees on Education, on Economic Development, Housing and General Affairs, and on Finance.
- (g) The Speaker of the House shall call the first meeting of the Committee to occur on or before July 1, 2018. The Committee shall select a chair from among its members at the first meeting. A majority of the membership shall constitute a quorum. The Committee shall cease to exist on December 16, 2018.
- (h) 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 for not more than ten meetings. The sum of \$13,140.00 is appropriated to the General Assembly from the General Fund in fiscal year 2019 for the per diem compensation and expense reimbursements authorized by this section to be paid to the members of the Committee who are members of the General Assembly.

(i) As used in this section, “supervisory union” and “school district” shall have the same meanings as set forth in 16 V.S.A. § 11.

\* \* \* Mitigating Trauma and Toxic Stress During Childhood \* \* \*

Sec. 21. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL  
SUPPORT TEAM

\* \* \*

(b) The tiered system of supports shall:

- (1) be aligned as appropriate with the general education curriculum;
- (2) be designed to enhance the ability of the general education system to meet the needs of all students;
- (3) be designed to provide necessary supports promptly, regardless of an individual student’s eligibility for categorical programs;
- (4) seek to identify and respond to students in need of support for at-risk behaviors and to students in need of specialized, individualized behavior supports; ~~and~~
- (5) provide all students with a continuum of evidence-based and research-based behavior practices, including trauma-sensitive programming, that teach and encourage prosocial skills and behaviors schoolwide;
- (6) promote collaboration with families, community supports, and the system of health and human services; and
- (7) provide professional development as needed to support all staff in implementing the system.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

- (1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay

particular attention to students during times of academic or personal transition and to those students who have been exposed to trauma.

\* \* \*

Sec. 22. 16 V.S.A. § 2904 is amended to read:

§ 2904. REPORTS

Annually, each superintendent shall report to the Secretary in a form prescribed by the Secretary, on the status of the educational support systems multi-tiered system of supports in each school ~~in the supervisory union~~. The report shall describe the services and supports that are a part of the education support system multi-tiered system of supports, how they are funded, and how building the capacity of the educational support system multi-tiered system of supports has been addressed in the school action plans, school's continuous improvement plan and professional development and shall be in addition to the report required of the educational support multi-tiered system of supports team in subdivision 2902(c)(6) of this chapter. The superintendent's report shall include a description and justification of how funds received due to Medicaid reimbursement under section 2959a of this title were used.

Sec. 23. ALIGNMENT OF DESIGNATED AND SPECIALIZED  
SERVICE AGENCIES WITH SUPERVISORY UNIONS

The Agencies of Education and of Human Services shall discuss areas of geographical overlap to better coordinate the provision of their respective services. The Agencies shall jointly present the results of their efforts to the House and Senate Committees on Education on or before January 15, 2019.

Sec. 24. SCHOOL NURSES; HEALTH-RELATED BARRIERS TO  
LEARNING

On or before September 1, 2018, the Agency of Human Services' Director of Prevention and Health Improvement shall coordinate with the Vermont State School Nurse Consultant and with the Agency of Education systematically to support local education agencies, school administrators, and school nurses in ensuring that all students' health appraisal forms are completed on an annual basis to enable school nurses to identify students' health-related barriers to learning.

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

Sec. 25. EFFECTIVE DATES

(a) Sec. 8 shall take effect on July 1, 2019.

(b) This section and the remaining sections shall take effect on passage,

and Secs. 4(c) and 5 shall apply to the subsequent election of district officers of a unified union school district or a union school district.

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

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

**Rep. Pugh of South Burlington**, for the Committee on Human Services, recommends the bill ought to pass when amended as recommended by the Committee on Education and when further amended as follows:

First: In Sec. 9, amending 16 V.S.A. § 829, in subsection (c), by striking out subdivision (1)(A) in its entirety, and inserting in lieu thereof the following:

(A) Having:

(i) National Association for the Education of Young Children (NAEYC) accreditation; or

~~(B)(ii) at least four stars in the Department for Children and Families' STARS system with a plan to get to at least two points in each of the five arenas; or~~

~~(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars with at least two points in each of the five arenas in no more than three years, and the provider has met intermediate milestones.~~

Second: In Sec. 9, amending 16 V.S.A. § 829, in subsection (c), by striking out subdivision (2)(B) in its entirety, and inserting in lieu thereof the following:

(B) meeting health, safety, and quality rules adopted by the State Board of Education.

Third: In Sec. 9, amending 16 V.S.A. § 829, in subsection (e), by striking out subdivision (4)(B)(ii) in its entirety, and inserting in lieu thereof the following:

(ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; agreements entered into for the 2019-2020 school year and future school years shall be in a form prescribed by the Secretary of Education; and

Fourth: In Sec. 9, amending 16 V.S.A. § 829, in subsection (e), by striking out subdivision (12) in its entirety, and inserting in lieu thereof the following:

(12) To establish health, safety, and quality requirements for

prequalified public providers that are consistent with the Child Care Licensing Regulations adopted by the Agency of Human Services.

Fifth: In Sec. 10, amending 16 V.S.A. § 4010, by striking out subsection (c) in its entirety, and inserting in lieu thereof the following:

(c) The Secretary shall determine the weighted long-term membership for each school district using the long-term membership from subsection (b) of this section and the following weights for each class:

(1) Prekindergarten except as otherwise provided in this subsection, prekindergarten—0.46;

(2) for a resident child enrolled in a prekindergarten program offered by a prequalified public provider, as defined in section 829(a) of this title, that is the district of residence with a duration of 20 hours or more per week for 35 weeks annually—0.70;

(3) Elementary or elementary, excluding prekindergarten—1.0; and

(4) Secondary secondary—1.13

Sixth: By striking out Sec. 13 in its entirety and inserting in lieu thereof the following:

#### Sec. 13. PREKINDERGARTEN TRANSITION

Until such time as the State Board of Education implements rules that establish health, safety, and quality requirements for prequalified public providers under Sec. 9 of this act, prequalified public providers shall be subject to the health, safety, and quality rules adopted by the Agency of Human Services and the oversight by the Agency of Human Services in its enforcement of these rules.

Seventh: By striking out Sec. 25 and in its entirety and by inserting in lieu thereof the following:

#### Sec. 25. EFFECTIVE DATES

(a) Secs. 8 (Technical Correction) shall take effect July 1, 2019. Secs. 9, 11, and 12 (Prekindergarten Education) shall take effect on July 1, 2019 for the 2019-2020 school year and future school years.

(b) Sec. 10, which increases the weighting from 0.46 to 0.70 for a resident child enrolled in a public prekindergarten program with a duration of 20 hours or more per week for 35 weeks annually, shall take effect July 1, 2020 in order to provide sufficient time to determine how to better ensure equity and access to publicly funded hours across the private and public prekindergarten delivery systems.

(c) This section and the remaining sections shall take effect on passage, and Secs. 4(c) and 5 shall apply to the subsequent election of district officers of a unified union school district or a union school district.

**( Committee Vote: 6-4-1)**

### **Senate Proposal of Amendment**

#### **H. 897**

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

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

\* \* \* Findings \* \* \*

#### **Sec. 1. FINDINGS**

(a) In 2016 Acts and Resolves No. 148, the General Assembly directed the Agency of Education to contract with a consulting firm to review current practices and recommend best practices for the delivery of special education services in school districts. The Agency of Education contracted with the District Management Group, which issued in November 2017 its report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” (Delivery of Services Report).

(b) In Act 148, the General Assembly also directed the Agency of Education to contract for a study of special education funding and practice and to recommend a funding model for Vermont designed to provide incentives for desirable practices and stimulate innovation in the delivery of services. The General Assembly required that the study consider a census-based model of funding. The Agency of Education contracted with the University of Vermont and State Agricultural College, and the report of its Department of Education and Social Services entitled “Study of Vermont State Funding for Special Education” was issued in December 2017 (Funding Report).

(c) The Delivery of Services Report made the following five recommendations on best practices for the delivery of special education services:

(1) ensure core instruction meets most needs of most students;

(2) provide additional instructional time outside core subjects to students who struggle, rather than providing interventions instead of core instruction;

(3) ensure students who struggle receive all instruction from highly skilled teachers;

(4) create or strengthen a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) provide specialized instruction from skilled and trained experts to students with more intensive needs.

(d) The Funding Report noted, based on feedback from various stakeholders, including educators, school leaders, State officials, parents, and others, that Vermont's existing reimbursement model of funding special education has a number of limitations in that it:

(1) is administratively costly for the State and localities;

(2) is misaligned with policy priorities, particularly with regard to the delivery of a multitiered system of supports and positive behavioral interventions and supports;

(3) creates misplaced incentives for student identification, categorization, and placement;

(4) discourages cost containment; and

(5) is unpredictable and lacks transparency.

(e) The Funding Report assessed various funding models that support students who require additional support, including a census-based funding model. A census-based model would award funding to supervisory unions based on the number of students within the supervisory union and could be used by the supervisory union to support the delivery of services to all students. The Funding Report noted that the advantages of a census-based model are that it is simple and transparent, allows flexibility in how the funding is used by supervisory unions, is aligned with the policy priorities of serving students who require additional support across the general and special education service-delivery systems, and is predictable.

\* \* \* Goals \* \* \*

## Sec. 2. GOALS

(a) By enacting this legislation, the General Assembly intends to enhance the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts.

(b)(1) To support the enhanced delivery of these services, the State funding model for special education shall change for all supervisory unions in fiscal year 2021, for school year 2020-2021, from a reimbursement model to a census-based model, which will provide more flexibility in how the funding can be used, is aligned with the State's policy priorities of serving students who require additional support across the general and special education

service-delivery systems, and will simplify administration.

(2) The General Assembly recognizes that a student on an individualized education program, is entitled, under federal law, to a free and appropriate public education in the least restrictive environment in accordance with that program. The changes to State funding for special education and the delivery of special education services as envisioned under this act are intended to facilitate the exercise of this entitlement.

(c) The General Assembly recognizes that it might be appropriate and equitable to provide a higher amount of census-based funding to supervisory unions that have relatively higher costs in supporting students who require additional support, but the General Assembly does not have sufficient information on which to base this determination. Therefore, this act directs the Agency of Education to make a recommendation to the General Assembly on whether the amount of the census grant should be increased for supervisory unions that have relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. The General Assembly intends to reconsider this matter after receiving this recommendation and before the census-based model is implemented.

Sec. 3. 16 V.S.A. § 2901 is amended to read:

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL  
EDUCATION ENVIRONMENT

~~(a) It is the policy of the State that each~~ Each local school district shall develop and maintain, in consultation with parents, a comprehensive system of education that ~~will~~ is designed to result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations that are needed by students in the district. These services could include a separate alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is ~~disrupting the class or~~ having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide ~~quality~~ high-quality services to that student or to other students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. § ~~1401 et seq.~~ chapter 33, Individuals with Disabilities Education Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act of 1973; and 42 U.S.C. § ~~12101 et seq.~~

chapter 126, Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section.

Sec. 4. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL  
SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom, and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The tiered system of supports shall:

(1) be aligned as appropriate with the general education curriculum;

(2) be designed to enhance the ability of the general education system to meet the needs of all students;

(3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;

(4) seek to identify and respond to students in need of support for ~~at-risk behaviors~~ emotional or behavioral challenges and to students in need of specialized, individualized behavior supports; ~~and~~

(5) provide all students with a continuum of evidence-based ~~and research-based behavior~~ positive behavioral practices that ~~teach and encourage prosocial skills and behaviors schoolwide~~ promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students;

(6) promote collaboration with families, community supports, and the



system of health and human services; and

(7) provide professional development, as needed, to support all staff in full implementation of the multi-tiered system of support.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

(2) Identify the classroom accommodations, remedial services, and other supports ~~that have been~~ to be provided to the identified student.

(3) Assist teachers to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.

(5) Maintain a written record of its actions.

~~(6) Report no less than annually to the Secretary, in a form the Secretary prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).~~

(d) No individual entitlement or private right of action is created by this section.

(e) The Secretary shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section. The Secretary shall develop and provide to supervisory unions information to share with parents of children suspected of having a disability that describes the differences between the tiered system of academic and behavioral supports required under this section, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, including how and when school staff and parents of children having a suspected disability may request interventions and services under those entitlements.

(f) It is the intent of the General Assembly that a gifted and talented

student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the General Assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

(g) The tiered system of academic and behavioral supports required under this section shall not be used by a school district to deny a timely initial comprehensive special education evaluation for children suspected of having a disability. The Agency of Education shall adopt policies and procedures to ensure that a school district's evaluation of a child suspected of having a disability is not denied because of implementation of the tiered system of academic and behavioral supports. The policies and procedures shall include:

(1) the definition of what level of progress is sufficient for a child to stop receiving instructional services and supports through the tiered system of academic and behavioral supports;

(2) guidance on how long children are to be served in each tier; and

(3) guidance on how a child's progress is to be measured.

\* \* \* Census-based Funding Model; Amendment of Special  
Education Laws \* \* \*

Sec. 5. 16 V.S.A. chapter 101 is amended to read:

## CHAPTER 101. SPECIAL EDUCATION

### Subchapter 1. General Provisions

#### § 2941. POLICY AND PURPOSE

It is the policy of the State to ensure equal educational opportunities for all children in Vermont. This means that children with disabilities are entitled to receive a free appropriate public education. ~~It is further the policy of the State to pay 60 percent of the statewide costs expended by public education for children with disabilities.~~ The purpose of this chapter is to enable the Agency to ensure the provision of the special educational facilities and instruction education services and supports in accordance with individualized education programs necessary to meet the needs of children with disabilities.

#### § 2942. DEFINITIONS

As used in this chapter

\* \* \*

(8) A "student who requires additional support" means a student who:

(A) is on an individualized education program;

(B) is on a section 504 plan under the Rehabilitation Act of 1973, 29 U.S.C. § 794;

(C) is not on an individualized education program or section 504 plan but whose ability to learn is negatively impacted by a disability or by social, emotional, or behavioral needs, or whose ability to learn is negatively impacted because the student is otherwise at risk;

(D) is an English language learner; or

(E) reads below grade level.

\* \* \*

## Subchapter 2. Aid for Special Education and Support Services

### § 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ CENSUS GRANT

~~(a) Each supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union's mainstream salary standard multiplied by 60 percent.~~

~~(b) The supervisory union shall expend all such assistance for special education services or for remedial or compensatory services in accordance with its service plan as required under section 2964 of this title. It shall likewise expend, from local funds, an amount not less than 40 percent of its mainstream salary standard for special education.~~

~~(c) As used in this section:~~

~~(1) "Mainstream salary standard" means:~~

~~(A) the supervisory union's full-time equivalent staffing for special education for the preceding year multiplied by the average special education teacher salary in the State for the preceding year; plus~~

~~(B) an amount equal to the average special education administrator salary in the State for the preceding year, plus, for any supervisory union with member districts which have in the aggregate more than 1,500 average daily membership, a fraction of an additional full-time equivalent salary for a special education administrator, the numerator of which is the aggregate average daily membership of the supervisory union's member districts minus 1,500, and the denominator of which is the aggregate average daily membership of member districts in the largest supervisory union in the State minus 1,500.~~

~~(2) "Full-time equivalent staffing" means 9.75 special education teaching positions per 1,000 average daily membership.~~

~~(d) If in any fiscal year, a supervisory union in which a school is maintained does not expend an amount equal to its mainstream salary standard on special education expenditures, the supervisory union may expend the balance, including the matching funds, to provide support and remedial services pursuant to section 2902 or 2903 of this title. A supervisory union choosing to expend funds in this way shall submit a report describing the services provided and their costs with the final financial report submitted under section 2968 of this title.~~

As used in this section:

(1) “Average daily membership” shall have the same meaning as in subdivision 4001(1) of this title, except it shall exclude State-placed students.

(2) “Average daily membership of a supervisory union” means the aggregate average daily membership of the school districts that are members of the supervisory union or, for a supervisory district, the average daily membership of the supervisory district.

(3) “Long-term membership” of a supervisory union in any school year means the average of the supervisory union’s average daily membership over three school years.

(4) “Uniform base amount” means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under 16 V.S.A. §§ 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances); and

(ii) increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis; by

(B) the statewide average daily membership for prekindergarten through grade 12 for the 2019–2020 school year.

(b) The State commits to satisfying its special education maintenance of fiscal support requirement under 34 C.F.R. § 300.163(a).

(c) Each supervisory union shall receive a census grant each fiscal year to support the provision of special education services to students on an individualized education program. Supervisory unions shall use this funding and other available sources of funding to provide special education services to students in accordance with their individualized education programs as mandated under federal law. A supervisory union may use census grant funds

to support the delivery of the supervisory union's comprehensive system of educational services under sections 2901 and 2902 of this title, but shall not use census grant funds in a manner that abrogates its responsibility to provide special education services to students in accordance with their individualized education programs as mandated under federal law.

(d)(1)(A) For fiscal year 2021, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years 2017, 2018, and 2019 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

(ii) the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(B) The amount determined under subdivision (A) of this subdivision (1) shall be divided by the supervisory union's long-term membership, to determine the base amount of the census grant, which is the amount of the census grant calculated on a per student basis.

(2) For fiscal year 2025 and subsequent fiscal years, the amount of the census grant for a supervisory union shall be the uniform base amount multiplied by the supervisory union's long-term membership.

(3) For fiscal years 2022, 2023, and 2024, the amount of the census grant for a supervisory union shall be determined by multiplying the supervisory union's long-term membership by a base amount established under this subdivision. The base amounts for each supervisory union for fiscal years 2022, 2023, and 2024 shall move gradually the supervisory union's fiscal year 2021 base amount to the fiscal year 2025 uniform base amount by pro rating the change between the supervisory union's fiscal year 2021 base amount and the fiscal year 2025 uniform base amount over this three-fiscal-year period.

#### § 2962. EXTRAORDINARY SERVICES SPECIAL EDUCATION REIMBURSEMENT

~~(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or to a supervisory union.~~

~~(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to 95 percent of its extraordinary special education expenditures.~~

~~(c) As used in this subchapter, “extraordinary special education expenditures” means a school district’s or supervisory union’s allowable expenditures that for any one child exceed \$60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.~~

(1) As used in this section, “child” means a student with disabilities who is three years of age or older in the current school year.

(2) As used in this subchapter, “extraordinary expenditures” means a supervisory union’s allowable special education expenditures that for any one child in a fiscal year exceed \$60,000.00, increased annually by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(3) The State Board of Education shall define allowable special education expenditures that shall include any expenditures required under federal law in order to implement fully individual education programs under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, and any costs of mediation conducted by a mediator who is approved by the Secretary.

(b) If a supervisory union has extraordinary expenditures, it shall be eligible for extraordinary special education reimbursement (extraordinary reimbursement) as provided in this section.

(c) A supervisory union that has extraordinary expenditures in a fiscal year for any one child shall be eligible for extraordinary reimbursement equal to:

(1) an amount equal to its special education expenditures in that fiscal year for that child that exceed the extraordinary expenditures threshold amount under subdivision (a)(2) of this section (excess expenditures) multiplied by 95 percent; plus

(2) an amount equal to the lesser of:

(A) the amount of its excess expenditures; or

(B)(i) the extraordinary expenditures threshold amount under subdivision (a)(2) of this section; minus

(ii) the base amount of the census grant received by the supervisory union under subsection 2961(d) of this title for that fiscal year; multiplied by

(iii) 60 percent.

(d) The State Board of Education shall establish by rule the administrative process for supervisory unions to submit claims for extraordinary reimbursement under this section and for the review and payment of those claims.

(e) Under section 2973 of this title, a supervisory union, in its role as the local education agency, may place a student with an individualized education plan under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, with certain approved independent schools that accept public tuition. If the approved independent school is entitled to special education cost reimbursement under that section, it may bill the supervisory union for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures' threshold as defined in subdivision (a)(2) of this section, the supervisory union shall be entitled to extraordinary reimbursement under this section for that student as if it incurred those costs directly.

#### § 2963. SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT

~~(a) Based on where the related cost is incurred, each town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or supervisory union shall receive a special education expenditures reimbursement grant each school year.~~

~~(b) The amount of a school district's or supervisory union's special education expenditures reimbursement shall be equal to the total of its special education expenditures multiplied by the reimbursement rate for that year.~~

~~(c) As used in this subchapter:~~

~~(1) Special education expenditures are allowable expenditures for special education, as defined by rule of the State Board, less the following:~~

~~(A) revenue from federal aid for special education;~~

~~(B) mainstream service costs, as defined in subdivision 2961(c)(1) of this title;~~

~~(C) extraordinary special education expenditures, as defined in section 2962 of this title;~~

~~(D) any transportation expenses already reimbursed;~~

~~(E) special education costs for a student eligible for aid under section 2963a of this title; and~~

~~(F) other State funds used for special education costs as defined by the State Board by rule.~~

~~(2) The State Board shall define allowable expenditures under this subsection. Allowable expenditures shall include any expenditures required under federal law.~~

~~(3) "Special education expenditures reimbursement rate" means a percentage of special education expenditures that is calculated to achieve the 60 percent share required by subsection 2967(b) of this title. [Repealed.]~~

#### ~~§ 2963a. EXCEPTIONAL CIRCUMSTANCES~~

~~(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a school district or supervisory union for 80 percent of the costs not eligible for reimbursement under section 2962 of this title for each student causing the school district or supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a school district or supervisory union to be eligible for reimbursement under this section, the total costs of the school district or supervisory union eligible for extraordinary services reimbursement must equal or exceed 15 percent of the total costs eligible for State assistance under sections 2961, 2962, and 2963 of this title.~~

~~(b) An eligible school district or supervisory union may apply to the Secretary to receive reimbursement under this section. The Secretary shall award reimbursement to a school district or supervisory union under this section if the Secretary makes a determination that the school district or supervisory union considered all the cost-effective and appropriate available alternatives for placement and programs for students before incurring these costs. A decision of the Secretary shall be final. [Repealed.]~~

#### ~~§ 2964. SERVICE PLAN~~

~~(a) As a condition of receiving assistance under this subchapter, a supervisory union shall file a service plan with the Secretary annually on or before October 15. The service plan shall contain the anticipated special education expenditures for the following school year for the supervisory union and its member districts. The plan shall be in a form prescribed by the Secretary and shall include information on services planned and anticipated expenditures.~~

~~(b) If a supervisory union fails to file a service plan by October 15, the~~



~~Secretary may withhold any funds due the supervisory union and its member districts under this title until a service plan is filed and accepted by the Secretary as properly completed. [Repealed.]~~

~~\* \* \*~~

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

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

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

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

~~(2) costs for services for persons who are visually impaired; and~~

~~(3) costs for persons who are deaf and or hard of hearing;~~

~~(3)(4) costs for the interdisciplinary team program;~~

~~(4) costs for regional specialists in multiple disabilities;~~

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

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

~~§ 2968. REPORTS~~

~~(a) On or before November 15, March 15, and August 1 of each school year, each supervisory union and its member districts to the extent they incur reimbursable expenditures under this chapter shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total expenditures for special education actually incurred during the preceding period, and shall describe revenues derived from different funding sources, including federal assistance, State assistance under this chapter, and local effort.~~

~~(b) If a supervisory union or its member districts that have incurred reimbursable expenditures under this chapter fail to file a complete report by August 1, until the properly completed August 1 report is filed and accepted~~

~~by the Secretary, the Secretary may withhold any funds due the supervisory union or school district under this title and shall subtract \$100.00 per business day from funds due to the supervisory union or school district under this title for that fiscal year. The Secretary may waive the \$100.00 penalty required under this subsection upon appeal by the supervisory union or school district. The Secretary shall establish procedures for administration of this subsection.~~

~~(c) The Secretary shall review and monitor the reports received pursuant to subsection (a) of this section as well as the service plans received pursuant to section 2964 of this title, and shall assist supervisory unions and school districts to complete and submit these documents in a timely and accurate fashion.~~

~~(d) Special education receipts and expenditures shall be included within the audits required of a supervisory union and its member districts that have incurred reimbursable expenditures under this chapter pursuant to section 323 of this title. [Repealed.]~~

#### § 2969. PAYMENTS

~~(a)(1) On or before August 15, December 15, and April 15 of each fiscal year, the State Treasurer shall withdraw from the Education Fund, based on a warrant issued by the Commissioner of Finance and Management, and shall forward to each supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, the amount of State assistance estimated in accordance with State Board rules to be necessary to fund sections 2961 through 2963a of this title in the current fiscal period. The State Board shall by rule ensure that the amount of such assistance shall be adjusted to compensate for any overpayments or underpayments determined, after review and acceptance of the reports submitted under section 2968 of this title, to have been made in previous periods. Notwithstanding this subsection, failure to submit the reports within the timelines established by subsection 2968(a) of this title shall result in the withholding of any payments until the report is filed one-third of the census grant due to the supervisory union under section 2961 of this title for that fiscal year.~~

(2) On or before November 15, January 15, April 15, and August 1 of each school year, each supervisory union, to the extent it incurs extraordinary expenditures under section 2962 of this title, shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total extraordinary expenditures actually incurred during the reporting period.

(3) On or before December 15, February 15, May 15, and September 15 of each school year, based on a warrant issued by the Commissioner of Finance and Management, the State Treasurer shall withdraw from the Education Fund and shall forward to each supervisory union the amount of

extraordinary reimbursement incurred by the supervisory union under section 2962 of this title that is unreimbursed and determined by the Agency of Education to be payable to the supervisory union.

(b) [Repealed.]

(c) For the purpose of meeting the needs of students with emotional or behavioral problems challenges, each fiscal year the Secretary shall use for training, program development, and building school and regional capacity; up to one percent of the State funds appropriated under this subchapter.

(d) For the training of teachers, administrators, and other personnel in the identification and evaluation of; and provision of ~~education~~ educational services to children who require educational supports, each fiscal year the Secretary shall use up to 0.75 percent of the State funds appropriated under this subchapter. In order to set priorities for the use of these funds, the Secretary shall identify effective practices and areas of critical need. The Secretary may expend up to five percent of these funds for statewide training and shall distribute the remaining funds to school districts or supervisory unions.

(e) School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in their school systems and give assurances that at least 50 percent of the costs of training, including in-kind costs, will be assumed by the applicant. The Secretary shall establish written procedures and criteria for the award of such funds. In addition, the Secretary may identify schools most in need of training assistance and may pay for 100 percent of the assistance to the supervisory union or school district for these schools to fund the provision of training assistance for these schools.

\* \* \*

#### § 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

(a) Annually, the Secretary shall report to the State Board regarding:

(1) ~~special education expenditures by supervisory unions~~ the total amount of census grants made to supervisory unions under section 2961 of this title;

(2) ~~the rate of growth or decrease in special education costs, including the identity of high- and low-spending supervisory unions~~ the total amount of extraordinary special education reimbursement made to supervisory unions under section 2962 of this title;

(3) results for special education students;

(4) the availability of special education staff;

(5) the consistency of special education program implementation statewide;

(6) the status of the ~~education support systems~~ tiered systems of supports in supervisory unions; and

(7) a statewide summary of the special education student count, including:

(A) the percentage of the total average daily membership represented by special education students statewide and by supervisory union;

(B) the percentage of special education students by disability category; and

(C) the percentage of special education students served by public schools within the supervisory union, by day placement, and by residential placement.

~~(b) The Secretary's report shall include the following data for both high- and low-spending supervisory unions:~~

~~(1) each supervisory union's special education staff-to-child count ratios as compared to the State average, including a breakdown of ratios by staffing categories;~~

~~(2) each supervisory union's percentage of students in day programs and residential placements as compared to the State average of students in those placements and information about the categories of disabilities for the students in such placements;~~

~~(3) whether the supervisory union was in compliance with section 2901 of this title;~~

~~(4) any unusual community characteristics in each supervisory union relevant to special education placements;~~

~~(5) a review of high- and low-spending supervisory unions' special education student count patterns over time;~~

~~(6) a review of the supervisory union's compliance with federal and State requirements to provide a free, appropriate public education to eligible students; and~~

~~(7) any other factors affecting its spending.~~

~~(c) The Secretary shall review low-spending supervisory unions to determine the reasons for their spending patterns and whether those supervisory unions used cost-effective strategies appropriate to replicate in other supervisory unions.~~

~~(d) For the purposes of this section, a “high-spending supervisory union” is a supervisory union that, in the previous school year, spent at least 20 percent more than the statewide average of special education eligible costs per average daily membership. Also for the purposes of this section, a “low-spending supervisory union” is a supervisory union that, in the previous school year, spent no more than 80 percent of the statewide average of special education eligible costs per average daily membership.~~

~~(e) The Secretary and Agency staff shall assist the high-spending supervisory unions, that have been identified in subsection (a) of this section and have not presented an explanation for their spending that is satisfactory to the Secretary, to identify reasonable alternatives and to develop a remediation plan. Development of the remediation plan shall include an on-site review. The supervisory union shall have two years to make progress on the remediation plan. At the conclusion of the two years or earlier, the supervisory union shall report its progress on the remediation plan.~~

~~(f) Within 30 days of receipt of the supervisory union’s report of progress, the Secretary shall notify the supervisory union that its progress is either satisfactory or not satisfactory.~~

~~(1) If the supervisory union fails to make satisfactory progress, the Secretary shall notify the supervisory union that, in the ensuing school year, the Secretary shall withhold 10 percent of the supervisory union’s special education expenditures reimbursement pending satisfactory compliance with the plan.~~

~~(2) If the supervisory union fails to make satisfactory progress after the first year of withholding, 10 percent shall be withheld in each subsequent year pending satisfactory compliance with the plan; provided, however, before funds are withheld in any year under this subdivision (f)(2), the supervisory union shall explain to the State Board either the reasons the supervisory union believes it made satisfactory progress on the remediation plan or the reasons it failed to do so. The State Board’s decision whether to withhold funds under this subdivision shall be final.~~

~~(3) If the supervisory union makes satisfactory progress under any subdivision of this subsection, the Secretary shall release to the supervisory union any special education expenditures reimbursement withheld for the prior fiscal year only.~~

~~(g) Within 10 days after receiving the Secretary’s notice under subdivision (f)(1) of this section, the supervisory union may challenge the Secretary’s decision by filing a written objection to the State Board outlining the reasons the supervisory union believes it made satisfactory progress on the remediation plan. The Secretary may file a written response within 10 days after the~~

~~supervisory union's objection is filed. The State Board may give the supervisory union and the Secretary an opportunity to be heard. The State Board's decision shall be final. The State shall withhold no portion of the supervisory union's reimbursement before the State Board issues its decision under this subsection.~~

~~(h) Nothing in this section shall prevent a supervisory union from seeking and receiving the technical assistance of Agency staff to reduce its special education spending.~~

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

The Secretary may use up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in subsection 2967(b) of this title State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. ~~These funds shall not be used for exceptional circumstances that are funded under section 2963a of this title.~~ The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

\* \* \* Technical and Conforming Changes \* \* \*

Sec. 6. 16 V.S.A. § 826 is amended to read:

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

\* \* \*

(c) Excess special education costs incurred by a ~~district~~ supervisory union in providing special education services to a student beyond those covered by tuition may be charged to the student's supervisory union for the district of residence. However, only actual costs or actual proportionate costs attributable to the student may be charged.

\* \* \*

Sec. 7. 16 V.S.A. § 2958 is amended to read:

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

(a) A ~~school-district~~ supervisory union shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

\* \* \*

Sec. 8. 16 V.S.A. § 4002 is amended to read:

§ 4002. PAYMENT; ALLOCATION

(a) State and federal funds appropriated for services delivered by the supervisory union and payable through the Agency shall be paid to the order of the supervisory union and administered in accordance with the plan adopted under subdivision 261a(4) of this title. Funding for special education services under section 2969 of this title shall be paid to the ~~districts~~ and supervisory unions in accordance with that section.

(b) The Secretary shall notify the superintendent or chief executive officer of each supervisory union in writing of federal or State funds disbursed to member school districts.

\* \* \* Census-based Funding Advisory Group \* \* \*

Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

(a) Creation. There is created the Census-based Funding Advisory Group to consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.

(b) Membership. The Advisory Group shall be composed of the following 12 members:

(1) the Executive Director of the Vermont Superintendents Association or designee;

(2) the Executive Director of the Vermont School Boards Association or designee;

(3) the Executive Director of the Vermont Council of Special Education Administrators or designee;

(4) the Executive Director of the Vermont Principals' Association or designee;

(5) the Executive Director of the Vermont Independent Schools Association or designee;

(6) the Executive Director of the Vermont-National Education Association or designee;

(7) the Secretary of Education or designee;

(8) one member selected by the Vermont-National Education Association who is a special education teacher;

(9) one member selected by the Vermont Association of School Business Officials;

(10) one member selected by the Vermont Legal Aid Disability Law Project;

(11) one member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights; and

(12) the Commissioner of the Vermont Department of Mental Health or designee.

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

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

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

(3) recommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.

(d) Assistance. The Advisory Group shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Meetings.

(1) The Secretary of Education shall call the first meeting of the Advisory Group to occur on or before September 30, 2018.

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

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

(4) The Advisory Group shall cease to exist on June 30, 2022.

(f) Reports. On or before January 15, 2019, the Advisory Group shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations on the development of proposed rules to implement this act and any recommendations for legislation. On or before January 15 of 2020, 2021, and 2022, the Advisory Group shall submit a supplemental written report to the House and Senate Committees on Education and the State Board of Education with a status of implementation under this act and any recommendations for legislation.

(g) Reimbursement. Members of the Advisory Group who are not



employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than eight meetings per year.

(h) Appropriation. The sum of \$3,900.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for per diem compensation and reimbursement under subsection (g) of this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020, 2021, and 2022 the amount of \$3,900.00 to provide funding for per diem compensation and reimbursement under subsection (g) of this section.

\* \* \* Census Grant Supplemental Adjustment;  
Pupil Weighting Factors; Report \* \* \*

#### Sec. 10. REPEAL

2017 Acts and Resolves No. 49, Sec. 35 (education weighting report) is repealed.

#### Sec. 11. CENSUS GRANT SUPPLEMENTAL ADJUSTMENT; PUPIL WEIGHTING FACTORS; REPORT

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

(1) Whether the census grant, as defined in the amendment to 16 V.S.A. § 2961 in Sec. 5 of this act, should be increased for supervisory unions that have, in any year, relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. In making this recommendation, the Agency of Education shall consider the report entitled "Study of Vermont State Funding for Special Education" issued in December 2017 by the University of Vermont Department of Education and Social Services.

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

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

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

(B) The relationship between each of the current weighting factors

and the quality and equity of educational outcomes for students.

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

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

(b) On or before November 1, 2019, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

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

(d) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of \$250,000.00 is appropriated for fiscal year 2018 from the Education Fund to the Agency of Education to provide funding for the purposes set forth in this section. The Agency of Education shall contract with a contractor with expertise in Vermont's education funding system to assist the Agency in producing the study required by this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this subsection.

\* \* \* Training and Technical Assistance on the Delivery of Special  
Education Services \* \* \*

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

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

training of teachers and staff and technical assistance with the goal of embedding the following best practices for the delivery of special education services:

- (1) ensuring core instruction meets most needs of most students;
- (2) providing additional instructional time outside core subjects to students who require additional support, rather than providing interventions instead of core instruction;
- (3) ensuring students who require additional support receive all instruction from highly skilled teachers;
- (4) creating or strengthening a systems-wide approach to supporting positive student behaviors based on expert support; and
- (5) providing specialized instruction from skilled and trained experts to students with more intensive needs.

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

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

\* \* \* Agency of Education; Staffing \* \* \*

#### Sec. 13. AGENCY OF EDUCATION; STAFFING

The following positions are created in the Agency of Education: one full-time, exempt legal counsel specializing in special education law and two full-time, classified positions specializing in effective instruction for students who require additional support. There is appropriated to the Agency of Education from the General Fund for fiscal year 2019 the amount of \$325,000.00 for salaries, benefits, and operating expenses.

\* \* \* Extraordinary Services Reimbursement \* \* \*

Sec. 14. 16 V.S.A. § 2962 is amended to read:

#### § 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, ~~and an~~ unorganized town or gore or to a supervisory union.

(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to ~~90~~ 95 percent of its extraordinary special education expenditures.

(c) As used in this subchapter, “extraordinary special education expenditures” means a school district’s or supervisory union’s allowable expenditures that for any one child exceed ~~\$50,000.00~~ \$60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.

Sec. 15. 16 V.S.A. § 4001 is amended to read:

#### § 4001. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental ~~fund-raising~~ fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

\* \* \*

(v) Spending attributable to the district’s share of special education spending ~~in excess of \$50,000.00 that is not reimbursed as an extraordinary reimbursement under section 2962 of this title~~ for any one student in the fiscal year occurring two years prior.

\* \* \*

\* \* \* Rulemaking \* \* \*

Sec. 16. RULEMAKING

The Agency of Education shall recommend to the State Board proposed rules that are necessary to implement this act and, on or before November 1, 2019, the State Board of Education shall adopt rules that are necessary to implement this act. The State Board and the Agency of Education shall consult with the Census-based Funding Advisory Group established under Sec. 9 of this act in developing the State Board rules. The State Board rules shall include rules that establish processes for reporting, monitoring, and evaluation designed to ensure:

(1) the achievement of the goal under this act of enhancing the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts; and

(2) that supervisory unions are complying with the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33.

\* \* \* Transition \* \* \*

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year 2021.

(b) On or before November 1, 2019, a supervisory union shall submit to the Secretary such information as required by the Secretary to estimate the supervisory union's projected fiscal year 2021 extraordinary special education reimbursement under Sec. 5 of this act.

(c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION COSTS

(a) Allowable special education costs shall include salaries and benefits of licensed special education teachers, including vocational special needs teachers and instructional aides for the time they carry out special education responsibilities.

(1) The allowable cost that a local education agency may claim includes a school period or service block during which the staff member identified in

this subsection is providing special education services to a group of eight or fewer students, and not less than 25 percent of the students are receiving the special education services, in accordance with their individualized education programs.

(2) In addition to the time for carrying out special education responsibilities, a local education agency may claim up to 20 percent of special education staff members' time, if that staff spends the additional time performing consultation to assist with the development of and providing instructional services required by:

(A) a plan pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; or

(B) a plan for students who require additional assistance in order to succeed in the general education environment.

(b) This section is repealed on July 1, 2020.

\* \* \* Approved Independent Schools \* \* \*

#### Sec. 19. FINDINGS AND GOALS

(a) The General Assembly created the Approved Independent Schools Study Committee in 2017 Acts and Resolves No. 49 to consider and make recommendations on the criteria to be used by the State Board of Education for designation of an "approved" independent school. The Committee was specifically charged to consider and make recommendations on:

(1) the school's enrollment policy and any limitation on a student's ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(b) The General Assembly in Act 49 directed the State Board of Education to suspend further development of the amendments to its rules for approval of independent schools pending receipt of the report of the Committee.

(c) The Committee issued its report in December 2017, noting that, while it was unable to reach consensus on specific legislative language, it did agree unanimously that Vermont students with disabilities should be free to attend the schools that they, their parents, and their local education agency deem appropriate to them.

(d) This act completes that work and provides the direction necessary for

the State Board of Education to develop further the amendments to its rules for approval of independent schools.

Sec. 20. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

\* \* \*

(b) Approved independent schools.

(1) On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools. An independent school that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the local education agency and the school.

(2) Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school ~~has~~ have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation.

(3) Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.

\* \* \*

(5) The State Board may revoke ~~or~~ suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources

required to meet its stated objectives, for failure to comply with statutory requirements or the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon that revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in a public school, an approved or recognized independent school, or a home study program.

\* \* \*

(8)(A) If an approved independent school experiences any of the following financial reporting events during the period of its approved status, the school shall notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement contributions;

(iv) the school's use of designated funds for nondesignated purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the State Board reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the State Board shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the State Board, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the State Board may establish a review team, that, with the consent of the school, includes a member of the Council of Independent Schools, to:



(I) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

\* \* \*

Sec. 21. 16 V.S.A. § 2973 is amended to read:

§ 2973. INDEPENDENT SCHOOL TUITION RATES SCHOOLS

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school that accepts public tuition shall enroll any student with an individualized education plan who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school.

(2) In placing a student with an independent school under subdivision (1) of this subsection, the student's individualized education plan team and the LEA shall comply with all applicable federal and State requirements.

(3) An approved independent school is not required to demonstrate that it has the resources to serve every category of special education as defined

under State Board of Education rules in order to be approved or retain its approval to receive public funding for general tuition.

(4) The terms “special education services,” “LEA,” and “individualized education plan” or “IEP” as used in this section shall have the same meanings as defined by State Board rules.

(b)(1) The Secretary of Education shall establish minimum standards of services for students receiving special education services in independent schools in Vermont; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the Agency and school districts for tuition, room, and board based on the level of services; and may advise independent schools as to the need for certain special education services in Vermont.

(2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school’s actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

(B)(i) An approved independent school that enrolls a student under subdivision (a)(1) of this section on a nonresidential basis may bill the responsible LEA for excess special education costs incurred by the independent school in providing special education services beyond those covered by general tuition. Reimbursement of these excess special education costs shall be based on the direct-costs rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education Technical Manual for special education cost accounting. The Agency of Education shall publish specific elements that must be included as part of an independent school’s invoice for excess special education costs, and these elements shall be included in the written agreement required under subdivision (c)(2) of this section.

(ii) In establishing the direct cost rates for reimbursement under this subdivision (B), the Secretary shall apply the principle of treating an approved independent school and a public school with parity in the amount of federal, State, and local contributions to cover the costs of providing special education services.

(C)(i) The Secretary shall set, after consultation with independent

schools in Vermont, the maximum tuition rates to be paid by the Agency and supervisory unions or school districts to independent schools that limit enrollment to students who are on an IEP or a plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to a written agreement between the LEA and the school. The maximum tuition rates shall be based on the level of services provided by the school.

(ii) The tuition rates established by the Secretary under this subdivision (C) shall be no more than the costs that are reasonably related to the level of services provided by the school and shall be set forth on a form prescribed for that purpose by the Secretary of Education. The Secretary shall determine the relationship between costs and the level of services by using generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(iii) After the Secretary approves a tuition rate for an independent school under this subdivision (C), the school shall not exceed that tuition rate until such time as a new tuition rate is approved by the Secretary.

(3) An approved independent school shall provide such documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable under this subsection to the school are reasonable in relation to the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment under this subsection pending the Secretary's receipt of required documentation under this subsection, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

(c)(1) In order to be approved as an independent school eligible to receive State funding under subdivision (a)(1) of this section, the school shall demonstrate the ability to serve students with disabilities by:

(A) demonstrating an understanding of special education requirements, including the:

(i) provision of a free and appropriate public education in accordance with federal and State law;

(ii) provision of education in the least restrictive environment in accordance with federal and State law;

(iii) characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law; and

(iv) procedural safeguards and parental rights, including discipline procedures, specified in federal and State law;

(B) committing to implementing the IEP of an enrolled student with special education needs, providing the required services, and appropriately documenting the services and the student's progress;

(C) subject to subsection (d) of this section, employing or contracting with staff who have the required licensure to provide special education services;

(D) agreeing to communicate with the responsible LEA concerning:

(i) the development of, and any changes to, the IEP;

(ii) services provided under the IEP and recommendations for a change in the services provided;

(iii) the student's progress;

(iv) the maintenance of the student's enrollment in the independent school; and

(v) the identification of students with suspected disabilities; and

(E) committing to participate in dispute resolution as provided under federal and State law.

(2) An approved independent school that enrolls a student requiring special education services who is placed under subdivision (a)(1) of this section:

(A) shall enter into a written agreement with the LEA:

(i) committing to the requirements under subdivision (1) of this subsection (c); and

(ii) if the LEA provides staff or resources to the approved independent school on an interim basis under subsection (d) of this section, setting forth the terms of that arrangement with assistance from the Agency of Education on the development of those terms and on the implementation of the arrangement; and

(B) subject to subsection (d) of this section, shall ensure that qualified school personnel attend evaluation and planning meetings and IEP meetings for the student.

(d) If an approved independent school enrolls a student under subdivision (a)(1) of this section but does not have the staff or State Board certification to provide special education services in the specific disability category that the student requires, then:

(1) The LEA, in consultation with the approved independent school and the Agency of Education, shall determine what special education services and

supports the school is able to provide to the student.

(2) The LEA shall, on an interim basis and at its cost, provide such additional staff and other resources to the approved independent school as are necessary to support the student until such time as the approved independent school is able to directly provide these services and has the appropriate State Board certification; provided, however, that the school shall have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment.

(3) If the school does not have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment as required under subdivision (2) of this subsection (d), then, in the event that the State Board determines that the school has failed to make good faith and reasonable efforts to secure the required staff, resources, and certification, the State Board may take any action that is authorized by section 166 of this title.

(b)(e) Neither a school districts district nor any State agency shall pay rates for tuition, room, and board, for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the Secretary.

(e)(f) The State Board is authorized to enter into interstate compacts with other states to regulate rates for tuition, room, and board for students receiving special education in independent schools.

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

## Sec. 22. EFFECTIVE DATES

(a) The following sections shall take effect on July 1, 2020:

(1) Sec. 5 (amendment to 16 V.S.A. chapter 101); and

(2) Sec. 17 (transition).

(b) The following sections shall take effect on July 1, 2019:

(1) Sec. 14 (extraordinary services reimbursement);

(2) Sec. 15 (amendment to 16 V.S.A. § 4001); and

(3) Secs. 19-21 (approved independent schools).

(c) This section and the remaining sections shall take effect on passage.

(For text see House Journal March 22, 2018 )

## H. 911

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

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

\* \* \* Personal Income Tax Changes \* \* \*

\* \* \* Taxable Income \* \* \*

Sec. 1. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

\* \* \*

(21) "Taxable income" means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

\* \* \*

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

(i) income from U.S. government obligations;

(ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income: either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(C) Decreased by the following exemptions and deductions:

(i) the amount of personal exemptions taken at the federal level a personal exemption of \$4050.00 per person for the taxpayer, for the spouse or the deceased spouse of the taxpayer whose filing status under section 5822 of this chapter is married filing a joint return or surviving spouse, and for each individual qualifying as a dependent of the taxpayer under 26 U.S.C. § 152, provided that no exemption may be claimed for an individual who is a dependent of another taxpayer;

(ii) for taxpayers who do not itemize at the federal level, the amount of the a standard deduction taken at the federal level determined as follows:

(I) for taxpayers whose filing status under section 5822 of this chapter is unmarried (other than surviving spouses or heads of households) or married filing separate returns, \$6,000.00;

(II) for taxpayers whose filing status under section 5822 of this chapter is head of household, \$9,000.00;

(III) for taxpayers whose filing status under section 5822 of this chapter is married filing joint return or surviving spouse, \$12,000.00; and

(iii) for taxpayers who itemize at the federal level:

(I) the amount of federally itemized deductions for medical and dental expenses and charitable contributions;

(II) the total amount of federally itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, and charitable contributions, deducted from federal adjusted gross income for the taxable year, but in no event shall the amount under this subdivision exceed two and one-half times the federal standard deduction allowable to the taxpayer; and

(III) in no event shall the total amount of deductions allowed under subdivisions (I) and (II) of this subdivision (21)(C)(iii) reduce the total amount of itemized deductions below the federal standard deduction allowable to the taxpayer an additional deduction of \$1,000.00 for each federal deduction for which the taxpayer qualified and received under 26 U.S.C. § 63(f); and

(iv) the dollar amounts of the personal exemption allowed under subdivision (i) of this subdivision (21)(C), the standard deduction allowed under subdivision (ii) of this subdivision (21)(C), and the additional deduction allowed under subdivision (iii) of this subdivision (21)(C) shall be adjusted annually for inflation by the Commissioner of Taxes by using the percentage increase in the Consumer Price Index beginning with taxable year 2019 and

ending with the taxable year in question. As used in this subdivision, “consumer price index” means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

\* \* \*

\* \* \* Personal Income Tax Rates \* \* \*

Sec. 2. 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 shall be taxed at the rate of 3.35 percent instead;

(2) taxable income that without the passage of this act would have been subject to a rate of 6.80 percent shall be taxed at the rate of 6.60 percent instead;

(3) taxable income that without the passage of this act would have been subject to a rate of 7.80 percent shall be taxed at the rate of 7.60 percent instead;

(4) 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 8.70 percent instead; and

(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 8.85 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.

\* \* \* Charitable Credit; Earned Income Tax Credit; Social Security Income;  
Other Adjustments \* \* \*

Sec. 3. 32 V.S.A. § 5822 is amended to read:

§ 5822. TAX ON INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS

(a) A tax is imposed for each taxable year upon the taxable income earned or received in that year by every individual, estate, and trust, subject to income taxation under the laws of the United States, in an amount determined by the following tables, and adjusted as required under this section:



\* \* \*

(b) As used in this section:

(1) “Married individuals,” “surviving spouse,” “head of household,” “unmarried individual,” “estate,” and “trust” have the same meaning as under the Internal Revenue Code.

(2) The amounts of taxable income shown in the tables in this section shall be adjusted annually for inflation by the Commissioner of Taxes, using the Consumer Price Index adjustment percentage, in the manner prescribed for inflation adjustment of federal income tax tables for the taxable year by the Commissioner of Internal Revenue, beginning with taxable year 2003 percentage increase in the Consumer Price Index beginning with taxable year 2019 and ending with the taxable year in question. As used in this subdivision, “consumer price index” means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

\* \* \*

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer’s federal income tax for the taxable year as follows: credit for people who are elderly or permanently totally disabled, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

\* \* \*

(3) Individuals shall receive a nonrefundable charitable contribution credit against the tax imposed under this section for the taxable year. The credit shall be five percent of the charitable contributions made during the taxable year that are allowable under 26 U.S.C. § 170. This credit shall be available irrespective of a taxpayer’s election not to itemize at the federal level.

\* \* \*

Sec. 4. 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~~ 35 percent of the earned income tax credit granted to the individual under the laws of the United States, multiplied by the percentage ~~which~~ that 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. 5. 32 V.S.A. § 5830e is added to read:

§ 5830e. SOCIAL SECURITY INCOME

The portion of federally taxable Social Security benefits excluded from taxable income under subdivision 5811(21)(B)(iv) of this chapter shall be as follows:

(1) For taxpayers whose filing status is single, married filing separately, head of household, or qualifying widow or widower:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$45,000.00, all federally taxable benefits received under the federal Social Security Act shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$45,000.00 but less than \$55,000.00, the percentage of federally taxable benefits received under the Social Security Act to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$45,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$55,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the federally taxable benefits received under the Social Security Act.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$55,000.00, no amount of the federally taxable benefits received under the Social Security Act shall be excluded under this section.

(2) For taxpayers whose filing status is married filing jointly:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$60,000.00, all federally taxable benefits received under the Social Security Act shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$60,000.00 but less than \$70,000.00, the percentage of federally taxable benefits received under the Social Security Act to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$60,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$70,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the federally taxable benefits received under the Social Security Act.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$70,000.00, no amount of the federally taxable benefits received under the Social Security Act shall be excluded under this section.

Sec. 6. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

\* \* \*

(w) The statutory purpose of the partial exemption of federally taxable benefits under the Social Security Act in section 5830e of this title is to lessen the tax burden on Vermonters with low to moderate income who derive part of their income from Social Security payments.

Sec. 7. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect ~~for taxable year 2016~~ on December 31, 2017, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 8. FEDERAL TAX REFORM

On or before November, 15, 2018, the Office of Legislative Council, with the assistance of the Joint Fiscal Office and the Department of Taxes, shall report to the Joint Fiscal Committee, the Senate Committee on Finance, and the House Committee on Ways and Means on the federal and state implementation of changes necessitated by the Tax Cut and Jobs Act and shall identify potential areas for legislative or administrative reactions.

\* \* \* Education Financing Changes \* \* \*

\* \* \* Yield, Applicable Percentage and Nonresidential Rate for  
Fiscal Year 2019 \* \* \*

Sec. 9. PROPERTY DOLLAR EQUIVALENT YIELD AND INCOME  
DOLLAR EQUIVALENT YIELD FOR FISCAL YEAR 2019

(a) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the property dollar equivalent yield shall be \$9,863.00.

(b) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the income

dollar equivalent yield shall be \$11,920.00.

Sec. 10. NONRESIDENTIAL PROPERTY TAX RATE FOR FISCAL YEAR 2019

Notwithstanding any other provision of law, for fiscal year 2019 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(2) shall be \$1.606 per \$100.00.

Sec. 11. 32 V.S.A. § 5402b(a)(4) is amended to read:

(4) the percentage change in the ~~median~~ average education tax bill applied to nonresidential property, and the percentage change in the ~~median~~ average education tax bill of homestead property, and the percentage change in the ~~median~~ average education tax bill for taxpayers who claim an adjustment under subsection 6066(a) of this title are equal.

\* \* \*Statewide education property tax bills\* \* \*

Sec. 12. 32 V.S.A. § 5402(b) is amended to read:

(b) The statewide education tax shall be calculated as follows:

\* \* \*

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property; provided, however, that the tax levied under this chapter shall be billed to each taxpayer by the municipality in a manner that clearly indicates the tax is separate from any other tax assessed and collected under chapter 133, including an itemization of the separate taxes with an aggregated total of the taxes due.

\* \* \*

Sec. 13. 32 V.S.A. § 6066a(f) is amended to read:

(f) Property tax bills.

(1) For taxpayers and amounts stated in the notice to towns on July 1, municipalities shall create and send to taxpayers a homestead property tax bill, instead of the bill required under subdivision 5402(b)(1) of this title, providing the total amount allocated to payment of homestead education property tax liabilities and notice of the balance due. Nothing in this subdivision, however, shall be interpreted as altering the requirement under subdivision 5402(b)(1) of this title that the statewide education homestead tax be billed in a manner that is stated clearly and separately from any other tax. Municipalities shall apply the amount allocated under this chapter to current-year property taxes in equal amounts to each of the taxpayers' property tax installments that include education taxes. Notwithstanding section 4772 of this title, if a town issues a

corrected bill as a result of the November 1 notice sent by the Commissioner under subsection (a) of this section, issuance of ~~such~~ the corrected new bill does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. If the corrected bill is less than the original bill, and there are also no unpaid ~~current year~~ current-year taxes, interest, or penalties and no ~~past-year~~ past-year delinquent taxes or penalties and interest charges, any overpayment shall be reflected on the corrected tax bill and refunded to the taxpayer.

\* \* \*

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

#### Sec. 14. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Notwithstanding 1 V.S.A. § 214, Secs. 1-6 (income tax changes) shall take effect retroactively on January 1, 2018 and apply to taxable year 2018 and after.

(c) Notwithstanding 1 V.S.A. § 214, Sec. 7 (income tax link to the federal tax statutes) shall take effect retroactively on January 1, 2017 and apply to taxable years beginning on January 1, 2017 and after.

(d) Secs. 9-10 (yields; nonresidential rate) shall take effect on July 1, 2018 and apply to fiscal year 2019 only.

(e) Secs. 8 (federal tax reform), 11 (Commissioner's recommendation), 12-13 (tax bills) shall take effect on July 1, 2018.

(For text see House Journal March 20, 2018 )

#### H. 917

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

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

\* \* \* Transportation Program Adopted as Amended; Definitions \* \* \*

#### Sec. 1. TRANSPORTATION PROGRAM ADOPTED; DEFINITIONS

(a) The Agency of Transportation's proposed fiscal year 2019 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2019 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

(b) As used in this act, unless otherwise indicated:

(1) “Agency” means the Agency of Transportation.

(2) “Secretary” means the Secretary of Transportation.

(3) The table heading “As Proposed” means the Transportation Program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the terms “change” or “changes” in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

(4) “TIB funds” means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

\* \* \* Federal Infrastructure Funding \* \* \*

## Sec. 2. FEDERAL INFRASTRUCTURE FUNDING

(a) Subsection (b) of this section shall expire on February 1, 2019.

(b)(1) If a federal infrastructure bill or other federal legislation that provides for infrastructure funding is enacted that provides Vermont with additional federal funding for transportation-related projects, to the extent that federal monies allocated to the State of Vermont are subject to a requirement that the monies be obligated or under contract by the State within a specified time period, the Secretary is authorized to exceed spending authority in the fiscal year 2018 and 2019 Transportation Programs and to obligate and expend the federal monies:

(A) on eligible projects in the fiscal year 2018 or 2019 Transportation Program; and

(B) on additional town highway projects or activities that meet federal eligibility and readiness criteria.

(2) Nothing in this subsection shall be construed to authorize the Secretary to obligate or expend State Transportation or TIB funds above amounts authorized in the fiscal year 2018 or 2019 Transportation Program.

(c) The Agency shall promptly report the obligation or expenditure of monies under the authority of this section to the House and Senate Committees on Transportation and to the Joint Fiscal Office while the General Assembly is in session, and to the Joint Fiscal Office, the Joint Fiscal Committee, and the Joint Transportation Oversight Committee when the General Assembly is not in session.

\* \* \* Infrastructure for Rebuilding America Grant \* \* \*

## Sec. 3. INFRASTRUCTURE FOR REBUILDING AMERICA GRANT

(a)(1) According to the Agency, in 2018, the U.S. Department of Transportation (USDOT) may solicit applications for grants under the Infrastructure for Rebuilding America (INFRA) Program.

(2) If USDOT does solicit INFRA grant applications in 2018, the Agency may submit an application for an INFRA grant for bridge and culvert projects on Interstate 89 with a total cost of up to \$105,000,000.00, which amount includes a State match of up to \$21,000,000.00. If it submits a grant application, the Agency shall identify Transportation Infrastructure Bonds as a possible source of State matching dollars and, promptly upon its submission to the USDOT, the Agency shall send an electronic copy of the grant application to the Joint Fiscal Office, which shall then transmit it to the Joint Fiscal Committee and to the chairs of the House and Senate Committees on Transportation.

(b) If the Agency is awarded an INFRA grant as described in subsection (a) of this section and the grant requires that work under the grant begin during fiscal year 2019, the Agency shall include in its fiscal year 2019 budget adjustment proposal any adjustments to fiscal year 2019 appropriations and to the approved fiscal year 2019 Transportation Program that may be required to comply with the terms of the grant.

\* \* \* Program Development; Traffic & Safety Operations \* \* \*

#### Sec. 4. PROGRAM DEVELOPMENT—TRAFFIC & SAFETY OPERATIONS

The following project is added to the candidate list of the Program Development—Traffic & Safety Program within the fiscal year 2019 Transportation Program: South Burlington STP SGNL ( ) I-89 Exit 14 signal upgrades.

\* \* \* Program Development; Bike & Pedestrian Facilities \* \* \*

#### Sec. 5. PROGRAM DEVELOPMENT—BIKE & PEDESTRIAN FACILITIES

Spending authority on the Statewide—New Awards activity within the fiscal year 2019 Program Development—Bike & Pedestrian Facilities Program is amended as follows:

<u>FY19</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	0	0	0
ROW	0	0	0
Const	600,000	900,000	300,000
Total	600,000	900,000	300,000
<u>Sources of funds</u>			

State	300,000	450,000	150,000
Local	300,000	450,000	150,000
Federal	0	0	0
Total	600,000	900,000	300,000

\* \* \* Aviation Program \* \* \*

#### Sec. 6. AVIATION PROGRAM

For fiscal year 2019:

(1) The sources of funds for the AV-FY18-001 (local match of FAA projects; Burlington Airport) project within the Aviation Program are amended to read:

<u>FY19</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
<u>Sources of funds</u>			
State	750,000	600,000	-150,000
Local	500,000	650,000	150,000
Federal	11,250,000	11,250,000	0
Total	12,500,000	12,500,000	0

(2) Spending authority of transportation funds in the Aviation Program is reduced by \$150,000.00.

\* \* \* Town Highway Bridge Program \* \* \*

#### Sec. 7. TOWN HIGHWAY BRIDGE PROGRAM

The following project is added to the candidate list of the Town Highway Bridge Program within the fiscal year 2019 Transportation Program: Salisbury – Cornwall BO 1445( ), scoping for replacement of BR8 over the Otter Creek.

\* \* \* Maintenance Program and District Leveling \* \* \*

#### Sec. 8. MAINTENANCE PROGRAM AND DISTRICT LEVELING; SPENDING AUTHORITY

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

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

(c) Authorized spending in fiscal year 2019 for operating expenses in the Maintenance Program is reduced by \$1,600,000.00 in transportation funds.



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

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

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

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

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

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

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

\* \* \* Contingent Addition to State Highway System \* \* \*

Sec. 9. CONTINGENT ADDITION OF VERMONT ROUTE 119 IN THE  
TOWN OF BRATTLEBORO TO THE STATE HIGHWAY SYSTEM

(a) If the condition specified in subsection (b) of this section is satisfied, pursuant to 19 V.S.A. § 15(a), upon substantial completion of construction of the Brattleboro-Hinsdale, NH bridge replacement project (BF A004(152)), the following highway segment in the Town of Brattleboro shall be added to the State highway system: the entirety of the new Vermont Route 119 in the Town of Brattleboro, extending from its intersection with Vernon Street (TH#4) to the westerly low watermark of the Connecticut River.

(b) The addition to the State highway system specified in subsection (a) of this section shall occur only if the Town of Brattleboro enters into a maintenance agreement with the Agency.

\* \* \* Abandoned Aircraft \* \* \*

Sec. 10. 5 V.S.A. chapter 9 is amended to read:

CHAPTER 9. GENERAL PROVISIONS; ABANDONED AIRCRAFT

Subchapter 1. Aeronautics; Authority and Duties; Penalties

\* \* \*

Subchapter 2. Abandoned Aircraft

§ 221. DEFINITIONS

As used in this subchapter:

(1) “Airport manager” means the owner of an airport in this State or an agent authorized to act on behalf of an airport owner.

(2) “Storage operator” means a person who stores an aircraft or aircraft component at the request of an airport manager.

§ 222. ABANDONED AIRCRAFT; AUTHORITY TO TAKE CUSTODY,  
REMOVE, AND STORE; NOTICE OF INTENT; LIMITATION ON  
LIABILITY

(a) Subject to subsection (b) of this section, an airport manager who discovers an aircraft or aircraft component apparently abandoned, or an aircraft without a currently effective federal registration certificate, on the property of the airport has authority to:

(1) take custody of the aircraft or component;

(2) arrange for the aircraft or component to be secured and stored at its current location or to be removed and stored elsewhere.

(b)(1) As used in this subsection, a “notice of intent” shall include:

(A) a statement of the airport manager's intent to exercise authority under subsection (a) of this section and of the owner's responsibility for reasonable charges under this subchapter;

(B) the make and the factory or identification number of the aircraft or aircraft component;

(C) the current location of the aircraft or aircraft component and the planned location for its storage; and

(D) the aircraft registration number, if any.

(2) At least 60 days prior to exercising the authority granted in subsection (a) of this section, the airport manager shall:

(A) Attempt to provide a notice of intent to the owner and to the lienholder, if any, of the aircraft or aircraft component. If the address of the last place of residence of the owner or lienholder of the aircraft or aircraft component is ascertainable through the exercise of reasonable diligence, including inquiry of the Federal Aviation Administration's aircraft registry, the airport manager shall send the notice of intent by certified mail to the address or addresses; otherwise, the airport manager shall be deemed to have fulfilled the requirement of this subdivision (b)(2)(A) if the manager posts the notice of intent on the aircraft or aircraft component.

(B) Send a written notice of intent to the Secretary.

(c) The Secretary shall place on file notices of intent received under subdivision (b)(2)(B) of this section and, upon request, make the notices available for public inspection and copying.

(d) Except in the case of intentionally inflicted damages, an airport manager who takes custody of an aircraft or aircraft component or an airport manager or storage operator who arranges for the removal or storage of an aircraft or aircraft component under this subchapter shall not be liable to the owner or lienholder for any damages to the aircraft or aircraft component incurred while it was in the manager's custody or during its removal or storage.

#### § 223. LIEN; RIGHT TO CONTEST COSTS

(a) If the notice requirements of subsection 222(b) of this title are fulfilled, all reasonable storage, removal, and other costs necessarily incurred thereafter by an airport manager or a storage operator in carrying out the provisions of this subchapter shall be a lien on the aircraft or aircraft component held by the person who incurred the costs.

(b) In exercising rights under section 224 or 226 of this title, the owner or lienholder may contest the reasonableness and necessity of the costs by

bringing an action before the Transportation Board.

#### § 224. RIGHT OF OWNER TO RECLAIM

The owner or lienholder of an aircraft or aircraft component stored under this subchapter may reclaim the aircraft or aircraft component prior to any sale by paying the outstanding costs described in section 223 of this title.

#### § 225. SALE AUTHORIZED; NOTICE OF PROPOSED SALE

(a) If the owner or lienholder has not reclaimed the aircraft or aircraft component after the aircraft manager fulfills the notice requirements of subsection 222(b) of this title, and if the airport manager fulfills the notice requirements of subsection (b) of this section, the airport manager may sell the aircraft or aircraft component in a commercially reasonable manner as described in 9A V.S.A. § 9-610 (disposition of collateral after default).

(b)(1) The notice of proposed sale required in this subsection shall include:

(A) the make and the factory or identification number of the aircraft or aircraft component;

(B) the aircraft registration number, if any;

(C) contact information for the person from whom the owner or lienholder may reclaim the aircraft or aircraft component pursuant to section 224 of this title; and

(D) the date and location of the proposed sale.

(2) At least 14 days before a sale under this section, the airport manager shall:

(A) if the value of the aircraft or aircraft component exceeds \$1,000.00, publish the notice of proposed sale in a media outlet of general circulation in the municipality; and

(B) if the address of the last place of residence of the owner or the lienholder, if any, of the aircraft or aircraft component is ascertainable through the exercise of reasonable diligence, including inquiry of the Federal Aviation Administration's aircraft registry, send the notice of proposed sale by certified mail to the address or addresses; otherwise, the airport manager shall be deemed to have fulfilled the requirement of this subdivision (b)(2)(B) if the manager posts the notice on the aircraft or aircraft component.

#### § 226. APPLICATION OF PROCEEDS

The airport manager shall pay the balance of the proceeds of the sale, if any, after payment of liens and the reasonable expenses incident to the sale, to the owner or lienholder of the aircraft or aircraft component, if claimed at any

time within one year from the date of the sale. If the owner or lienholder does not claim the balance within one year, the airport manager shall retain the proceeds.

\* \* \* Abandoned Vessels \* \* \*

Sec. 11. 10 V.S.A. chapter 48A is added to read:

CHAPTER 48A. ABANDONED VESSELS

§ 1420. VESSELS; ABANDONMENT PROHIBITED; REMOVAL AND DISPOSITION OF ABANDONED VESSELS

(a) Definitions. In this chapter, unless the context clearly requires otherwise:

(1) “Abandon” means, with respect to a vessel, any of the following:

(A) to leave unattended on public waters or on immediately adjacent land for more than 30 days without the express consent of the Secretary or, if on immediately adjacent land, of the person in control of the land;

(B) to leave partially or fully submerged in public waters for more than 30 days without the express consent of the Secretary;

(C) to leave partially or fully submerged in public waters a petroleum-powered vessel for more than 48 hours without the express consent of the Secretary; or

(D) to leave unattended on public waters or on immediately adjacent land for any period if the vessel poses an imminent threat to navigation or to public health or safety.

(2) “Commissioner” means the Commissioner of Motor Vehicles or designee.

(3) “Law enforcement officer” means an individual described in 23 V.S.A. § 3302 who is certified by the Vermont Criminal Justice Training Council as a level II or level III law enforcement officer under 20 V.S.A. § 2358.

(4)(A) “Public waters” means:

(i) the portions of Lake Champlain, Lake Memphremagog, and the Connecticut River that are within the territorial limits of Vermont;

(ii) boatable tributaries of Lake Champlain and Lake Memphremagog upstream to the first barrier to navigation, and impoundments and boatable tributaries of those impoundments of the Connecticut River upstream to the first barrier to navigation, within the territorial limits of Vermont; and

(iii) all natural inland lakes, ponds, and rivers within Vermont, and other waters within the territorial limits of Vermont including the Vermont portion of boundary waters, that are boatable under the laws of this State.

(B) "Public waters" does not include waters in private ponds and private preserves as set forth in chapter 119 of this title.

(5) "Secretary" means the Secretary of Natural Resources or designee.

(6) "Storage operator" means:

(A) the Secretary, if storing an abandoned vessel after causing its removal pursuant to this section; or

(B) a person who stores a vessel removed pursuant to this section at the request of the Secretary, or a subsequent transferee thereof.

(7) "Vessel" means:

(A) a motorboat; or

(B) a sailboat, or other boat, that is 16 or more feet in length.

(b) Relationship with other laws. The authority conferred to the Secretary and the penalties established in this section are in addition to authority granted or penalties established elsewhere in law, and nothing in this section shall be construed to modify any authority or the application of penalties under any other provision of law, including under chapter 47, 159, 201, or 211 of this title.

(c) Abandonment of vessels prohibited.

(1) Civil violation. A person shall not abandon a vessel on public waters or immediately adjacent land. A person who violates this subdivision shall be subject to civil enforcement under chapters 201 and 211 of this title and, in any such enforcement action, the Secretary may obtain an order to recover costs specified in subdivision (d)(1) of this section incurred by the Agency of Natural Resources.

(2) Criminal violation. A person shall not knowingly abandon a petroleum-powered vessel or knowingly abandon a vessel that poses an imminent threat to navigation or to public health or safety. A person who violates this subdivision shall be subject to a fine of up to \$10,000.00.

(d)(1) Removal of abandoned vessel. Upon request from a law enforcement officer or at his or her own initiative, the Secretary shall promptly cause the removal and safe storage of a vessel that is abandoned as described in subdivision (a)(1) of this section, unless the vessel is to be removed by a federal agency. If removal is requested by a law enforcement officer, the Secretary shall make reasonable efforts to determine if the vessel qualifies as

abandoned. In addition, the Secretary shall have the authority to take actions as may be necessary to eliminate risks to public health or safety caused by the condition of the vessel.

(2) Responsibility for costs; lien.

(A) The owner of a vessel removed under the authority of this section shall be responsible for reasonable:

(i) removal costs;

(ii) cleanup and disposal costs;

(iii) storage costs incurred after the storage operator sends the Department of Motor Vehicles a notice of removal consistent with subdivision (e)(1) of this section; and

(iv) costs of enforcing this section borne by the Secretary.

(B) Costs for which an owner is responsible under subdivision (d)(2)(A) of this section shall be a lien on the vessel held by the person who incurred the costs. Nothing in this subdivision (d)(2)(B) shall be construed to modify any rights or authority to recover such costs that may exist under any other provision of law.

(3) Limitation on liability. Except in the case of intentionally inflicted damages, the Secretary shall not be liable to the owner or lienholder of an abandoned vessel for any damages to the vessel incurred during its removal or storage, or as a result of actions taken to eliminate risks to public health or safety caused by the condition of the vessel, in accordance with this section.

(e)(1) Notice of removal and place of storage. Within three business days of the date of removal of an abandoned vessel, the storage operator shall send notice to the Commissioner of:

(A) the federal, state, or foreign registration number, and the hull identification number, of the vessel, if any;

(B) a description of the vessel, including its color, size, and, if available, its manufacturer's trade name and manufacturer's series name;

(C) the date of removal and the location from where the vessel was removed;

(D) the name and contact information of an individual at the Agency of Natural Resources who can provide information about the vessel's removal and how to reclaim it; and

(E) the periodic storage charges that will apply, if any.

(2) Listing of removed vessel. The Commissioner shall post and

maintain on the website of the Department of Motor Vehicles a listing of vessels removed under the authority of this section with the information received under subdivision (1) of this subsection.

(f) Disposition following removal.

(1) As used in this subdivision:

(A) A “notice of intent” shall include the information described in subdivision (e)(1) of this section and an indication of the storage operator’s intent to take ownership or otherwise dispose of an abandoned vessel.

(B) The term “address” shall mean the plural “addresses” if more than one address is ascertained.

(2) Within 30 days after the date of removal of the abandoned vessel, a storage operator shall:

(A) Cause a notice of intent to be published in the environmental notice bulletin under 3 V.S.A. § 2826.

(B) Make reasonable efforts to ascertain the address of the owner and any lienholder and, if the address is ascertained, send the notice of intent to the address by certified mail, return receipt requested. Reasonable efforts shall include inquiring of the person in control of the waters or land from which the abandoned vessel was removed, the clerk of the municipality in which the waters or land is located, the State Police, the Office of the Secretary of State, and the Department of Motor Vehicles as to the identity and address of the owner and any lienholder.

(3) Ownership of the vessel shall pass to the storage operator free of all claims of any prior owner or lienholder if the owner or lienholder has not reclaimed the vessel and paid all costs authorized under subdivision (d)(2) of this section within 60 days after the later of:

(A) publication in the environmental notice bulletin under 3 V.S.A. § 2826; or

(B) if the address of the owner or lienholder is ascertained, the date the notice of intent is mailed.

(4) If ownership passes to the storage operator under this subsection, the storage operator may sell, transfer, or otherwise dispose of the vessel. However, if the vessel is subject to titling under 23 V.S.A. chapter 36, the storage operator shall apply to the Commissioner for a title or salvage title as may be appropriate, and the Commissioner shall issue an appropriate title or salvage title, at no charge, if the storage operator offers sufficient proof that ownership of the vessel lawfully passed to the storage operator under this section.



(g) Owner and lienholder rights. An owner or lienholder of an abandoned vessel removed from public waters or immediately adjacent land under this section may contest the removal, transfer of title, or other disposition of a vessel under this section, and the necessity or reasonableness of any costs described in subdivision (d)(2) of this section, by petitioning the Secretary. The contested case provisions of 3 V.S.A. chapter 25 shall govern any matter brought under this subsection. A person aggrieved by a final decision of the Secretary may appeal the decision to the Civil Division of the Superior Court. Nothing in this subsection shall be construed to interfere with the right of an owner or lienholder to contest these issues in any enforcement action brought by the Secretary.

Sec. 12. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

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

\* \* \*

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

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

(29) 10 V.S.A. § 1420, relating to abandoned vessels.

\* \* \*

\* \* \* Railroads; Vegetation Control \* \* \*

Sec. 13. 5 V.S.A. § 3672 is amended to read:

§ 3672. ~~SELECTBOARD MEMBERS' DUTIES; RECOVERY~~

~~In case of failure so to do in a town through which such road passes, the selectboard members shall send notice thereof by mail to the principal office of such person or corporation. In case such failure continues for ten days after notice, the selectboard members shall forthwith cause the thistles and weeds to be destroyed at the expense of the town. Such town shall thereupon be entitled to recover from such person or corporation its actual cost for destroying the thistles and weeds. In the event such person or corporation fails to pay to the town such cost for 60 days from the time the selectboard members sent notice thereof by mail to the principal office of such person or corporation, such town shall be entitled to recover such cost including a reasonable fee paid to an~~

attorney for the recovery in an action on this statute. [Repealed.]

Sec. 14. 5 V.S.A. § 3673 is amended to read as follows:

§ 3673. CUTTING OF TREES VEGETATION CONTROL

~~A person or corporation operating a railroad in this State shall cause all trees, shrubs, and bushes to be destroyed at reasonable times within the surveyed boundaries of their lands, for a distance of 80 rods in each direction from all public grade crossings. A railroad shall take reasonable measures to control vegetation that is both on railroad property and on or immediately adjacent to the roadbed, so that the vegetation does not obstruct a highway user's view of traffic control devices at a grade crossing or of a train approaching the crossing.~~

Sec. 15. 5 V.S.A. § 3674 is amended to read:

§ 3674. SELECTBOARD MEMBERS' DUTIES; LIABILITY FOR DAMAGES ENFORCEMENT

~~When such person or corporation neglects or refuses to destroy the trees, shrubs, and bushes, as required by section 3673 of this title, after 60 days' notice in writing, given by the selectboard members of the town in which such trees, shrubs, and bushes are located, the selectboard members shall immediately cause them to be destroyed at the expense of the town. The town shall thereafter be entitled to recover from such person or corporation its actual cost for the destruction. In the event such person or corporation fails to pay to the town such cost for 60 days from the time the selectboard members sent notice thereof by mail to the principal office of such person or corporation, such town shall be entitled to recover such cost including a reasonable fee. If a railroad fails to control vegetation as required by section 3671 or 3673 of this title within 30 days after written notice is given by the selectboard of the town in which the vegetation is located or by the Agency in the case of violations involving a State highway grade crossing, the Transportation Board, upon application by the town or the Agency and after notice and hearing, may order the railroad to perform the work. Any such order shall specify a date by which the work must be completed. If the railroad fails to comply with the Board's order, the Board may impose a civil penalty of \$100.00 against the railroad for each day that the railroad fails to comply with the Board's order.~~

\* \* \* Penalties for Furnishing Alcoholic Beverages to Minors \* \* \*

Sec. 16. 7 V.S.A. § 658 is amended to read:

§ 658. SALE OR FURNISHING TO MINORS; ENABLING CONSUMPTION BY MINORS; MINORS CAUSING DEATH OR SERIOUS BODILY INJURY

\* \* \*

(d)(1) A person who violates subsection (a) of this section, where the person under 21 years of age, while operating a motor vehicle, snowmobile, vessel, or all-terrain vehicle on a public highway, public land, or public waters, or in a place where a Vermont Association of Snow Travelers (VAST) trail maintenance assessment or a Vermont ATV Sportsman's Association (VASA) Trail Access Decal is required, causes death or serious bodily injury to himself or herself or to another person as a result of the violation, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(2) As used in this subsection:

(A) "All-terrain vehicle" shall have the same meaning as set forth in 23 V.S.A. § 3501.

(B) "Public land" means all land in Vermont that is either owned or controlled by a local, State, or federal governmental body.

(C) "Public waters" shall have the same meaning as in 10 V.S.A. § 1422.

(D) "Snowmobile" shall have the same meaning as set forth in 23 V.S.A. § 3201.

(E) "Vessel" shall have the same meaning as set forth in 23 V.S.A. § 3302.

\* \* \* President Calvin Coolidge State Historic Site;

Supplemental Guide Signs \* \* \*

Sec. 17. 10 V.S.A. § 494 is amended to read:

§ 494. EXEMPT SIGNS

The following signs are exempt from the requirements of this chapter except as indicated in section 495 of this title:

\* \* \*

(6)(A) Official traffic control signs, including signs on limited access highways, consistent with the ~~manual on uniform traffic control devices~~, Manual on Uniform Traffic Control Devices (MUTCD) adopted under 23 V.S.A. § 1025, directing people to:

- (i) other towns;
- (ii) international airports;
- (iii) postsecondary educational institutions;
- (iv) cultural and recreational destination areas;

~~(v) nonprofit diploma-granting~~ diploma-granting educational institutions for people with disabilities; and

~~(vi) official traffic control signs, including signs on limited access highways, consistent with the manual on uniform traffic control devices, adopted under 23 V.S.A. § 1025, directing people to official State visitor information centers.~~

~~(B) After having considered the six priority categories in this subdivision (A) of this subdivision (6), the Travel Information Council may approve installation of a sign for any of the following provided the location is open a minimum of 120 days each year and is located within 15 miles of an interstate highway exit:~~

~~(A)(i) Nonprofit~~ nonprofit museums;

~~(B)(ii) Cultural~~ cultural and recreational attractions owned by the State or federal government;

~~(C)(iii) Officially~~ officially designated scenic byways;

~~(D)(iv) Park~~ park and ride or multimodal centers; and

~~(E)(v) Fairgrounds~~ fairgrounds or exposition sites;

~~provided the designations in subdivisions (A) through (E) of this subdivision (6) are open a minimum of 120 days each year and are located within 15 miles of an interstate highway exit.~~

~~(C) Notwithstanding the limitations of this subdivision (6), supplemental guide signs consistent with the MUTCD for the President Calvin Coolidge State Historic Site may be installed at the following highway interchanges:~~

~~(i) Interstate 91, Exit 9 (Windsor); and~~

~~(ii) Interstate 89, Exit 1 (Quechee).~~

~~(D) Signs erected under this subdivision (6) of this section shall not exceed a maximum allowable size of 80 square feet.~~

\* \* \*

\* \* \* Central Garage \* \* \*

Sec. 18. 19 V.S.A. § 13 is amended to read:

### § 13. CENTRAL GARAGE FUND

(a) There is created ~~a central garage fund~~ the Central Garage Fund which shall be used:

(1) to furnish equipment on a rental basis to the districts and other

sections of the ~~agency~~ Agency for use in construction, maintenance, and operation of highways or other transportation activities; and

(2) to provide a general equipment repair and major overhaul service as well as to furnish necessary supplies for the operation of the equipment.

(b) To maintain a safe, reliable equipment fleet, new or replacement highway maintenance equipment shall be acquired using ~~central garage funds~~ Central Garage Fund monies. The ~~agency~~ Agency is authorized to acquire replacement pieces for existing highway equipment, or new, additional equipment equivalent to equipment already owned; however, the ~~agency~~ Agency shall not increase the total number of permanently assigned or authorized motorized or self-propelled vehicles without legislative approval by the General Assembly.

~~(c)(1) There shall be established and maintained within the central garage fund a separate transportation equipment replacement account for the purposes stated in subsection (b) of this section. In fiscal year 2008, \$1,120,000.00, and thereafter an amount equal to two-thirds of one percent of the prior year transportation fund appropriation, but not less than \$1,120,000.00, shall be transferred prior to August 1 from the transportation fund to the central garage fund and allocated to the transportation equipment replacement account, and beginning in fiscal year 2001, and thereafter, an amount not less than the sum of equipment depreciation expense and net equipment sales from the prior fiscal year, shall be allocated prior to August 1 from within the central garage fund to the transportation equipment replacement account. All expenditures from this account shall be appropriated by the general assembly and used exclusively for the purchase of equipment as authorized in subsection (b) of this section. For the purpose specified in subsection (b) of this section, the following amount shall be transferred from the Transportation Fund to the Central Garage Fund:~~

(A) in fiscal year 2019, \$1,318,442.00; and

(B) in subsequent fiscal years, at a minimum, the amount specified in subdivision (A) of this subdivision (1) as adjusted annually by increasing the previous fiscal year's amount by the percentage increase in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) during the previous State fiscal year.

(2) Each fiscal year, the sum of the following shall be appropriated from the Central Garage Fund exclusively for the purpose specified in subsection (b) of this section:

(A) the amount transferred pursuant to subdivision (1) of this subsection;

(B) the amount of the equipment depreciation expense from the prior fiscal year; and

(C) the amount of the net equipment sales from the prior fiscal year.

(d) In each fiscal year, net income of the ~~fund~~ Fund earned during that fiscal year shall be retained in the ~~fund~~ Fund.

(e) ~~The fiscal year of the central garage for~~ For the purposes of computing net worth and net income, the fiscal year shall be the year ending June 30.

(f) ~~For purposes of~~ As used in this section, “equipment” means registered motor vehicles and highway maintenance equipment assigned to the ~~central garage~~ Central Garage.

(g) [Repealed.]

\* \* \* Town Highway Aid \* \* \*

Sec. 19. 19 V.S.A. § 306 is amended to read:

§ 306. APPROPRIATION; STATE AID FOR TOWN HIGHWAYS

(a) General State aid to town highways.

(1) An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall increase or decrease over the previous fiscal year’s appropriation by the same percentage as any increase or decrease in the following, whichever is less:

(A) the ~~Transportation~~ year-over-year increase in the Agency’s total appropriations in the previous fiscal year funded by Transportation Fund revenues, excluding the town highway appropriations appropriation for town highways under this subsection for that year; or

(B) the year-over-year increase in the State’s total appropriations in the previous fiscal year of General Fund, Education Fund, and State Health Care Resources Fund monies.

(2) If the year-over-year change in appropriations specified in either subdivision (1)(A) or (B) of this subsection is negative, then the appropriation to town highways under this subsection shall be equal to the previous fiscal year’s appropriation.

(3) The funds appropriated shall be distributed to towns as follows:

(1)(A) Six percent of the State’s annual town highway appropriation shall be apportioned to class 1 town highways. The apportionment for each town shall be that town’s percentage of class 1 town highways of the total class 1 town highway mileage in the State.

(2)(B) Forty-four percent of the State’s annual town highway

appropriation shall be apportioned to class 2 town highways. The apportionment for each town shall be that town's percentage of class 2 town highways of the total class 2 town highway mileage in the State.

~~(3)~~(C) Fifty percent of the State's annual town highway appropriation shall be apportioned to class 3 town highways. The apportionment for each town shall be that town's percentage of class 3 town highways of the total class 3 town highway mileage in the State.

~~(4)~~(D) Monies apportioned under subdivisions (1), (2), and (3) of this subsection shall be distributed to each town in quarterly payments beginning July 15 in each year.

~~(5)~~(E) Each town shall use the monies apportioned to it solely for town highway construction, improvement, and maintenance purposes or as the nonfederal share for public transit assistance. These funds may also be used for the establishment and maintenance of bicycle routes. The members of the selectboard shall be personally liable to the State, in a civil action brought by the Attorney General, for making any unauthorized expenditures from money apportioned to the town under this section.

\* \* \*

\* \* \* Transportation Public-Private Partnerships \* \* \*

Sec. 20. 19 V.S.A. chapter 26 is amended to read:

CHAPTER 26. DESIGN-BUILD CONTRACTS AND PUBLIC-PRIVATE PARTNERSHIPS

Subchapter 1. Design-build Contracts

\* \* \*

Subchapter 2. Public-Private Partnership Pilot

§ 2611. PILOT ESTABLISHED; INTENT

(a)(1) The General Assembly hereby establishes a pilot program to authorize the Agency, for a time-limited period, to receive solicited and unsolicited proposals and to enter into P3 agreements if certain conditions are met.

(2) Nothing in this subchapter is intended to modify any obligations or rights under any other law.

(b) Before the authority conferred under this subchapter terminates, the General Assembly intends to:

(1) review whether and how the Agency has exercised the authority and whether the P3 agreements it has entered into have served the public

interest; and

(2) determine whether the authority should terminate, be extended, or be amended.

(c) If the Agency's authority under this subchapter terminates, the General Assembly intends that:

(1) the Agency not have authority to pursue any proposal that has not resulted in a P3 agreement prior to termination of the Agency's authority; and

(2) any P3 agreement lawfully entered into prior to termination of the Agency's authority shall continue in effect after termination of the authority.

#### § 2612. DEFINITIONS

As used in this subchapter:

(1) "Facility" means transportation infrastructure that is, or if developed, would be, within the jurisdiction of the Agency or eligible for federal-aid funding managed through the Agency.

(2) "Project" means the capital development of a facility.

(3) "Proposal" means a conditional offer of a private entity that, after review, negotiation, and documentation, and after legislative approval if required under this subchapter, may lead to a P3 agreement as provided in this subchapter.

(4) "Public-private partnership" or "P3" means an alternative project delivery mechanism that may be used by the Agency to permit private sector participation in a project, including in its financing, development, operation, management, ownership, leasing, or maintenance.

(5) "P3 agreement" means a contract or other agreement between the Agency and a private entity to undertake a project as a public-private partnership and that sets forth rights and obligations of the Agency and the private entity in that partnership.

#### § 2613. AUTHORITY

(a) The Agency is authorized to receive unsolicited proposals or to solicit proposals to undertake a project as a public-private partnership. The Agency shall develop, and have authority to amend, criteria to review and evaluate such proposals to determine if they are in the public interest and shall review and evaluate all proposals received in accordance with these criteria. In addition to other criteria that the Agency may develop, at minimum, the criteria shall require consideration of:

(1) the benefits of the proposal to the State transportation system and the



potential impact to other projects currently prioritized in the most recently adopted Transportation Program;

(2) the extent to which a proposal would reduce the investment of State funds required to advance the project that the proposal addresses; and

(3) the extent to which a proposal would enable the State to receive additional federal funding that would not otherwise be available.

(b) If the Agency determines that a proposal is in the public interest:

(1) The Agency is authorized to enter into a P3 agreement with respect to the proposal without legislative approval if:

(A) the project has been approved in the most recently adopted Transportation Program; and

(B) total estimated State funding over the lifetime of the project will be less than \$2,000,000.00.

(2) For the following projects, the Agency is authorized to enter into a P3 agreement with respect to the proposal only if the Agency receives specific legislative approval to enter into the P3 agreement:

(A) a project that has not been approved in the most recently adopted Transportation Program; or

(B) a project for which total estimated State funding over the lifetime of the project will be \$2,000,000.00 or more.

#### § 2614. LEGISLATIVE APPROVAL

If the Secretary determines that a proposal that requires legislative approval under section 2613 of this title is in the public interest and should be pursued, the Secretary shall submit to the General Assembly:

(1) a description of the proposal, including:

(A) a summary of the project scope and timeline;

(B) the rights and obligations of the State and private entity partner or partners, including the level of involvement of all partners in any ongoing operations, maintenance, and ownership of a facility;

(C) the nature and amount of State funding of the project and of any ongoing State financial responsibility for ongoing maintenance or operation costs; and

(D) its effect on any project in the most recent approved Transportation Program;

(2) a statement detailing how the proposal meets the Agency's criteria

developed under this subchapter; and

(3) proposed legislation to confer authority to the Agency to enter into a P3 agreement with respect to the proposal.

#### § 2615. REPORT

(a) Annually, on or before January 15, the Agency shall report to the House and Senate Committees on Transportation:

(1) for each P3 agreement entered into following legislative approval required under this subchapter, for as long as the agreement is in effect, a description of the current status of the project and of any substantive change to the P3 agreement since the prior year's report; and

(2) for each P3 agreement entered into since the prior year's report pursuant to section 2613 of this title that did not require legislative approval, a description of the P3 agreement and of the project.

(b) Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required unless the General Assembly takes specific action to repeal the report requirement.

\* \* \* Sunset of Transportation Public-Private Partnership Authority \* \* \*

#### Sec. 21. REPEAL OF TRANSPORTATION P3 AUTHORITY

19 V.S.A. §§ 2613 (Agency of Transportation's P3 authority) and 2614 (legislative approval of P3 proposals) shall be repealed on July 1, 2023.

\* \* \* Gasoline Assessments; Calculations; Data Retention \* \* \*

Sec. 22. 23 V.S.A. § 3106(a)(2) is amended to read:

(2) For the purposes of subdivision (1)(B) of this subsection, the:

(A) The tax-adjusted retail price applicable for a quarter shall be the average of the retail price for regular gasoline collected and determined to three decimal places and published by the Department of Public Service for each of the three months of the preceding quarter after all federal and State taxes and assessments, and the petroleum distributor licensing fee established by 10 V.S.A. § 1942, applicable in each month have been subtracted from that month's retail price. Calculations of the tax-adjusted retail price applicable for a quarter shall be permanently maintained on the website of the Department of Public Service.

(B) In calculating assessment amounts under subdivisions (a)(1)(B)(i)(II) and (a)(1)(B)(ii)(II) of this section, the Department of Motor Vehicles shall calculate the amounts to four decimal places. The Department of Motor Vehicles shall permanently retain the records of its calculations, any

corrections thereto, and the data that are the basis for the calculations.

\* \* \* Green Mountain Transit Authority; Name Update \* \* \*

Sec. 23. 24 V.S.A. § 5084 is amended to read:

§ 5084. PUBLIC TRANSIT ADVISORY COUNCIL

(a) The Public Transit Advisory Council shall be created by the Secretary of Transportation under 19 V.S.A. § 7(f)(5), to consist of the following members:

\* \* \*

(3) a representative of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority;

\* \* \*

Sec. 24. 24 App. V.S.A. chapter 801 is amended to read:

CHAPTER 801. ~~CHITTENDEN COUNTY TRANSPORTATION~~ GREEN MOUNTAIN TRANSIT AUTHORITY

§ 1. CREATION OF AUTHORITY

There is hereby created a transit authority to be known as the “~~Chittenden County Transportation~~ Green Mountain Transit Authority.”

\* \* \*

§ 3. MEMBERSHIP IN THE AUTHORITY

Membership in the Authority shall consist of those municipalities which elect to join the Authority by majority vote of its voters present and voting on the question at an annual or special meeting duly warned for the purpose prior to July 1, 2010. Beginning on July 1, 2010, a municipality may hold an annual meeting or a special meeting for the purpose of determining through election by a majority vote of its voters present and voting on the question only if the municipality is specifically authorized to join the Authority either under section 12 of this chapter or by resolution duly passed by the ~~Chittenden County Transportation~~ Green Mountain Transit Authority Board of Commissioners. The initial meeting of a municipality called to determine whether or not to join the Authority shall be warned in the manner provided by law, except that for such meeting only, any warning need not be posted for a period in excess of 20 days, any other provision of law or municipal charter to the contrary notwithstanding. Membership may be terminated only in the manner provided in section 8 of this chapter.

\* \* \*

§ 11. ASSESSMENTS OF NEW MEMBERS OUTSIDE CHITTENDEN

## COUNTY

Municipalities outside Chittenden County that vote to join the ~~Chittenden County Transportation~~ Green Mountain Transit Authority on or after July 1, 2010 shall negotiate with the Board of Commissioners of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority on the amount of the levy to be assessed upon the municipality and terms of payment of that assessment; and the municipality may not join prior to agreement with the Authority on terms of the levy and payment. Upon the addition of one municipality to the membership of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority from outside Chittenden County, the Authority shall immediately begin work on the formula for assessment that will be approved in accordance with this chapter.

### § 12. MUNICIPALITIES AUTHORIZED TO VOTE FOR MEMBERSHIP IN THE ~~CHITTENDEN COUNTY TRANSPORTATION~~ GREEN MOUNTAIN TRANSIT AUTHORITY

The following municipalities are authorized to hold an election for the purpose of determining membership in the ~~Chittenden County Transportation~~ Green Mountain Transit Authority: Barre City, Berlin, Colchester, Hinesburg, Montpelier, Morristown, Richmond, St. Albans City, Stowe, and Waterbury.

### § 13. OTHER REPRESENTATION

If Washington, Lamoille, Franklin, or Grand Isle County does not have a municipal member from its county on the Board of Commissioners of the ~~Chittenden County Transportation~~ Green Mountain Transit Authority, the regional planning commission serving the ~~County~~ county may appoint a Board member to the ~~Chittenden County Transportation~~ Green Mountain Transit Authority from a member of its regional planning commission or regional planning commission staff to represent its interests on the ~~Chittenden County Transportation~~ Green Mountain Transit Authority Board.

\* \* \* Electric Vehicles; Public Service \* \* \*

### Sec. 25. PUBLIC UTILITY COMMISSION; REPORT; ELECTRIC VEHICLE CHARGING

(a) After providing public notice and an opportunity for submission of written information and conducting one or more workshops, the Public Utility Commission (PUC or Commission) shall complete an evaluation and submit a written report on or before July 1, 2019 concerning the charging of plug-in electric vehicles (EV).

(b) As used in this section, “electric distribution utility” means a company that delivers electric energy to retail customers over a pole-and-wire network.

(c) The Commission shall provide direct notice of the opportunity and workshops described in subsection (a) of this section to the Agencies of Natural Resources and of Transportation, the Department of Public Service, each electric distribution utility, each efficiency entity appointed pursuant to 30 V.S.A. § 209(d) to deliver services to electric customers, and such other persons as the Commission may consider appropriate.

(d) The Commission's report shall include:

(1) its analysis and recommendations on each of the following issues related to the role of electric distribution utilities:

(A) removal or mitigation, as appropriate, of barriers to EV charging, including strategies, such as time-of-use rates, to reduce operating costs for current and future EV users without shifting costs to ratepayers who do not own or operate EVs;

(B) strategies for managing the impact of EVs on and services provided by EVs to the electric transmission and distribution system;

(C) electric system benefits and costs of EV charging, electric utility planning for EV charging, and rate design for EV charging; and

(D) the appropriate role of electric distribution utilities with respect to the deployment and operation of EV charging stations;

(2) its analysis and recommendations on each of the following issues related to EV charging stations owned or operated by persons other than electric distribution utilities:

(A) how and on what terms, including quantity, pricing, and time of day, such charging stations will obtain electric energy to provide to EVs;

(B) what safety standards should apply to the charging of EVs;

(C) the recommended scope of the jurisdiction of the Commission, the Department of Public Service, and other State agencies over such stations;

(D) whether such stations will be free to set the rates or prices at which they provide electric energy to EVs, and any other issues relevant to the appropriate oversight of the rates and prices charged by such stations, including the transparency to the consumer of those rates and prices; and

(E) the recommended billing and complaint procedures for such charging stations; and

(3) its analysis and recommendations on each of the following issues:

(A) jointly with the Secretary of Transportation, recommended options to address how EV users pay toward the cost of maintaining the State's

transportation infrastructure, including consideration of methods to assess the impact of EVs on that infrastructure and how to calculate a charge based on that impact, the potential assessment of a charge to EVs as a rate per kilowatt hour delivered to an EV; varying such a charge by size and type of EV; and phasing in such a charge;

(B) the accuracy of electric metering and submetering technology for charging EVs;

(C) strategies to encourage EV usage at a pace necessary to achieve the goals of the State's Comprehensive Energy Plan and its greenhouse gas reduction goals, without shifting costs to electric ratepayers who do not own or operate EVs; and

(D) any other issues the Commission considers relevant to ensuring a fair, cost-effective, and accessible EV charging infrastructure that will be sufficient to meet increased deployment of EVs.

(e) During the course of the evaluation and in its report, the Commission shall identify recommendations on the issues identified in subsection (c) of this section that may require enabling legislation.

(f) The Commission shall submit copies of its report to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

\* \* \* All-terrain Vehicles; Enforcement \* \* \*

Sec. 26. 23 V.S.A. § 3507 is amended to read:

§ 3507. ENFORCEMENT; PENALTIES AND REVOCATION OF REGISTRATION

\* \* \*

(c) Law enforcement officers may conduct safety inspections on all-terrain vehicles stopped for other all-terrain vehicle law violations on the VASA Trail System. Safety inspections may also be conducted in a designated area by law enforcement officials. A designated area shall be warned solely by blue lights either on a stationary all-terrain vehicle parked on a trail or on a cruiser parked at a roadside trail crossing.

(For text see House Journal March 20, 2018 )

S. 192

**An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation**

The Senate concurs in the House proposal of amendment thereto by striking all after the enacting clause and inserting in lieu thereof the following::

Sec. 1. 20 V.S.A. § 2405 is amended to read:

§ 2405. COUNCIL HEARING AND SANCTION PROCEDURE

(a) Generally. Except as otherwise provided in this subchapter, ~~the Council~~ all proceedings under this subchapter shall conduct its proceedings be conducted in accordance with the Vermont Administrative Procedure Act. This includes the ability to summarily suspend the certification of a law enforcement officer in accordance with 3 V.S.A. § 814(c).

(b) Prosecutor.

(1) An Assistant Attorney General assigned by the Office of the Attorney General shall be responsible for prosecuting unprofessional conduct cases under this subchapter.

(2) The burden of proof shall be on the State to show by a preponderance of the evidence that a law enforcement officer has engaged in unprofessional conduct.

(c) Hearing officer.

(1) The Council shall appoint a hearing officer, who shall be an attorney admitted to practice law in this State, to conduct any unprofessional conduct hearing under this subchapter. The Council shall choose the hearing officer from a list of hearing officers provided by the Office of Professional Regulation.

(2) The hearing officer may administer oaths and exercise powers properly incidental to the conduct of the hearing.

(3) Any hearing officer sitting in an unprofessional conduct case shall do so impartially and without any ex parte knowledge of the case in controversy.

(4)(A) The hearing officer shall issue findings of fact and conclusions of law regarding the prosecutor's charges of unprofessional conduct.

(B) For the purposes of subdivision 2406(b)(1)(B) of this subchapter, the hearing officer shall determine at the hearing and shall include in his or her findings of fact whether there is a pending labor proceeding related to any

unprofessional conduct that the hearing officer concludes a law enforcement officer committed.

(5) The hearing officer shall report the findings of fact and conclusions of law to a Council Disciplinary Panel within 30 days after the conclusion of the hearing, unless the Council grants an extension. The provisions of 3 V.S.A. § 811 regarding proposals for decision shall not apply to the hearing officer's report.

(d) Council Disciplinary Panel.

(1) The Council shall appoint on a case-by-case basis a Council Disciplinary Panel to make sanction recommendations based on the hearing officer's findings of fact and conclusions of law. The Panel shall comprise six members of the Council, at least half of whom shall not be law enforcement officers, and all of whom shall be balanced in regard to labor and management positions to the greatest extent practicable.

(2)(A) Unless the Council grants an extension, the Panel shall meet and make sanction recommendations within 10 days after the date the hearing officer reports his or her findings of fact and conclusions of law to the Panel.

(B) Unless the Council grants an extension, the Panel shall issue its sanction recommendations to the hearing officer within 10 days after its meeting.

(3) The hearing officer shall not be bound by the Panel's sanction recommendations, which shall be advisory only.

Sec. 2. 20 V.S.A. § 2406 is amended to read:

§ 2406. PERMITTED COUNCIL HEARING OFFICER SANCTIONS

(a) Generally. The Council Within 10 days after receiving the Council Disciplinary Panel's sanction recommendations, the hearing officer may impose any of the following sanctions on a law enforcement officer's certification upon its finding his or her conclusion that a law enforcement officer committed unprofessional conduct:

(1) written warning;

(2) suspension, but to run concurrently with the length and time of any suspension imposed by a law enforcement agency with an effective internal affairs program, which shall amount to suspension for time already served if an officer has already served a suspension imposed by his or her agency with such a program;

(3) revocation, with the option of recertification at the discretion of the Council; or



(4) permanent revocation.

(b) Intended revocation; temporary voluntary surrender.

(1)(A) If, after ~~an evidentiary~~ a sanction hearing, the ~~Council hearing officer~~ intends to revoke a law enforcement officer's certification due to ~~its finding his or her conclusion~~ that the officer committed unprofessional conduct, the ~~Council hearing officer~~ shall issue ~~a decision~~ an order to that effect.

(B) Within 10 business days ~~from~~ after the date of that ~~decision order~~, such an officer may voluntarily surrender his or her certification if the hearing officer determined under subdivision 2405(c)(4)(B) of this subchapter that there is a pending labor proceeding related to the Council's unprofessional conduct findings the hearing officer concluded the law enforcement officer committed.

(C) A voluntary surrender of an officer's certification shall remain in effect until the labor proceeding and all appeals are finally adjudicated or until the officer requests a final sanction hearing, whichever occurs first, and thereafter until the ~~Council's hearing officer's~~ final sanction hearing on the matter. At that hearing, the ~~Council hearing officer~~ may modify ~~its findings and decision~~ his or her sanction order on the basis of additional evidence set forth in the labor proceeding decision, but shall not be bound by any outcome of the labor proceeding.

(2) If an officer fails to voluntarily surrender his or her certification in accordance with subdivision (1) of this subsection, the ~~Council's hearing officer's original findings and decision~~ sanction order shall take effect.

### Sec. 3. REPEAL

20 V.S.A. § 2410 (Council Advisory Committee) is repealed.

Sec. 4. 2017 Acts and Resolves No. 56, Sec. 2 is amended to read:

### Sec. 2. TRANSITIONAL PROVISIONS TO IMPLEMENT THIS ACT

(a) Effective internal affairs programs.

(1) Law enforcement agencies. On or before ~~July 1, 2018~~ January 1, 2019, each law enforcement agency shall adopt an effective internal affairs program in accordance with 20 V.S.A. § 2402(a) in Sec. 1 of this act.

(2) Vermont Criminal Justice Training Council. On or before ~~April 1, 2018~~ July 1, 2018, the Vermont Criminal Justice Training Council shall adopt an effective internal affairs program model policy in accordance with 20 V.S.A. § 2402(b) in Sec. 1 of this act.

(b) Alleged law enforcement officer unprofessional conduct. The

provisions of 20 V.S.A. chapter 151, subchapter 2 (unprofessional conduct) in Sec. 1 of this act shall apply to law enforcement officer conduct alleged to have been committed on and after the effective date of that subchapter.

(c) Duty to disclose. The requirement for a former law enforcement agency to disclose the reason that a law enforcement officer is no longer employed by the agency as set forth in 20 V.S.A. § 2362a in Sec. 1 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

(d) Council rules. The Vermont Criminal Justice Training Council may adopt rules in accordance with 20 V.S.A. § 2411 (Council rules) in Sec. 1 of this act, prior to the effective date of that section.

~~(e) Council Advisory Committee. The Governor shall make appointments to the Council Advisory Committee set forth in 20 V.S.A. § 2410 in Sec. 1 of this act prior to the effective date of that section. [Repealed.]~~

(f) Annual report of Executive Director. Annually, on or before January 15, beginning in the year ~~2019~~ 2020 and ending in the year ~~2022~~ 2023, the Executive Director of the Vermont Criminal Justice Training Council shall report to the ~~General Assembly~~ House and Senate Committees on Government Operations regarding the Executive Director's analysis of the implementation of this act and any recommendations he or she may have for further legislative action.

(g) Council, OPR; joint report. On or before October 1, 2017, the Executive Director of the Vermont Criminal Justice Training Council and the Director of the Office of Professional Regulation (Office) shall consult with law enforcement stakeholders and report to the Senate and House Committees on Government Operations on a proposal for the Office to perform duties related to the professional regulation of law enforcement officers.

Sec. 5. 2017 Acts and Resolves No. 56, Sec. 6 is amended to read:

#### Sec. 6. EFFECTIVE DATES

This act shall take effect on ~~July 1, 2018~~ January 1, 2019, except:

(1) this section and Sec. 2 (transitional provisions to implement this act) shall take effect on passage; and

(2) the following shall take effect on July 1, 2017:

(A) in Sec. 1, 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council):

(i) § 2351 (creation and purpose of Council);

(ii) § 2351a (definitions);

(iii) § 2352 (Council membership);  
(iv) § 2354 (Council meetings);  
(v) § 2355 (Council powers and duties), except that subsection (a) shall take effect on ~~July 1, 2018~~ January 1, 2019;  
(vi) § 2358 (minimum training standards; definitions); and  
(vii) § 2362a (potential hiring agency; duty to contact former agency);

(B) Sec. 3, 20 V.S.A. § 1812 (definitions); and

(C) Sec. 4, 20 V.S.A. § 1922 (creation of State Police Advisory Commission; members; duties).

Sec. 6. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

\* \* \*

(9) “Law enforcement officer” means a person certified as a law enforcement officer under the provisions of 20 V.S.A. chapter 151.

Sec. 7. 13 V.S.A. § 3259 is added to read:

§ 3259. SEXUAL EXPLOITATION OF A PERSON IN THE CUSTODY OF A LAW ENFORCEMENT OFFICER

(a) No law enforcement officer shall engage in a sexual act with a person whom the officer is detaining, arresting, or otherwise holding in custody or who the officer knows is being detained, arrested, or otherwise held in custody by another officer.

(b) A person who violates subsection (a) of this section shall be imprisoned for not more than five years or fined not more than \$10,000.00, or both.

Sec. 8. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Secs. 1, 20 V.S.A. § 2405 (Council hearing and sanction procedure) and 2, 20 V.S.A. § 2406 (permitted hearing officer sanctions) shall take effect on January 1, 2019; and

(2) Sec. 3 (repeal of 20 V.S.A. § 2410 (Council Advisory Committee)) shall take effect on July 1, 2018.

And that after passage the title of the bill be amended to read:

An act relating to the Vermont Criminal Justice Training Council's professional regulation of law enforcement officers

**(For House Proposal of Amendment see House Journal May 1, 2018 )**

**Ordered to Lie**

**H. 219**

An act relating to the Vermont spaying and neutering program.

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

**S. 267**

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

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

**Action Postponed Indefinitely**

**H. 167**

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