

Senate Calendar

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ACTION CALENDAR
CONSIDERATION INTERRUPTED BY ADJOURNMENT

H. 513.

An act relating to making miscellaneous changes to education law.

Pending Question: Shall the Senate reconsider its action taken on Senators Baruth, Ashe, Balint, Benning, Campion, Degree, Ingram, Kitchel, Mullin, Rodgers, Sears and Starr's motion to amend the Senate proposal of amendment?

CALLED UP FOR ACTION

Second Reading

Favorable with Recommendation of Amendment

S. 88.

An act relating to increasing the smoking age from 18 to 21 years of age.

Pending Question: Shall the recommendation of amendment of the Committee on Health and Welfare be amended as moved by Senator Ingram?

Text of recommendation of amendment of the Committee on Health and Welfare:

The Committee has recommended that the bill be amended in Sec. 1, findings, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) A 2015 National Academy of Medicine report found that increasing the minimum age of legal access to tobacco products from 18 to 21 years of age would reduce the rate of tobacco use by 12 percent and would decrease smoking-related deaths by 10 percent.

Text of Senator Ingram's motion to amend:

Senator Ingram has moved to amend the recommendation of amendment of the Committee on Health and Welfare by adding a new section to the bill to be numbered Sec. 8 to read as follows:

Sec. 8. EXEMPTIONS; PERSONS ATTAINING 18 YEARS OF AGE ON
OR BEFORE JULY 1, 2017

(a) Notwithstanding any provision of this act to the contrary, the prohibition on the sale or furnishing of tobacco products, tobacco substitutes,

or tobacco paraphernalia to a person under 21 years of age shall not apply to any person who attained 18 years of age on or before July 1, 2017.

(b) Notwithstanding any provision of this act to the contrary, the prohibition on the possession of, purchase of, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia by a person under 21 years of age shall not apply to any person who attained 18 years of age on or before July 1, 2017.

And by renumbering the remaining section of the bill to be numerically correct.

UNFINISHED BUSINESS OF THURSDAY, APRIL 20, 2017

House Proposal of Amendment

S. 22

An act relating to increased penalties for possession, sale, and dispensation of fentanyl.

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

Sec. 1. LEGISLATIVE FINDINGS

The General Assembly finds:

(1) According to Michael Botticelli, former Director of the Office of National Drug Control Policy, the National Drug Control Strategy recommends treating “addiction as a public health issue, not a crime.” Further, the strategy “rejects the notion that we can arrest and incarcerate our way out of the nation’s drug problem.”

(2) Vermont Chief Justice Paul Reiber has declared that “the classic approach of ‘tough on crime’ is not working in [the] area of drug policy” and that treatment-based models are proving to be a more effective approach for dealing with crime associated with substance abuse.

(3) A felony conviction record is a significant impediment to gaining and maintaining employment and housing, yet we know that stable employment and housing are an essential element to recovery from substance abuse and desistance of criminal activity that often accompanies addiction.

(4) In a 2014 study by the PEW Research Center, 67 percent of people polled said government should focus more on providing treatment to people who use illicit drugs and less on punishment. The Center later reported that states are leading the way in reforming drug laws to reflect this opinion. State-level actions have included lowering penalties for possession and use of illegal drugs, shortening mandatory minimums or curbing their applicability,

removing automatic sentence enhancements, and establishing or extending the jurisdiction of drug courts and other alternatives to the regular criminal justice system.

(5) Vermont must look at alternative approaches to the traditional criminal justice model for addressing low-level illicit drug use if it is going to reduce the effects of addiction and addiction-related crime in this State.

Sec. 2. STUDY

(a) The Office of Legislative Council shall examine the issue of a public health approach to low-level possession and use of illicit and regulated drugs, including fentanyl, in Vermont as an alternative to the traditional criminal justice model, looking to trends both nationally and internationally, with a goal of providing policymakers a range of approaches to consider during the 2018 legislative session.

(b) The Office of Legislative Council shall report its findings to the General Assembly on or before November 15, 2017.

Sec. 3. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange

(NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than

\$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(d) This section shall not apply to a manufacturer ~~which~~ that has obtained an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) "Distributor" means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) "Knowingly" means having actual knowledge of the relevant facts.

(3) "Manufacturer" means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) "Wholesaler" means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 5. EFFECTIVE DATES

This section and Sec. 3 (ephedrine and pseudoephedrine) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to alternative approaches to addressing low-level illicit drug use and the ephedrine and pseudoephedrine registry.

Proposal of amendment to House proposal of amendment to S. 22 to be offered by Senator Sears

Senator Sears moves that the Senate concur in the House proposal of amendment with a further proposal of amendment by striking out Secs. 1 and 2 in their entirety and inserting in lieu thereof four new sections to be Secs. 1a, 1b, 2a, and 2b to read as follows:

Sec. 1a. 18 V.S.A. § 4233a is added to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

Sec. 1b. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 2a. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

- (1) murder in the first or second degree;
- (2) arson under sections 501-504 and 506 of this title;
- (3) sexual exploitation of children under sections 2822, 2823, and 2824 of this title;
- (4) receiving stolen property under sections 2561-2564 of this title; or
- (5) an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:
 - (A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana;
 - (B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;
 - (C) 18 V.S.A. § 4233(c), relating to trafficking in heroin;

(D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine; or

(E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine; or

(F) 18 V.S.A. § 4233a(c), relating to trafficking in fentanyl.

Sec. 2b. USE OF U.S. FOOD AND DRUG ADMINISTRATION-
APPROVED DRUGS CONTAINING CANNABIDIOL

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing cannabidiol, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing cannabidiol by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing cannabidiol to a patient or a patient's authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued or by the patient's authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or more prescription drugs containing cannabidiol, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

House Proposal of Amendment

S. 56

An act relating to life insurance policies and the Vermont Uniform Securities Act.

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

* * * Secondary Addressee for Life Insurance * * *

Sec. 1. 8 V.S.A. § 3762(d) is added to read:

(d) No individual policy of life insurance covering an individual 64 years of age or older that has been in force for at least one year shall be canceled for nonpayment of premium unless, after expiration of the grace period and not less than 21 days before the effective date of any such cancellation, the insurer has mailed a notice of impending cancellation in coverage to the policyholder and to a specified secondary addressee if such addressee has been designated by name and address in writing by the policyholder. An insurer shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy on a form provided by the insurer, and annually thereafter, and the policyholder shall have the right to designate a secondary addressee, in writing, by name and address, at any time the policy is in force, by submitting such written notice to the insurer. If a life insurance policy provides a grace period longer than 51 days for nonpayment of premium, the notice of cancellation in coverage required by this subsection shall be mailed to the policyholder and to the secondary addressee not less than 21 days prior to the expiration of the grace period provided in such policies.

* * * Penalty Enhancements for Violations Involving a
Vulnerable Adult * * *

Sec. 2. 8 V.S.A. § 24 is amended to read:

§ 24. SENIOR INVESTOR PROTECTION

* * *

(e) The Commissioner, in addition to other powers conferred on the Commissioner by law, may increase the amount of an administrative penalty by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14).

* * * Securities Act Penalties, Generally; Vulnerable Adults * * *

Sec. 3. 9 V.S.A. § 5412(c) is amended to read:

(c) If the Commissioner finds that the order is in the public interest and

subdivisions (d)(1) through (6), (8), (9), (10), (12), or (13) of this section authorize the action, an order under this chapter may censure, impose a bar on, or impose a civil penalty on a registrant in an amount not more than \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~, and recover the costs of the investigation from the registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control of the broker-dealer or investment adviser. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

Sec. 4. 9 V.S.A. § 5603(b)(2)(C) is amended to read:

(C) imposing a civil penalty up to \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or the predecessor act or a rule adopted or an order issued under this chapter or the predecessor act. The court may increase a civil penalty amount by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14). The limitations on civil penalties contained in this subdivision shall not apply to settlement agreements; and

Sec. 5. 9 V.S.A. § 5604(d) is amended to read:

(d) In a final order under subsection (b) or (c) of this section, the Commissioner may impose a civil penalty of not more than \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~. The Commissioner may also require a person to make restitution or provide disgorgement of any sums shown to have been obtained in violation of this chapter, plus interest at the legal rate. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

* * * Securities Act Housekeeping * * *

Sec. 6. 9 V.S.A. § 5302 is amended to read:

§ 5302. NOTICE FILING

* * *

(c) With respect to a security that is a federal covered security under 15 U.S.C. § ~~77r(b)(4)(E)~~ § 77r(b)(4)(F), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with section 5611 of this chapter signed by the issuer not later than 15 days after the first sale of

the federal covered security in this State and the payment of a fee as set forth in subsection (e) of this section. The notice filing shall be effective for one year from the date the notice filing is accepted as complete by the Office of the Commissioner. On or before expiration, the issuer may annually renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under this chapter to be filed and by paying an annual renewal fee as set forth in subsection (e) of this section.

(d) Subject to the provisions of 15 U.S.C. § 77r(c)(2) and any rules adopted thereunder, with respect to any security that is a federal covered security under 15 U.S.C. § 77r(b)(3) or ~~(4)(A)-(C)~~ (4)(A)-(E) and (G) and that is not otherwise exempt under sections 5201 through 5203 of this title, a rule adopted or order issued under this chapter may require any or all of the following with respect to such federal covered securities, at such time as the Commissioner may deem appropriate:

* * *

* * * Philanthropy Protection Act; Exemption Repeal * * *

Sec. 7. REPEAL

9 V.S.A. § 5615 (exempting Vermont from the Philanthropy Protection Act of 1995) is repealed.

* * * Cooperative Insurance; Bylaws * * *

Sec. 8. 8 V.S.A. § 3925 is amended to read:

§ 3925. BYLAWS; COMPULSORY PROVISIONS

The bylaws of a cooperative insurance corporation to which a certificate of authority is issued shall include substantially the following provisions:

(1) The corporate powers of such corporation shall be exercised by a board of directors, who shall be not less than five in number. Such directors shall be divided into classes and a portion only elected each year. They shall be elected for a term of not more than four years each and shall choose ~~from their number~~ a president, a secretary, and such other officers as may be deemed necessary. After the first year, the directors shall be chosen at an annual meeting to be held on the second Tuesday of January, unless some other day is designated in such bylaws, at which meeting each person insured shall have one vote and may be entitled to vote by proxy under such rules and regulations as may be prescribed by the bylaws.

(2) Such corporation shall keep proper books, including a policy register, in which the secretary shall enter the complete record of all its transactions and those of the board of directors and executive committee.

Such books shall at all times show fully and truly the condition, affairs, and business of such corporation and shall be open for inspection by every person insured, each day from nine o'clock in the forenoon to four o'clock in the afternoon, Saturdays, Sundays, and legal holidays excepted.

(3) If authorized as an assessment cooperative insurance corporation as outlined in subsection 3920(a) of this title, such corporation may assess for the purposes specified in section 3927 of this title, and the bylaws shall specify the manner of giving notice of such assessments, which may be either personal or by mail, and, if by mail, shall be deemed complete if such notice is deposited, postage prepaid, in the post office at the place where the principal office of the corporation is located, directed to the person insured at his or her last known place of residence or business. A person insured who neglects or refuses to pay his or her assessments, for that reason or for any other reason satisfactory to the board of directors or its executive committee, may be excluded from such corporation and, when thus excluded, the secretary shall cancel or withdraw his or her policy or policies, subject to the cancellation provisions in sections 3879 through 3882 and chapter 113, subchapter 2 of this title, provided that such person shall remain liable for his or her pro rata share of losses and expenses incurred on or before the date of his or her exclusion and for the penalty herein provided, in case an action is brought against him or her. If a member of such corporation is so excluded and his or her policy so canceled, the secretary shall forthwith enter such cancellation and the date thereof on the records kept in the office of the corporation and serve notice of such cancellation on the person so excluded, as provided herein for the service of notice of assessment. However, in such event, the person so excluded or whose policy is so canceled shall be entitled to the repayment of an equitable portion of the unearned paid premium on such policy. The officers of such corporation shall proceed to collect all assessments within 30 days after the expiration of the notice to pay the same. Neglect or refusal on their part so to proceed or to perform any of the duties imposed on them by law shall render them individually liable for the amount lost to any person, due to such neglect or refusal, and an action may be maintained by such person against such officers to collect such amount. An action may be brought by the corporation against a person insured therein to recover all assessments which he or she may neglect or refuse to pay, and there may be recovered from him or her in such action both the amount so assessed, with lawful interest thereon, and, as a penalty for such neglect or refusal, 50 percent of such assessment in addition thereto.

(4) Any person insured by an assessment cooperative insurance corporation may withdraw therefrom at any time by giving written notice to the corporation, stating the date of withdrawal, paying his or her share of all claims then existing against such corporation, and surrendering his or her

policy or policies.

(5) Any person insured by a nonassessment cooperative insurance corporation may withdraw from it at any time by giving written notice to the corporation stating the date of withdrawal and surrendering his or her policy or policies.

(6) Persons residing or owning property within ~~the state of Vermont~~ any state where the corporation is authorized to do business may be insured upon the same terms and conditions as original members and such other terms as may be prescribed in the bylaws of the corporation.

~~(7) Nonresidents owning property within the state of Vermont may be insured therein and shall have all the rights and privileges of the corporation and be accountable as are other persons insured therein, but shall not be eligible to hold office in the corporation;~~

(8) The bylaws of such corporation may be amended at any time.

* * * Group Life Insurance; Employee Pay All * * *

Sec. 9. [DELETED.]

Sec. 10. [DELETED.]

Sec. 11. [DELETED.]

Sec. 12. [DELETED.]

Sec. 13. [DELETED.]

Sec. 14. [DELETED.]

Sec. 15. [DELETED.]

* * * Assistant Medical Examiners; Liability Protections * * *

Sec. 16. 18 V.S.A. § 511 is added to read:

§ 511. ACTIONS AGAINST MEDICAL EXAMINERS

Actions taken by any person given authority under this chapter, including an assistant medical examiner, shall be considered to be actions taken by a State employee for the purposes of 3 V.S.A. chapter 29 and 12 V.S.A. chapter 189 if such actions occurred within the scope of such person's duties.

* * * Portable Electronics Insurance; Notice Requirements * * *

Sec. 17. 8 V.S.A. § 4260 is amended to read:

§ 4260. NOTICE REQUIREMENTS

(a) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to the policy or is otherwise required

by law, it shall be in writing. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this section. If the notice or correspondence is mailed, it shall be sent to the portable electronics vendor at the vendor's mailing address specified for such purpose and to its affected customers' last known mailing address on file with the insurer. The insurer or vendor of portable electronics shall maintain proof of mailing in a form authorized or accepted by the U.S. Postal Service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the portable electronics vendor at the vendor's electronic mail address specified for such purpose and to its affected customers' last known electronic mail address as provided by each customer to the insurer or vendor of portable electronics. ~~A customer is deemed to consent to receive notice and correspondence by electronic means if the insurer or vendor first discloses to the customer that by providing an electronic mail address the customer consents to receive electronic notice and correspondence at the address, and the customer provides an electronic mail address~~ customer's provision of an electronic mail address to the insurer or vendor of portable electronics is deemed consent to receive notices and correspondence by electronic means at such address if notice of that consent is provided to the customer within 30 calendar days. The insurer or vendor of portable electronics shall maintain proof that the notice or correspondence was sent.

* * *

* * * Workers' Compensation; High-Risk Occupations and Industries * * *

Sec. 18. WORKERS' COMPENSATION; INDUSTRIES AND
OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND
FEW POLICY HOLDERS; STUDY; REPORT

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, the National Council on Compensation Insurance, and other interested stakeholders, shall identify and study industries and occupations in Vermont that experience a high risk of workplace and on-the-job injuries and whose workers' compensation insurance is characterized by high premiums and few policy holders in the insurance pool. The industries and occupations addressed in the study shall include, among others, logging and log hauling, as well as arborists, roofers, and occupations in saw mills and wood manufacturing operations. In particular, the Commissioner shall:

(1) examine difference in the potential for loss, premium rates, and experience and participation in the workers' compensation marketplace between the industries and occupations identified, and the average for all industries and occupations in Vermont;

(2) study potential methods for reducing workers' compensation premium rates and costs for high-risk industries and occupations, including risk pooling between multiple high-risk industries or occupations, creating self-insured trusts; creating voluntary safety certification programs, and programs or best practices employed by other states; and

(3) model the potential impact on workers' compensation premiums and costs from each of the methods identified pursuant to subdivision (2) of this subsection.

(b) On or before January 15, 2018, the Commissioner of Financial Regulation shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her findings and any recommendations for legislative action to reduce the workers' compensation premium rates and costs for the industries identified in the study.

* * * Workers' Compensation; Short-term and Seasonal Policies; Studies * * *

Sec. 19. [DELETED.]

Sec. 20. SHORT-TERM WORKERS' COMPENSATION POLICIES;
STUDY; REPORT

The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, shall examine potential measures to encourage the creation of affordable seasonal and short-term workers' compensation policies and measures to reduce the cost of workers' compensation insurance coverage for small employers in seasonal occupations. On or before January 15, 2018, the Commissioner shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her finding and any recommendations for legislative action.

Sec. 21. REGIONAL ASSIGNED RISK POOL; STUDY; REPORT

The Commissioner of Financial Regulation shall examine potential mechanisms for joining with neighboring states to create a regional assigned risk pool for workers' compensation insurance and whether the creation of a regional assigned risk pool could reduce the cost of administering Vermont's assigned risk pool. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with his or her findings and any recommendations for legislative action related to the implementation of a regional assigned risk pool for workers' compensation insurance.

Sec. 22. ADMINISTRATION OF ASSIGNED RISK POOL; STUDY;
REPORT

The Commissioner of Financial Regulation shall examine whether any premium savings or reductions in costs could be realized if the assigned risk pool for workers' compensation was administered directly by the Department of Financial Regulation rather than through a third-party. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with his or her findings and any recommendations for legislative action.

* * * Unemployment Compensation; Referee Final Decisions * * *

Sec. 23. [DELETED.]

Sec. 24. [DELETED.]

* * * Effective Date; Application * * *

Sec. 25. EFFECTIVE DATE; APPLICATION

(a) This act shall take effect on July 1, 2017.

(b) Sec. 17 shall apply to portable electronics insurance policies issued or renewed on or after July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to insurance and securities.

UNFINISHED BUSINESS OF MONDAY, APRIL 24, 2017

Third Reading

H. 167.

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

House Proposal of Amendment

S. 50

An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility.

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

Sec. 1. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEMEDICINE SERVICES

(a) All health insurance plans in this State shall provide coverage for telemedicine health care services delivered through telemedicine by a health care provider at a distant site to a patient in a health care facility at an originating site to the same extent that the ~~services would be covered plan would cover the services~~ if they were provided through in-person consultation.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network ~~and may require originating site health care providers to document the reason the services are being provided by telemedicine rather than in person.~~ A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary and are clinically appropriate for delivery through telemedicine, subject to the terms and conditions of the covered person's policy.

(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.

(f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

(g) In order to facilitate the use of telemedicine in treating substance use disorder, when the originating site is a health care facility, health insurers and the Department of Vermont Health Access shall ensure that ~~both the treating clinician and the hosting facility~~ the health care provider at the distant site and the health care facility at the originating site are both reimbursed for the services rendered, unless the health care providers at both the ~~host and service~~ distant and originating sites are employed by the same entity.

(h) As used in this subchapter:

(1) "Distant site" means the location of the health care provider delivering services through telemedicine at the time the services are provided.

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid and any other public health care assistance program offered or

administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.

(2)(3) “Health care facility” shall have the same meaning as in 18 V.S.A. § 9402.

(3)(4) “Health care provider” means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care service in this State to an individual during that individual’s medical care, treatment, or confinement.

(5) “Originating site” means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including a health care provider’s office, a hospital, or a health care facility, or the patient’s home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient’s workplace.

(6) “Store and forward” means an asynchronous transmission of medical information to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which the health care provider at the distant site reviews the medical information without the patient present in real time.

(4)(7) “Telemedicine” means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

Sec. 2. 18 V.S.A. § 9361 is amended to read:

§ 9361. HEALTH CARE PROVIDERS PROVIDING DELIVERING HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY STORE AND FORWARD SERVICES MEANS

(a) As used in this section, “distant site,” “health care provider,” “originating site,” “store and forward,” and “telemedicine” shall have the same meanings as in 8 V.S.A. § 4100k.

(b) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this state may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient ~~either~~ in person, through telemedicine, or by the use

of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings. ~~For purposes of this subchapter, “telemedicine” shall have the same meaning as in 8 V.S.A. § 4100k.~~

(c)(1) A health care provider delivering health care services through telemedicine shall obtain and document a patient’s oral or written informed consent prior to delivering services to the patient. The provider shall include the written consent in the patient’s medical record or document the patient’s oral consent in the patient’s medical record.

(2)(A) Informed consent for telemedicine services shall include, in language that patients can easily understand:

(i) an explanation of the differences between telemedicine and in-person delivery of health care services, including:

(I) that the patient may experience a qualitative difference in care based on potential differences in a patient’s ability to establish a therapeutic rapport with the provider in-person and through telemedicine; and

(II) that telemedicine provides different opportunities and challenges for provider-patient interaction than in-person consultation, including the potential for differences in the degree and manner of the provider’s visual observations of the patient;

(ii) informing the patient of the patient’s right to exclude any individual from participating in or observing the patient’s consultation with the provider at both the originating site and the distant site;

(iii) informing the patient that the patient may stop telemedicine services at any time and may request a referral for in-person services; and

(iv) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

(B) For services delivered through telemedicine on an ongoing basis, the health care provider shall be required to obtain consent only at the first episode of care.

(3) A health care provider delivering telemedicine services through a contract with a third-party vendor shall comply with the provisions of subdivision (2) of this subsection (c) to the extent permissible under the terms

of the contract. If the contract requires the health care provider to use the vendor's own informed consent provisions instead of those set forth in subdivision (2) of this subsection (c), the health care provider shall be deemed to be in compliance with the requirements of this subsection (c) if he or she adheres to the terms of the vendor's informed consent policies.

(4) Notwithstanding any provision of this subsection (c) to the contrary, a health care provider shall not be required to obtain a patient's informed consent for the use of telemedicine in the following circumstances:

(A) for the second certification of an emergency examination determining whether an individual is a person in need of treatment pursuant to section 7508 of this title; or

(B) for a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).

(d) Neither a health care provider nor a patient shall create or cause to be created a recording of a provider's telemedicine consultation with a patient.

(b)(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time of following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means shall not preclude a patient from receiving real time telemedicine or face-to-face services with the distant site health care provider at a future date. Originating site health care providers involved in the store and forward process shall ensure obtain informed consent from the patient as described in subsection (c) of this section. For purposes of this subchapter, "store and forward" shall have the same meaning as in 8 V.S.A. § 4100k.

Sec. 3. REPEAL

33 V.S.A. § 1901i (Medicaid coverage for primary care telemedicine) is repealed.

Sec. 4. EFFECTIVE DATES

(a) Secs. 1 (health insurance coverage) and 3 (repeal) shall take effect on October 1, 2017 and shall apply to Medicaid on that date and to all other health insurance plans on or after October 1, 2017 on the date a health insurer issues, offers, or renews the health insurance plan, but in no event later than October 1, 2018.

(b) Sec. 2 (health care providers providing telemedicine) and this section shall take effect on passage.

NEW BUSINESS

Second Reading

Favorable

H. 50.

An act relating to the telecommunications siting law.

Reported favorably by Senator Sirotkin for the Committee on Finance.

(Committee vote: 5-1-1)

(For House amendments, see House Journal of February 23, 2017, page 384.)

Favorable with Proposal of Amendment

H. 219.

An act relating to the Vermont spaying and neutering program.

Reported favorably with recommendation of proposal of amendment by Senator Clarkson for the Committee on Government Operations.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 3815(a) is amended to read:

(a) ~~The agency of human services~~ Agency of Human Services shall administer a dog, cat, and wolf-hybrid spaying and neutering program providing reduced-cost spaying and neutering services and presurgical immunization for dogs, cats, and wolf-hybrids owned or cared for by ~~low income~~ individuals with low income. ~~The agency~~ Agency shall implement the program through an agreement with a qualified organization ~~consistent with the applicable administrative rules~~, except that the Agency may implement the program if the Commissioner determines that there is no qualified organization capable of implementing the program based on review of overall program success, financial resources of the organization, viability of the organization, or the organization's prior performance in implementing the program.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 14, 2017, page 436.)

H. 503.

An act relating to bail.

Reported favorably with recommendation of proposal of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * *Release Prior to Trial * * *

Sec. 1. 13 V.S.A. § 7551 is amended to read:

§ 7551. APPEARANCE BONDS; GENERALLY

(a) A bond given by a person charged with a criminal offense or by a witness in a criminal prosecution under section 6605 of this title, conditioned for the appearance of the person or witness before the court in cases where the offense is punishable by fine or imprisonment, and in appealed cases, shall be taken to the ~~district or superior court~~ Criminal Division of the Superior Court where the prosecution is pending, and shall remain binding upon parties until discharged by the court or until sentencing. The person or witness shall appear at all required court proceedings.

(b) No bond may be imposed at the initial appearance of a person charged with a misdemeanor if the person was cited for the offense in accordance with Rule 3 of the Vermont Rules of Criminal Procedure. This subsection shall not be construed to restrict the court's ability to impose conditions on an individual reasonably to ensure his or her appearance at future proceedings or reasonably to protect the public in accordance with section 7554 of this title.

Sec. 2. 13 V.S.A. § 7554 is amended to read:

§ 7554. RELEASE PRIOR TO TRIAL

(a) Any person charged with an offense, other than a person held without bail under section 7553 or 7553a of this title, shall at his or her appearance before a judicial officer be ordered released pending trial in accordance with this section.

* * *

(3) A judicial officer may order that a defendant not harass or contact or cause to be harassed or contacted a victim or potential witness. This order shall take effect immediately, regardless of whether the defendant is incarcerated or released.

(4) A judicial officer may order that a defendant not possess firearms or

other weapons. This order shall take effect immediately, regardless of whether the defendant is incarcerated or released.

Sec. 3. 28 V.S.A. § 301 is amended to read:

§ 301. SUMMONS OR ARREST OF PROBATIONER

* * *

(2) Arrest or citation of person on probation. Any correctional officer may arrest a probationer without a warrant if, in the judgment of the correctional officer, the probationer has violated a condition or conditions of his or her probation other than a condition that the probationer pay restitution; or may deputize any other law enforcement officer to arrest a probationer without a warrant by giving him or her a written statement setting forth that the probationer has, in the judgment of the correctional officer, violated a condition or conditions of his or her probation other than a condition that the probationer pay restitution. The written statement delivered with the person by the arresting officer to the supervising officer of the correctional facility to which the person is brought for detention shall be sufficient warrant for detaining him or her. In lieu of arrest, a correctional officer may issue a probationer a citation to appear for arraignment. In deciding whether to arrest or issue a citation, an officer shall consider whether issuance of a citation will reasonably ensure the probationer's appearance at future proceedings and reasonably protect the public.

* * *

(4) Detention pending hearing for probationer. Pending arraignment for any charge of violation, the probationer shall ~~continue to~~ be detained at a correctional facility unless issued a citation by a correctional officer. Thereafter, the court may release the probationer pursuant to 13 V.S.A. § 7554. There shall be no right to bail or release, unless the person is on probation for a nonviolent misdemeanor or nonviolent felony ~~and the probation violation did not constitute a new crime.~~ As used in this subdivision:

(A) "Nonviolent felony" means a felony offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(B) "Nonviolent misdemeanor" means a misdemeanor offense which is not a listed crime as defined in 13 V.S.A. § 5301(7) or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64 or 13 V.S.A. § 1030.

* * * Regulated Drugs * * *

Sec. 4. 18 V.S.A. § 4233a is added to read:

§ 4233a. FENTANYL

(a) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing fentanyl shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling fentanyl shall be imprisoned not more than five years or fined not more than \$100,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of four milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 10 years or fined not more than \$250,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing fentanyl in an amount consisting of 20 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl shall be imprisoned not more than 20 years or fined not more than \$1,000,000.00, or both.

(4) In lieu of a charge under this subsection, but in addition to any other penalties provided by law, a person knowingly and unlawfully selling or dispensing any regulated drug containing a detectable amount of fentanyl shall be imprisoned not more than five years or fined not more than \$250,000.00, or both.

(b) Trafficking. A person knowingly and unlawfully possessing fentanyl in an amount consisting of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl with the intent to sell or dispense the fentanyl shall be imprisoned not more than 30 years or fined not more than \$1,000,000.00, or both. There shall be a permissive inference that a person who possesses fentanyl in an amount of 70 milligrams or more of one or more preparations, compounds, mixtures, or substances containing fentanyl intends to sell or dispense the fentanyl. The amount of possessed fentanyl under this subsection to sustain a charge of conspiracy under 13 V.S.A. § 1404 shall be not less than 70 milligrams in the aggregate.

(c) Transportation into the State. In addition to any other penalties provided by law, a person knowingly and unlawfully transporting more than 20 milligrams of fentanyl into Vermont with the intent to sell or dispense the fentanyl shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

Sec. 5. 18 V.S.A. § 4234 is amended to read:

§ 4234. DEPRESSANT, STIMULANT, AND NARCOTIC DRUGS

* * *

(b) Selling or dispensing.

(1) A person knowingly and unlawfully dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, shall be imprisoned not more than three years or fined not more than \$75,000.00, or both. A person knowingly and unlawfully selling a depressant, stimulant, or narcotic drug, other than fentanyl, cocaine, or heroin, shall be imprisoned not more than five years or fined not more than \$25,000.00, or both.

(2) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 100 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 10 years or fined not more than \$100,000.00, or both.

(3) A person knowingly and unlawfully selling or dispensing a depressant, stimulant, or narcotic drug, other than fentanyl, heroin, or cocaine, consisting of 1,000 times a benchmark unlawful dosage or its equivalent as determined by the ~~board of health~~ Board of Health by rule shall be imprisoned not more than 20 years or fined not more than \$500,000.00, or both.

Sec. 6. 13 V.S.A. § 1404 is amended to read:

§ 1404. CONSPIRACY

(a) A person is guilty of conspiracy if, with the purpose that an offense listed in subsection (c) of this section be committed, that person agrees with one or more persons to commit or cause the commission of that offense, and at least two of the co-conspirators are persons who are neither law enforcement officials acting in official capacity nor persons acting in cooperation with a law enforcement official.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the defendant or by a co-conspirator, other than a law enforcement official acting in an official capacity or a person acting in cooperation with a law enforcement official, and subsequent to the defendant's entrance into the conspiracy. Speech alone may not constitute an overt act.

(c) This section applies only to a conspiracy to commit or cause the commission of one or more of the following offenses:

- (1) murder in the first or second degree;
- (2) arson under sections 501-504 and 506 of this title;
- (3) sexual exploitation of children under sections 2822, 2823, and 2824 of this title;
- (4) receiving stolen property under sections 2561-2564 of this title; or

(5) an offense involving the sale, delivery, manufacture, or cultivation of a regulated drug or an offense under:

(A) 18 V.S.A. § 4230(c), relating to trafficking in marijuana;

(B) 18 V.S.A. § 4231(c), relating to trafficking in cocaine;

(C) 18 V.S.A. § 4233(c), relating to trafficking in heroin;

(D) 18 V.S.A. § 4234(b)(3), relating to unlawful selling or dispensing of a depressant, stimulant, or narcotic drug, other than heroin or cocaine; or

(E) 18 V.S.A. § 4234a(c), relating to trafficking in methamphetamine; or

(F) 18 V.S.A. § 4233a(c), relating to trafficking in fentanyl.

Sec. 7. 18 V.S.A. § 4234b is amended to read:

§ 4234b. EPHEDRINE AND PSEUDOEPHEDRINE

* * *

(c) Electronic registry system.

(1)(A) Retail establishments shall use an electronic registry system to record the sale of products made pursuant to subsection (b) of this section. The electronic registry system shall have the capacity to block a sale of nonprescription drug products containing ephedrine base, pseudoephedrine base, or phenylpropanolamine base that would result in a purchaser exceeding the lawful daily or monthly amount. The system shall contain an override function that may be used by an agent of a retail establishment who is dispensing the drug product and who has a reasonable fear of imminent bodily harm to his or her person or to another person if the transaction is not completed. The system shall create a record of each use of the override mechanism.

(B) The electronic registry system shall be available free of charge to the State of Vermont, retail establishments, and local law enforcement agencies.

(C) The electronic registry system shall operate in real time to enable communication among in-state users and users of similar systems in neighboring states.

(D) The State shall use the National Precursor Log Exchange (NPLEx) online portal or its equivalent to host Vermont's electronic registry system.

(2)(A) Prior to completing a sale under subsection (b) of this section, a retail establishment shall require the person purchasing the drug product to

present a current, valid government-issued identification document. The retail establishment shall record in the electronic registry system:

(i) the name and address of the purchaser;

(ii) the name of the drug product and quantity of ephedrine, pseudoephedrine, and phenylpropanolamine base sold in grams;

(iii) the date and time of purchase;

(iv) the form of identification presented, the issuing government entity, and the corresponding identification number; and

(v) the name of the person selling or furnishing the drug product.

(B)(i) If the retail establishment experiences an electronic or mechanical failure of the electronic registry system and is unable to comply with the electronic recording requirement, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until the retail establishment is able to comply fully with this subsection (c).

(ii) If the region of the State where the retail establishment is located does not have broadband Internet access, the retail establishment shall maintain a written log or an alternative electronic record-keeping mechanism until broadband Internet access becomes accessible in that region. At that time, the retail establishment shall come into compliance with this subsection (c).

(C) A retail establishment shall maintain all records of drug product purchases made pursuant to this subsection (c) for a minimum of two years.

(3) A retail establishment shall display a sign at the register provided by NPLEx or its equivalent to notify purchasers of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine base that:

(A) the purchase of the drug product or products shall result in the purchaser's identity being listed on a national database; and

(B) the purchaser has the right to request the transaction number for any purchase that was denied pursuant to this subsection (c).

(4) Except as provided in subdivision (5) of this subsection (c), a person or retail establishment that violates this subsection shall:

(A) for a first violation be assessed a civil penalty of not more than \$100.00; and

(B) for a second or subsequent violation be assessed a civil penalty of not more than \$500.00.

(d) This section shall not apply to a manufacturer which that has obtained

an exemption from the Attorney General of the United States under Section 711(d) of the federal Combat Methamphetamine Epidemic Act of 2005.

(e) As used in this section:

(1) “Distributor” means a person, other than a manufacturer or wholesaler, who sells, delivers, transfers, or in any manner furnishes a drug product to any person who is not the ultimate user or consumer of the product.

(2) “Knowingly” means having actual knowledge of the relevant facts.

(3) “Manufacturer” means a person who produces, compounds, packages, or in any manner initially prepares a drug product for sale or use.

(4) “Wholesaler” means a person, other than a manufacturer, who sells, transfers, or in any manner furnishes a drug product to any other person for the purpose of being resold.

Sec. 8. USE OF U.S. FOOD AND DRUG ADMINISTRATION- APPROVED DRUGS CONTAINING CANNABIDIOL

(a) Upon approval by the U.S. Food and Drug Administration (FDA) of one or more prescription drugs containing cannabidiol, the following activities shall be lawful in Vermont:

(1) the clinically appropriate prescription for a patient of an FDA-approved prescription drug containing cannabidiol by a health care provider licensed to prescribe medications in this State and acting within his or her authorized scope of practice;

(2) the dispensing, pursuant to a valid prescription, of an FDA-approved prescription drug containing cannabidiol to a patient or a patient’s authorized representative by a pharmacist or by another health care provider licensed to dispense medications in this State and acting within his or her authorized scope of practice;

(3) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued or by the patient’s authorized representative;

(4) the possession and transportation of an FDA-approved prescription drug containing cannabidiol by a licensed pharmacy or wholesaler in order to facilitate the appropriate dispensing and use of the drug; and

(5) the use of an FDA-approved prescription drug containing cannabidiol by a patient to whom a valid prescription was issued, provided the patient uses the drug only for legitimate medical purposes in conformity with instructions from the prescriber and dispenser.

(b) Upon approval by the U.S. Food and Drug Administration of one or

more prescription drugs containing cannabidiol, the Department of Health shall amend its rules to conform to the provisions of subsection (a) of this section.

* * * Impaired Driving * * *

Sec. 9. 23 V.S.A. § 1202 is amended to read:

§ 1202. CONSENT TO TAKING OF TESTS TO DETERMINE BLOOD
ALCOHOL CONTENT OR PRESENCE OF OTHER DRUG

(a)(1) Implied consent. Every person who operates, attempts to operate, or is in actual physical control of any vehicle on a highway in this State is deemed to have given consent to an evidentiary test of that person's breath for the purpose of determining the person's alcohol concentration or the presence of other drug in the blood. The test shall be administered at the direction of a law enforcement officer.

(2) Blood test. If breath testing equipment is not reasonably available or if the officer has reason to believe that the person is unable to give a sufficient sample of breath for testing or if the law enforcement officer has reasonable grounds to believe that the person is under the influence of a drug other than alcohol, the person is deemed to have given consent to the taking of an evidentiary sample of blood. If in the officer's opinion the person is incapable of decision or unconscious or dead, it is deemed that the person's consent is given and a sample of blood shall be taken. A blood test sought pursuant to this subdivision (2) shall be obtained pursuant to subsection (f) of this section.

(3) Evidentiary test. The evidentiary test shall be required of a person when a law enforcement officer has reasonable grounds to believe that the person was operating, attempting to operate, or in actual physical control of a vehicle in violation of section 1201 of this title.

(4) Fatal collision or incident resulting in serious bodily injury. The evidentiary test shall also be required if the person is the surviving operator of a motor vehicle involved in a fatal incident or collision or an incident or collision resulting in serious bodily injury and the law enforcement officer has reasonable grounds to believe that the person has any amount of alcohol or other drug in his or her system.

~~(b) If the person refuses to submit to an evidentiary test it shall not be given, except as provided in subsection (f) of this section, but the A refusal to take a breath test may be introduced as evidence in a criminal proceeding.~~

* * *

(f) If a blood test is sought from a person pursuant to subdivision (a)(2) of this section, or if a person who has been involved in an accident or collision

resulting in serious bodily injury or death to another refuses an evidentiary test, a law enforcement officer may apply for a search warrant pursuant to Rule 41 of the Vermont Rules of Criminal Procedure to obtain a sample of blood for an evidentiary test. If a blood sample is obtained by search warrant, the fact of the refusal may still be introduced in evidence, in addition to the results of the evidentiary test. Once a law enforcement official begins the application process for a search warrant, the law enforcement official is not obligated to discontinue the process even if the person later agrees to provide an evidentiary breath sample. The limitation created by Rule 41(g) of the Vermont Rules of Criminal Procedure regarding blood specimens shall not apply to search warrants authorized by this section.

* * *

* * * Electronic Monitoring * * *

Sec. 10. ELECTRONIC MONITORING

(a) The Commissioner of Corrections shall establish an active electronic monitoring program with real-time enforcement. The Electronic Monitoring Program shall be administered by the Department of State's Attorneys and Sheriffs and enforced by the Department of Corrections.

(b) The Electronic Monitoring Program described in subsection (a) of this section may be used to monitor, in lieu of incarcerating in a facility, the following populations:

(1) offenders in the custody of the Commissioner who are eligible for the Home Detention Program described in 13 V.S.A. § 7554b; and

(2) offenders in the custody of the Commissioner, including the following target populations:

(A) offenders who are eligible for home confinement furlough, as described in 28 V.S.A. § 808b;

(B) offenders who are past their minimum sentence and are deemed appropriate for the Program by the Commissioner of Corrections; or

(C) offenders who are eligible for reintegration furlough, as described in 28 V.S.A. § 808c.

(c) An offender shall only be eligible for the Electronic Monitoring Program described in subsection (a) of this section if electronic monitoring equipment is fully functional in the geographic area where the offender will be located.

Sec. 11. EFFECTIVE DATES

This section and Secs. 7 (ephedrine and pseudoephedrine), 9 (impaired

driving), and 10 (electronic monitoring) shall take effect on passage. The remaining sections shall take effect on July 1, 2017.

And that after passage the title of the bill be amended to read:

An act relating to criminal justice.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 22, 2017, page 484.)

H. 515.

An act relating to Executive Branch and Judiciary fees.

Reported favorably with recommendation of proposal of amendment by Senator Lyons for the Committee on Finance.

The Committee recommends that the Senate propose to the House to amend the bill as follows:

First: Before Sec. 1, by adding a reader assistance to read as follows:

* * * Executive Branch and Judiciary Fees * * *

Second: In Sec. 5, by striking out Sec. 5 in its entirety and inserting in lieu thereof three new sections and their reader assistances to read as follows:

* * * Food and Lodging Establishments * * *

Sec. 5. 18 V.S.A. chapter 85 is amended to read:

CHAPTER 85. FOOD AND LODGING ESTABLISHMENTS

Subchapter 1. Food and Lodging Establishments

§ 4301. ~~FOOD ESTABLISHMENTS;~~ DEFINITIONS

(a) As used in this subchapter:

(1) ~~“Food” shall include all articles used for food, drink, confectionery, or condiment, by man, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof. “Bakery” means all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of producing for sale bread, cakes, pies, or other food products made either wholly or partially with flour.~~

(2) “Children’s camp” means any residential camp for children that:

(A) offers a combination of programs and facilities established for the primary purpose of providing an experience to children;

(B) is operated for five or more consecutive days during one or more seasons of the year; and

(C) provides 24-hours-a-day supervision of children.

(3) "Commissioner" means the Commissioner of Health.

(4) "Department" means the Department of Health.

(5) "Establishment" shall include all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of manufacturing, preparing, packing, canning, bottling, keeping, storing, handling, serving, or distributing in any manner, food for sale means food manufacturing establishments, food service establishments, lodging establishments, children's camps, seafood vending facilities, and shellfish reshippers and repackers.

(6) "Food" means articles of food, drink, confectionery, or condiment for human consumption, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof.

(7) "Food manufacturing establishment" or "food processor" means all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of manufacturing, preparing, packing, canning, bottling, keeping, storing, handling, serving, or distributing food for sale. A food manufacturing establishment shall include food processors, bakeries, distributors, and warehouses. A food manufacturing establishment shall not include a place where only maple syrup or maple products, as defined in 6 V.S.A. § 481, are prepared for human consumption.

(8) "Food service establishment" means entities that prepare, serve, and sell food to the public, including restaurants, temporary food vendors, caterers, mobile food units, and limited operations as defined in rule.

(9) "Lodging establishment" means a place where overnight accommodations are regularly provided to the transient, traveling, or vacationing public, including hotels, motels, inns, and bed and breakfasts. "Lodging establishment" shall not include short-term rentals.

(10) "Salvage food" means any food product from which the label on the packaging has been lost or destroyed or which has been subjected to possible damage as the result of an accident, fire, flood, or other cause that prevents the product from meeting the specifications of the manufacturer or the packer, but is otherwise suitable for human consumption.

(11) "Salvage food facility" means any food vendor for which salvage food comprises 50 percent or more of gross sales.

(12) "Seafood vending facility" means a store, motor vehicle, retail stand, or similar place from which a person sells seafood for human consumption.

(13) “Shellfish reshipper and repacker” means an establishment engaging in interstate commerce of molluskan shellfish.

(14) “Short-term rental” means a furnished home, condominium, or other dwelling 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.

(b) Nothing in this ~~subchapter~~ chapter shall be construed to modify or affect laws or ~~regulations~~ rules of the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

§ 4302. GENERAL REQUIREMENTS

(a) A person shall not manufacture, prepare, pack, can, bottle, keep, store, handle, serve, or distribute in any manner food for the purpose of sale, in an unclean, unsanitary, or unhealthful establishment or under unclean, unsanitary, or unhealthful conditions.

(b) A person shall not engage in the business of conducting a lodging establishment or children’s camp under unclean, unsanitary, or unhealthful conditions.

§ 4303. ~~SPECIAL PROVISIONS~~ RULEMAKING

~~Subject to the provisions of this subchapter, The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish minimum standards for the safe and sanitary operation of food or lodging establishments or children’s camps or any combination thereof and their administration and enforcement. The rules shall require that an establishment shall be constructed, maintained, and operated with strict regard for the health of the employees and for the purity and wholesomeness of the food therein produced, kept, stored, handled, served, or distributed, so far as may be reasonable and necessary in the public interest and consistent with the character of the establishment, the public~~ pursuant to the following general requirements:

(1) The entire establishment and its immediate appertaining premises, including the fixtures and furnishings, the machinery, apparatus, implements, utensils, receptacles, vehicles, and other devices used in the production, keeping, storing, handling, serving, or distributing of the food, or the materials used in the food, shall be constructed, maintained, and operated in a clean, sanitary, and healthful manner;

(2) The food and the materials used in the food shall be protected from any foreign or injurious contamination ~~which~~ that may render them unfit for human consumption;

(3) The clothing, habits, and conduct of the employees shall be

conducive to and promote cleanliness, sanitation, and healthfulness;

(4) There shall be proper, suitable, and adequate toilets and lavatories, constructed, maintained, and operated in a clean, sanitary, and healthful manner;

(5) There shall be proper, suitable, and adequate light water supply, heating, lighting, ventilation, drainage, sewage disposal, and plumbing.

(6) There shall be proper operation and maintenance of pools, recreation water facilities, spas, and related facilities within lodging establishments.

(7) The Commissioner may adopt any other minimum conditions deemed necessary for the operation and maintenance of a food or lodging establishment in a safe and sanitary manner.

§ 4304. EMPLOYEES

~~(a) An employer shall not require, permit, or suffer any allow a person affected with any contagious, infectious, or other disease or physical ailment which that may render such employment detrimental to the public health to work in such an establishment, and a person so affected shall not work in any such an establishment subject to the provisions of this subchapter chapter.~~

(b) The Commissioner may require a person employed in an establishment subject to the provisions of this chapter to undergo medical testing or an examination necessary for the purpose of determining whether the person is affected by a contagious, infectious, or other disease or physical ailment that may render his or her employment detrimental to public health. The Commissioner may prohibit a person from working in an establishment pursuant to an emergency health order described in section 127 of this title if the person refuses to submit to medical testing or an examination.

§ 4305. POWERS AND DUTIES OF STATE BOARD OF HEALTH

~~The board may require a person proposing to work or working in an establishment subject to the provisions of this subchapter, to undergo a physical examination for the purpose of ascertaining whether such person is affected with any contagious, infectious, or other disease or physical ailment, which may render his or her employment detrimental to the public health. The examination shall be made at the time and pursuant to conditions which shall be prescribed by the board. A person who refuses to submit to such examination shall not work or be required, permitted, or suffered to work in any such establishment. [Repealed.]~~

§ 4306. INSPECTION

(a) It shall be the duty of the ~~board~~ Commissioner to enforce the provisions of this ~~subchapter~~ chapter and of 6 V.S.A. § 3312(d), and ~~it~~ he or she shall be

permitted to inspect through ~~its~~ his or her duly authorized officers, inspectors, agents, or assistants, at all reasonable times, an establishment, an establishment's records, and a salvage food facility subject to the provisions of this ~~subchapter~~ chapter.

(b) Whenever an inspection demonstrates that the establishment or salvage food facility is not operated in accordance with the provision of this chapter, the officer, inspector, agent, or assistant shall notify the licensee of the conditions found and direct necessary changes.

§ 4307. HEARING; ORDERS

~~When it appears upon such an inspection demonstrates that any establishment is being maintained or operated in violation of the provisions of this subchapter chapter or any related rules, the board Commissioner shall cause provide written notice thereof, together with an order commanding an both abatement of such the violation and a compliance with this subchapter chapter within a reasonable period of time to be fixed in the order, to be served by a proper officer upon the person violating such provisions. Under such any related rules and regulations as may be prescribed adopted by the board Commissioner, a person upon whom such the notice and order are served shall be given an opportunity to be heard and to show cause as to why such the order should be vacated or amended. When, upon such a hearing, it appears that the provisions of this subchapter chapter have not been violated, the board Commissioner shall immediately vacate such the order, but without prejudice. When, however, it appears that such the provisions have been violated and such the person fails to comply with an order issued by the board Commissioner under the provisions of this section, the board Commissioner shall, forthwith, certify the facts to the proper prosecuting officer revoke, modify, or suspend the person's license or enforce a civil penalty.~~

§ 4308. REGULATIONS

~~The board shall make uniform and necessary rules and regulations for carrying out the provisions of this subchapter. [Repealed.]~~

§ 4309. PENALTY

A person who violates a provision of this subchapter chapter or 6 V.S.A. § 3312(d), for which no other penalty is provided, shall be fined not more than \$300.00 for the first offense and, for each subsequent offense, not more than \$500.00 shall be fined a civil penalty not to exceed \$10,000.00 for each violation. In the case of a continuing violation, each subsequent day in violation may be deemed a separate violation.

Subchapter 2. Licensing Food and Lodging Establishments

§ 4351. LICENSE FROM DEPARTMENT OF HEALTH

(a) ~~A person shall not operate or maintain a hotel, inn, restaurant, tourist camp, food manufacturing facility, retail food establishment, lodging establishment, children's camp, seafood vending facility, or any other place in which food is prepared and served, or lodgings provided or furnished to the transient traveling or vacationing public, or a seafood vending facility, unless he or she shall have first obtained and holds~~ obtains and holds from the ~~department~~ Commissioner a license authorizing such operation. ~~The secretary may prescribe rules or conditions within which he or she may issue a temporary license for a period not to exceed 60 days. The license shall state the rules or conditions under which it is issued. However, nothing herein shall apply to any person who occasionally prepares and serves meals or provides occasional lodgings. The license shall be displayed in such a way as to be easily viewed by the patrons.~~ All licenses shall be displayed in a manner as to be easily viewed by the public.

(b) ~~For purposes of this section, "seafood vending facility" includes a store, motor vehicle, stand, or similar place from which a person sells seafood for consumption at another location.~~

(1) A person shall not knowingly and willingly sell or offer for sale a bulk product manufactured by a bakery, regardless of whether the bakery is located inside or outside the State, unless the operator of the bakery holds a valid license from the Commissioner.

(2) The Commissioner shall not grant a license to a bakery located outside the State unless:

(A) the person operating the bakery:

(i) has consented in writing to the Department's inspection and paid the required fee; or

(ii) has presented to the Department satisfactory evidence of inspection and approval from the proper authority in his or her state and paid the required fee; and

(B) inspection of the bakery confirms that it meets the laws and rules of this State.

(c) The Commissioner may issue a temporary license for no more than 90 days. The temporary license shall state the conditions under which it is issued.

(d) If the Commissioner does not renew a license, he or she shall provide written notice to the licensee. The notice shall specify any changes necessary to conform with State rules and shall state that if compliance is achieved

within the time designated in the notice, the license shall be renewed. If the licensee fails to achieve compliance within the prescribed time, the licensee shall have an opportunity for a hearing.

(e) Any licensee or applicant aggrieved by a decision or order of the Commissioner may appeal to the Board of Health within 30 days of that decision. Hearings by the Board under this section shall be subject to the provisions of 3 V.S.A. chapter 25 relating to contested cases. The Board shall consider the matter de novo and all persons, parties, and interests may appear and be heard. The Board shall issue an order within 30 days following the conclusion of the hearing.

(f) If a licensee fails to renew his or her license within 60 days of its expiration date, a licensee shall apply for a new license and meet all licensure requirements anew.

§ 4352. APPLICATION

~~A person desiring to operate a place~~ Prior to operating an establishment in which food is prepared and served or in which three or more lodging is units are offered to the public, a person shall apply to the board Commissioner upon forms supplied by the board Department and shall pay a license fee as provided by section 4353 of this title. An application for licensure shall be submitted no fewer than 30 days prior to the opening of a food or lodging establishment. Upon receipt of such license fee and when satisfied that the premises are sanitary and healthful in accordance with the provisions of this chapter and related rules, the board Commissioner shall issue a license to the applicant with respect to the premises described therein in the application.

§ 4353. FEES

(a) The Commissioner may establish by rule any requirement the Department needs to determine the applicable categories or exemptions for licenses. The following license fees shall be paid annually to the Board Department at the time of making the application according to the following schedules:

(1) ~~Restaurant~~ Restaurants

- I — Seating capacity of 0 to 25; \$105.00
- II — Seating capacity of 26 to 50; \$180.00
- III — Seating capacity of 51 to 100; \$300.00
- IV — Seating capacity of 101 to 200; \$385.00
- V — Seating capacity of 201 to 599; \$450.00
- VI — Seating capacity 600 or over; \$1,000.00

VII — Home Caterer; \$155.00

VIII — Commercial Caterer; \$260.00

IX — Limited Operations; \$140.00

X — Fair Stand; \$125.00; if operating for four or more days per year; \$230.00

(2) Lodging establishments

I — Lodging capacity of 1 to 10; \$130.00

II — Lodging capacity of 11 to 20; \$185.00

III — Lodging capacity of 21 to 50; \$250.00

IV — Lodging capacity of 51 to 200; \$390.00

V — Lodging capacity of over 200; \$1,000.00

(3) Food processor manufacturing establishment — a fee for any person or persons that process food for resale to restaurants, stores, or individuals according to the following schedule:

(A) Food manufacturing establishments; nonbakeries

I — Gross receipts of \$10,001.00 to \$50,000.00; \$175.00

~~(B)~~II — Gross receipts of over \$50,000.00; \$275.00

III — Gross receipts of \$10,000.00 or less are exempt pursuant to section 4358 of this title

(B) Food manufacturing establishment; bakeries

I — Home bakery; \$100.00

II — Small commercial; \$200.00

III — Large commercial; \$350.00

(4) Seafood vending facility — \$200.00, unless operating pursuant to another license issued by the Department of Health and generating ~~less than~~ \$40,000.00 or less in seafood gross receipts annually. If generating more than \$40,000.00 in seafood gross receipts annually, the fee is to be paid regardless of whether the facility is operating pursuant to another license issued by the Department of Health.

(5) Shellfish reshippers and repackers — \$375.00.

(6) Children's camps — \$150.00.

(b) The Commissioner of Health ~~will~~ shall be the final authority on

definition of categories contained ~~herein~~ in this section.

(c) All fees received by the ~~Board~~ Department under this section shall be credited to a special fund and shall be available to the Department to offset the cost of providing the services.

§ 4354. TERM OF LICENSE

Licenses A license shall expire annually on a date established by the ~~department~~ Department and ~~shall be renewable~~ may be renewed upon the payment of a new license fee if the licensee is in good standing with the Department.

§ 4355. REGULATIONS; REPORTS

~~(a) The board may prescribe such rules and regulations as may be necessary to ensure the operation in a sanitary and healthful manner of places in which food is prepared and served to the public or in which lodgings are provided. All reports which such board may require shall be on forms prescribed by it.~~

~~(b) The board shall not adopt any rule requiring food establishments that operate less than six months of the year and provide outdoor seating for no more than 16 people to provide toilet facilities to patrons, and any such rule or portion thereof now in effect is repealed. [Repealed.]~~

§ 4356. INSPECTION, REVOCATION

~~The members of the board and any person in its employ and by its direction, at reasonable times, may enter any place operated under the provisions of sections 4351-4355 of this title, so far as may be necessary in the discharge of its duties. Whenever upon such inspection it is found that the premises are not being conducted in accordance with the provisions of the above named sections or the regulations adopted in accordance therewith, such board shall notify the licensee of the conditions found and direct such changes as are necessary. If such licensee shall fail within a reasonable time to comply with such orders, rules, or regulations adopted under the provisions of such sections, the board shall revoke the license. [Repealed.]~~

§ 4357. PENALTY

~~A person who violates any provision of this subchapter shall be fined not more than \$500.00. [Repealed.]~~

§ 4358. EXEMPTIONS

(a) The provisions of this subchapter shall apply only to ~~such~~ those hotels, inns, restaurants, tourist camps, and other places as that solicit the patronage of the public by advertising by means of signs, notices, placards, radio, electronic

communications, or printed announcements.

(b) The provisions of this subchapter shall not apply to an individual manufacturing and selling bakery products from his or her own home kitchen whose average gross retail sales do not exceed \$125.00 per week.

(c) Any food manufacturing establishment claiming a licensing exemption shall provide documentation as required by rule.

(d) The Commissioner shall not adopt a rule requiring food establishments that operate less than six months of the year and provide outdoor seating for fewer than 16 people at one time to provide toilet and hand washing facilities for patrons.

* * *

Subchapter 4. Bakeries

§ 4441. BAKERY PRODUCTS; DEFINITION

For the purposes of this subchapter,

~~(1) The word “bakery” is defined as a building or part of a building wherein is carried on as a principal occupation the production of bread, cakes, pies, or other food products made either wholly or in part of flour and intended for sale.~~

~~(2) The word “person” shall extend and be applied to bodies corporate, and to partnerships and unincorporated associations. [Repealed.]~~

§ 4442. RULES AND INSPECTION BY STATE BOARD OF HEALTH

~~The Board shall adopt and enforce rules as the public health may require in respect to the sanitary conditions of bakeries as defined herein. The Board is hereby authorized to inspect any such bakery at all reasonable times through its duly appointed officers, inspectors, agents, or assistants. [Repealed.]~~

§ 4443. SLEEPING ROOMS SEPARATE

~~The sleeping rooms for persons employed in a bakery shall be separated from the rooms where food products or any ingredient thereof are manufactured or stored. [Repealed.]~~

§ 4444. LICENSE

~~(a) No person shall operate a bakery in this state without having obtained from the department a license describing the building used as a bakery, including the post office address of the same, which license shall be posted by the owner or operator of such bakery in a conspicuous place in the shop described in such license or in the sales room connected therewith.~~

~~(b) No person shall knowingly and willfully sell or offer for sale in this~~

~~state any bulk product manufactured by a bakery, whether such a bakery is located within or without the state, unless the operator of such bakery shall hold a valid license, as prescribed, from the department, which license shall in no case be granted covering a bakery located outside the state unless the person operating such bakery shall have consented in writing to its inspection and paid the fee as herein provided, or shall have paid the fee and received a license after presenting to the department satisfactory evidence of inspection and approval from the proper authority of his or her own state, and such bakery shall have been found by the inspection to meet the requirements of the laws of this state and rules and regulations of the secretary relating thereto. [Repealed.]~~

§ 4445. RENEWAL OF LICENSE

~~The holder of such a license who desires to continue to operate a bakery shall annually, commencing on or before January 31, 1974, and thereafter on or before January 31, renew his or her license, pay the renewal fee, and receive a new license provided the licensee is entitled thereto. [Repealed.]~~

§ 4446. FEE

~~(a) A person owning or conducting a bakery as specified in sections 4441 and 4444 of this title shall pay to the Board a fee for each certificate and renewal thereof in accordance with the following schedule:~~

~~Bakery I - Home Bakery; \$100.00~~

~~II - Small Commercial; \$200.00~~

~~III - Large Commercial; \$350.00~~

~~IV - Camps; \$150.00~~

~~(b) The Commissioner of Health will be the final authority on definition of categories contained herein.~~

~~(c) All fees received by the Board under this section shall be credited to a special fund and shall be available to the Department to offset the cost of providing the services. [Repealed.]~~

§ 4447. REVOCATION

~~Such license may be suspended or revoked by the board for cause after hearing. [Repealed.]~~

§ 4448. NEW BAKERY

~~No person shall open a new bakery in this state without having given at least 15 days' notice to the department of intention to open such bakery which notice shall contain a description and location of the building proposed to be~~

~~used as such bakery. Upon receipt of such notice, the department shall cause such premises to be examined and, if found to comply with the provisions and statutes relating to bakeries and the rules and regulations prescribed by the secretary, a license shall be issued upon payment of the fee as herein provided. [Repealed.]~~

~~§ 4449. LOCAL REGULATIONS~~

~~The provisions of this subchapter shall not prevent local health authorities from making and enforcing orders or regulations concerning the sanitary condition of bakeries and the sale of bakery products, except that such orders and regulations shall be suspended to the extent necessary to give effect to the provisions of this subchapter and the rules and regulations prescribed pursuant thereto. [Repealed.]~~

~~§ 4450. PENALTY~~

~~A person who violates any provisions of this subchapter shall be fined not more than \$500.00. [Repealed.]~~

~~§ 4451. EXCEPTIONS~~

~~The provisions of this subchapter shall not apply to individuals manufacturing in and selling from their own private home kitchens bread, cakes, pies, or other food products made either wholly or in part from flour whose average gross retail sales of such products do not exceed \$125.00 a week, nor to restaurants, inns, or hotels subject to the provisions of subchapter 2 of this chapter, nor to church, fraternal, or charitable food sales. [Repealed.]~~

~~Subchapter 5. Salvage Food Facilities~~

~~§ 4461. DEFINITIONS~~

~~For the purposes of this subchapter:~~

~~(1) "Salvage food" means any food product from which the label on the packaging has been lost or destroyed or which has been subjected to possible damage as the result of accident, fire, flood, or other cause which may prevent the product from meeting the specifications of the manufacturer or the packer, but is otherwise suitable for human consumption.~~

~~(2) "Salvage food facility" means a food vendor for which salvage foods comprise 50 percent or more of gross sales. [Repealed.]~~

~~§ 4462. REGULATIONS AND INSPECTION~~

~~The state board of health is authorized to inspect any salvage food facility at all reasonable times through its officers, inspectors, agents, or assistants. [Repealed.]~~

~~Subchapter 6. Temporary Outdoor Seating~~

~~§ 4465. LIMITED FOOD ESTABLISHMENTS; TEMPORARY OUTDOOR SEATING~~

~~A food establishment that prepares and serves food for off premises uses may provide temporary outdoor seating for up to 16 persons from May 1 to October 31 without providing patron toilet or handwashing facilities. [Repealed.]~~

Subchapter 7. Short-Term Rentals

§ 4466. REGISTRATION OF SHORT-TERM RENTALS

(a) A person shall not operate or maintain a short-term rental unless he or she registers with the Department and obtains and holds a valid certificate of compliance.

(b) Prior to offering for rent a short-term rental, a person shall register with the Commissioner by completing forms published by the Department and paying a registration fee as provided in 4468 of this title.

(c) A person registering shall certify on the registration forms published by the Department that the short-term rental is in compliance with the following provisions:

(1) All available units shall comply with any relevant State and local fire and life safety laws and regulations.

(2) Each guest room shall be free of any evidence of insects, rodents, and other pests.

(3) All water from a nonpublic water supply system shall meet Vermont's water supply rules.

(4) All sewage shall be disposed of through an approved facility, including either:

(A) a public sewage treatment plant; or

(B) an individual sewage disposal system that is constructed, maintained, and operated according to the Department of Environmental Conservation's regulations, and otherwise meets all applicable sanitation requirements.

(5) All occupancy taxes on the short-term rental unit required pursuant to 32 V.S.A. chapter 225 shall be paid in a timely manner.

(d)(1) A registration application shall be submitted no fewer than 14 calendar days prior to opening a short-term rental.

(2) The Department shall award an initial certificate of compliance

upon receipt of the applicant's completed registration application and registration fee. The certification of compliance shall state that the holder has self-certified compliance with health and safety laws and regulations and that the Department has not licensed or inspected the property.

(e) All certificates of compliance shall be displayed in a manner so as to be easily viewed by the public.

(f) Any perspective certificate holder aggrieved by a decision of the Department may appeal to the Board of Health pursuant to subsection 4351(e) of this title.

§ 4467. TERM; CERTIFICATE OF COMPLIANCE

A certificate of compliance shall expire annually after its date of issuance and may be renewed upon the payment of a new registration fee if the certificate holder is in good standing with the Department.

§ 4468. FEES; REGISTRATION

The following fee shall be paid to the Department at the time of registration or registration renewal:

Short-term rental — \$130.00.

§ 4469. ENFORCEMENT

(a) If a person is found to be in violation of this subchapter, the Commissioner shall issue a written notice and an order requiring both abatement of the violation and compliance with this subchapter within a reasonable period of time.

(b) A person upon whom the notice and order are served shall have an opportunity for a hearing at which he or she may show cause for vacating or amending the order. If it appears that the provisions of this chapter have not been violated, the Commissioner shall immediately vacate the order without prejudice. Conversely, if it appears that the provisions of this chapter have been violated and the person fails to comply with the order issued by the Commissioner, the Commissioner shall revoke, modify, or suspend the person's certificate of compliance or enforce a civil penalty pursuant to section 4309 of this title, or both.

Sec. 6. SHORT-TERM RENTAL WORKING GROUP; REPORT

(a) Creation. There is created the Short-Term Rental Working Group within the Department of Health for the purpose of developing a proposal for the regulation of short-term rentals in Vermont that:

(1) levels the playing field between short-term rentals and other lodging establishments; and

(2) protects the health and safety of the transient, traveling, or vacationing public.

(b)(1) Membership. The Working Group shall be composed of the following members:

(A) the Commissioner of Health or designee;

(B) the Commissioner of Taxes or designee; and

(C) the Executive Director of the Department of Public Safety's Fire Safety Division or designee.

(2) The Commissioner of Health shall invite at least the following representatives to participate in the Working Group:

(A) a representative of the Vermont Chamber of Commerce;

(B) a representative of Vermont's short-term rental industry; and

(C) a representative of the Vermont Lodging Association.

(c) Assistance. The Working Group shall have the administrative, technical, and legal assistance of Department of Health.

(d) Report. On or before October 1, 2017, the Working Group shall submit a written report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(e) Meetings.

(1) The Commissioner of Health or designee shall call the first meeting of the Working Group to occur on or before August 1, 2017

(2) The Commissioner of Health or designee shall be the Chair.

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

(4) The Working Group shall cease to exist on October 31, 2017.

(f) Definitions. As used in this section:

(1) "Lodging establishment" means the same as in 18 V.S.A. § 4301(9).

(2) "Short-term rental" means the same as in 18 V.S.A. § 4301(14).

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except 18 V.S.A. chapter 85, subchapter 7 (short-term rentals) shall take effect on January 1, 2019.

And that after passage the title of the bill be amended to read:

An act relating to Executive Branch and Judiciary fees and food and lodging establishments.

(Committee vote: 7-0-0)

(No House amendments.)

H. 518.

An act relating to making appropriations for the support of government.

Reported favorably with recommendation of proposal of amendment by Senator Kitchel for the Committee on Appropriations.

For text of report of the Committee on Appropriations, see Addendum to Senate Calendar for April 24, 2017.

(Committee vote: 7-0-0)

(For House amendments, see House Journal for March 31, 2017, pages 602-611.)

H. 519.

An act relating to capital construction and State bonding.

Reported favorably with recommendation of proposal of amendment by Senator Flory for the Committee on Institutions.

The Committee recommends that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the \$147,282,287.00 authorized in this act, no more than \$73,805,141.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a Capital Construction and State Bonding Adjustment Bill. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services, and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on

Institutions and of the House Committee on Corrections and Institutions are notified before that action is taken.

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

<u>(1) Statewide, planning, use, and contingency:</u>	<u>\$500,000.00</u>
<u>(2) Statewide, major maintenance:</u>	<u>\$6,000,000.00</u>
<u>(3) Statewide, BGS engineering and architectural project costs:</u>	<u>\$3,537,525.00</u>
<u>(4) Statewide, physical security enhancements:</u>	<u>\$270,000.00</u>
<u>(5) Montpelier, State House, Dome, Drum, and Ceres, design, permitting, construction, restoration, renovation, and lighting:</u>	<u>\$300,000.00</u>
<u>(6) Randolph, Agencies of Agriculture, Food and Markets and of Natural Resources, collaborative laboratory, construction:</u>	<u>\$4,500,000.00</u>
<u>(7) Springfield, Southern State Correctional Facility, completion of the steamline replacement:</u>	<u>\$300,000.00</u>
<u>(8) Waterbury, Waterbury State Office Complex, site work for the Hanks and Weeks buildings, and renovation of the Weeks building:</u>	<u>\$4,000,000.00</u>
<u>(9) Newport, Northern State Correctional Facility, door control replacement:</u>	<u>\$1,000,000.00</u>
<u>(10) Newport, Northern State Correctional Facility, parking expansion:</u>	<u>\$350,000.00</u>
<u>(11) Montpelier, 109 and 111 State Street, design:</u>	<u>\$600,000.00</u>
<u>(12) Department of Libraries, centralized facility, renovation:</u>	<u>\$1,500,000.00</u>
<u>(13) Burlington, 108 Cherry Street, parking garage, repairs:</u>	<u>\$5,000,000.00</u>

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

<u>(1) Statewide, planning, use, and contingency:</u>	<u>\$500,000.00</u>
<u>(2) Statewide, major maintenance:</u>	<u>\$5,799,648.00</u>
<u>(3) Statewide, BGS engineering and architectural project costs:</u>	<u>\$3,432,525.00</u>
<u>(4) Statewide, physical security enhancements:</u>	<u>\$270,000.00</u>
<u>(5) Montpelier, State House, Dome, Drum, and Ceres, restoration,</u>	

<u>renovation, and lighting:</u>	<u>\$1,700,000.00</u>
<u>(6) Montpelier, 120 State Street, life safety and infrastructure improvements:</u>	<u>\$700,000.00</u>
<u>(7) Randolph, Agencies of Agriculture, Food and Markets and of Natural Resources, collaborative laboratory, construction, fit-up, and equipment:</u>	<u>\$3,944,000.00</u>
<u>(8) Waterbury, Waterbury State Office Complex, Weeks building, renovation and fit-up:</u>	<u>\$900,000.00</u>
<u>(9) Newport, Northern State Correctional Facility, door control replacement:</u>	<u>\$1,000,000.00</u>
<u>(10) Montpelier, 109 and 111 State Street, final design and construction:</u>	<u>\$4,000,000.00</u>
<u>(11) Burlington, 108 Cherry Street, parking garage, repairs:</u>	<u>\$5,000,000.00</u>
<u>(12) Montpelier, 133 State Street, renovations of mainframe workspace to Office Space (Agency of Digital Services):</u>	<u>\$700,000.00</u>

(d) Waterbury State Office Complex.

(1) The Commissioner of Buildings and General Services is authorized to use any appropriated funds remaining from the construction of the Waterbury State Office Complex for the projects described in subdivisions (b)(8) and (c)(8) of this section.

(2) On or before January 15, 2018, the Commissioner of Buildings and General Services shall evaluate the potential uses of the Stanley and Wasson buildings in the Waterbury State Office Complex.

<u>Appropriation – FY 2018</u>	<u>\$27,857,525.00</u>
<u>Appropriation – FY 2019</u>	<u>\$27,946,173.00</u>
<u>Total Appropriation – Section 2</u>	<u>\$55,803,698.00</u>

Sec. 3. HUMAN SERVICES

(a) The sum of \$200,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Agency of Human Services for cameras, locks, and perimeter intrusion at correctional facilities.

(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.

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

Sec. 4. JUDICIARY

(a) The sum of \$3,050,000.00 is appropriated in FY 2018 to the Judiciary for the case management IT system.

(b) It is the intent of the General Assembly to provide funding to complete the project described in subsection (a) of this section in FY 2019, and the Judiciary is encouraged to execute contracts for this project upon enactment of this act.

<u>Appropriation – FY 2018</u>	<u>\$3,050,000.00</u>
<u>Total Appropriation – Section 4</u>	<u>\$3,050,000.00</u>

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2018 to the Department of Buildings and General Services for the Agency of Commerce and Community Development:

<u>(1) Major maintenance at historic sites statewide:</u>	<u>\$200,000.00</u>
<u>(2) Stannard House, upgrades:</u>	<u>\$30,000.00</u>
<u>(3) Schooner Lois McClure, repairs and upgrades:</u>	<u>\$50,000.00</u>

(b) The following sums are appropriated in FY 2018 to the Agency of Commerce and Community Development for the following projects described in this subsection:

<u>(1) Underwater preserves:</u>	<u>\$30,000.00</u>
<u>(2) Placement and replacement of roadside historic markers:</u>	<u>\$15,000.00</u>
<u>(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping:</u>	<u>\$125,000.00</u>

(c) The sum of \$200,000.00 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:

<u>(1) Underwater preserves:</u>	<u>\$30,000.00</u>
<u>(2) Placement and replacement of roadside historic markers:</u>	<u>\$15,000.00</u>

<u>(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping:</u>	<u>\$125,000.00</u>
<u>Appropriation – FY 2018</u>	<u>\$450,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$370,000.00</u>
<u>Total Appropriation – Section 5</u>	<u>\$820,000.00</u>

Sec. 6. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2018 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program:
\$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services): \$100,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education): \$100,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

(9) To the Enhanced 911 Board for the Enhanced 911 Compliance Grants Program: \$75,000.00

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

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services): \$100,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education): \$100,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

Appropriation – FY 2018 \$1,475,000.00

Appropriation – FY 2019 \$1,400,000.00

Total Appropriation – Section 6 \$2,875,000.00

Sec. 7. EDUCATION

The sum of \$50,000.00 is appropriated in FY 2018 to the Agency of Education for funding emergency projects.

Appropriation – FY 2018 \$50,000.00

Total Appropriation – Section 7 \$50,000.00

Sec. 8. UNIVERSITY OF VERMONT

(a) The sum of \$1,400,000.00 is appropriated in FY 2018 to the University of Vermont for construction, renovation, and major maintenance.

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

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

Sec. 9. VERMONT STATE COLLEGES

(a) The sum of \$2,000,000.00 is appropriated in FY 2018 to the Vermont State Colleges for construction, renovation, and major maintenance.

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

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

Sec. 10. NATURAL RESOURCES

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

(1) Drinking Water Supply, Drinking Water State Revolving Fund:

\$2,300,000.00

(2) Dam safety and hydrology projects:

\$200,000.00

(3) State’s share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine, Ely Mine, and Williston (Commerce Street)

\$1,719,000.00

(b) The sum of \$2,750,000.00 is appropriated in FY 2018 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects.

(c) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including conservation camps and shooting ranges, hatchery improvements, wildlife management area infrastructure, and fishing access areas:

\$1,200,000.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye Rearing, restoration and stocking infrastructure:

\$30,000.00

(d) The sum of \$2,720,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Department of Fish and Wildlife for the construction of the Roxbury Hatchery.

(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:

(1) Drinking Water Supply, Drinking Water State Revolving Fund:

\$1,400,000.00

(2) Dam safety and hydrology projects:

\$175,000.00

(3) State's share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine and Ely Mine):

\$2,755,000.00

(f) The sum of \$2,750,000.00 is appropriated in FY 2019 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects.

(g) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including conservation camps and shooting ranges, hatchery improvements, wildlife management area infrastructure, and fishing access areas:

\$1,100,000.00

(2) Lake Champlain Walleye Association, Inc., to upgrade and repair the Walleye Rearing, restoration and stocking infrastructure:

\$30,000.00

Appropriation – FY 2018

\$10,919,000.00

Appropriation – FY 2019

\$8,210,000.00

Total Appropriation – Section 10

\$19,129,000.00

Sec. 11. CLEAN WATER INITIATIVES

(a) The following sums are appropriated in FY 2018 to the Agency of Agriculture, Food and Markets for the following projects described in this section:

(1) Best Management Practices and Conservation Reserve Enhancement Program:

\$3,450,000.00

(2) Water quality grants and contracts:

\$600,000.00

(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:

(1) Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,000,000.00

(2) EcoSystem restoration and protection: \$6,000,000.00

(3) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, prior year partially funded projects: \$2,982,384.00

(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

(c) The sum of \$1,400,000.00 is appropriated in FY 2018 to the Agency of Transportation for the Municipal Mitigation Program.

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

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

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

(e) The sum of \$2,000,000.00 is appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for Best Management Practices and the Conservation Reserve Enhancement Program.

(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:

(1) the Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,200,000.00

(2) EcoSystem restoration and protection: \$5,000,000.00

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

(4) Clean Water Act, implementation projects: \$11,010,704.00

(g) The sum of 2,750,000.00 is appropriated in FY 2019 to the Vermont Housing and Conservation Board for statewide water quality improvement projects or other conservation projects.

(h) It is the intent of the General Assembly that the Secretary of Natural

Resources shall use the amount appropriated in subdivision (b)(4) of this section to fund new projects in Ryegate, Springfield, St. Johnsbury, and St. Albans; provided, however, that if the Secretary determines that one of these projects is not ready in FY 2018, 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.

(i) On or before November 1, 2017, the Clean Water Fund Board, established in 10 V.S.A. § 1389, shall submit a report to the House Committees on Corrections and Institutions and on Natural Resources, Fish and Wildlife, and the Senate Committees on Institutions and on Natural Resources and Energy, providing a list of all clean water initiative programs and projects receiving funding in subsections (a)–(d) of this section and the amount of the investment.

(j) On or before January 15, 2018:

(1) the Clean Water Fund Board shall review and recommend Clean Water Act implementation programs funded from subdivision (f)(4) of this section; and

(2) the Board shall submit the list of programs recommended for FY 2019 to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and to the Governor for the FY 2019 capital budget report.

(k) In FY 2018 and FY 2019, any agency that receives funding from this section shall consult with the State Treasurer to ensure that the projects are capital eligible.

<u>Appropriation – FY 2018</u>	<u>\$21,936,616.00</u>
<u>Appropriation – FY 2019</u>	<u>\$23,367,972.00</u>
<u>Total Appropriation – Section 11</u>	<u>\$45,304,588.00</u>

Sec. 12. MILITARY

(a) The sum of \$750,000.00 is appropriated in FY 2018 to the Department of Military for 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.

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

<u>(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:</u>	<u>\$850,000.00</u>
<u>(2) Bennington Armory, site acquisition:</u>	<u>\$60,000.00</u>

<u>Appropriation – FY 2018</u>	<u>\$750,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$910,000.00</u>
<u>Total Appropriation – Section 12</u>	<u>\$1,660,000.00</u>

Sec. 13. PUBLIC SAFETY

(a) The sum of \$1,927,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for site acquisition, design, permitting, and construction documents for the Williston Public Safety Field Station.

(b) The sum of \$5,573,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for construction of the Williston Public Safety Field Station.

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

Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The sum of \$75,000.00 is appropriated in FY 2018 to the Agency of Agriculture, Food and Markets for the Produce Safety Infrastructure Grant Improvement Program.

(b) The sum of \$75,000.00 is appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for the Produce Safety Infrastructure Grant Improvement Program.

<u>Appropriation – FY 2018</u>	<u>\$75,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$75,000.00</u>
<u>Total Appropriation – Section 14</u>	<u>\$150,000.00</u>

Sec. 15. VERMONT RURAL FIRE PROTECTION

(a) The sum of \$125,000.00 is appropriated in FY 2018 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the dry hydrant program.

(b) The sum of \$125,000.00 is appropriated in FY 2019 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the project described in subsection (a) of this section.

<u>Appropriation – FY 2018</u>	<u>\$125,000.00</u>
<u>Appropriation – FY 2019</u>	<u>\$125,000.00</u>
<u>Total Appropriation – Section 15</u>	<u>\$250,000.00</u>

Sec. 16. VERMONT VETERANS' HOME

(a) The sum of \$90,000.00 is appropriated in FY 2018 to the Vermont Veterans' Home for resident care furnishings.

(b) The sum of \$300,000.00 is appropriated in FY 2018 to the Department of Buildings and General Services for the Vermont Veterans' Home for kitchen renovations, and mold remediation.

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

Appropriation – FY 2018 \$390,000.00

Total Appropriation – Section 16 \$390,000.00

Sec. 17. VERMONT HOUSING AND CONSERVATION BOARD

(a) The sum of \$1,200,000.00 is appropriated in FY 2018 to the Vermont Housing and Conservation Board for housing projects.

(b) The sum of \$1,800,000.00 is appropriated in FY 2019 to the Vermont Housing and Conservation Board for housing projects.

(c) The Vermont Housing and Conservation Board shall use funds appropriated in this section for:

(1) projects that are designed to keep residents out of institutions;

(2) the improvement of projects where there is already significant public investment and affordability or federal rental subsidies that would otherwise be lost;

(3) projects that would alleviate the burden in the most stressed rental markets and assist households into homeownership; or

(4) downtown and village center revitalization projects.

(d) The Vermont Housing and Conservation Board (VHCB) may use the amounts appropriated in this section to increase the amount it allocates to conservation grant awards pursuant to Sec. 11(d) and (g) of this act; provided, however, that VHCB increases any affordable housing investments by the same amount from funds appropriated to VHCB in the FY 2018 Appropriations Act.

Appropriation – FY 2018 \$1,200,000.00

Appropriation – FY 2019 \$1,800,000.00

Total Appropriation – Section 17 \$3,000,000.00

* * * Financing this Act * * *

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:

(1) of proceeds from the sale of property authorized in 2008 Acts and Resolves No. 200, Sec. 32 (1193 North Ave., Burlington): \$65,163.14

(2) of the amount appropriated in 2009 Acts and Resolves No. 43, Sec. 11 (Waterbury, Emergency Operations Center): \$0.03

(3) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2 (Brattleboro, State office building HVAC replacement and renovations): \$178,010.22

(4) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2 (statewide, major maintenance): \$28,307.00

(5) of the proceeds from the sale of property authorized in 2012 Acts and Resolves No. 104, Sec. 1(f) (43 Randall Street, Waterbury): \$101,156.39

(6) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2 (statewide, contingency): \$44,697.20

(7) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4 (Corrections, security upgrades): \$391.01

(8) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 6 (Battle of Cedar Creek, roadside markers): \$28,253.60

(9) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 5 (Judiciary, Lamoille County Courthouse): \$1,064.79

(10) of the amount appropriated in 2013 Acts and Resolves No. 15, Sec. 17 (Veterans' Home, mold remediation): \$858,000.00

(11) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 1 (project management system): \$250,000.00

(12) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 1 (statewide, major maintenance): \$1,271,619.46

(13) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 1 (Vergennes, Weeks School Master Plan): \$5.00

(14) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 2 (Corrections, NSCF kitchen/serving line reconstruction): \$60,000.00

(15) of the amount appropriated in 2014 Acts and Resolves No. 178,

<u>Sec. 3 (Caledonia County Courthouse, wall stabilization):</u>	<u>\$12,867.40</u>
<u>(16) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 8 (Public Safety, Robert H. Wood):</u>	<u>\$1,937.00</u>
<u>(17) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2 (statewide, engineering and architectural costs):</u>	<u>\$6,912.30</u>
<u>(18) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2 (Burlington, 32 Cherry Street, HVAC controls upgrade):</u>	<u>\$550.38</u>
<u>(19) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2 (Caledonia County Courthouse, foundation):</u>	<u>\$384,000.00</u>
<u>(20) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2 (statewide, major maintenance):</u>	<u>\$7,187,408.54</u>
<u>(21) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 1 (statewide, major maintenance):</u>	<u>\$3,740,972.00</u>
<u>(b) The following unexpended funds appropriated to the Agency of Education for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:</u>	
<u>(1) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 3 (school construction):</u>	<u>\$155,398.62</u>
<u>(2) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 8 (emergency projects):</u>	<u>\$61,761.00</u>
<u>(c) The sum of \$353,529.29 in unexpended funds appropriated to the Agency of Agriculture, Food and Markets for capital construction projects in 2013 Acts and Resolves No. 51, Sec. 14 (nonpoint source pollution grants) is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.</u>	
<u>(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:</u>	
<u>(1) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12 (Forests, Parks and Recreation, projects):</u>	<u>\$1,530.41</u>
<u>(2) of the amount appropriated in 2014 Acts and Resolves No. 178, Sec. 6 (water pollution control):</u>	<u>\$0.02</u>
<u>(3) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 11 (municipal pollution control grants, Pownal):</u>	<u>\$28,751.98</u>
<u>Total Reallocations and Transfers – Section 18</u>	<u>\$14,822,286.78</u>

Sec. 19. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

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.

Total Revenues – Section 19 \$132,460,000.00

* * * Policy * * *

* * * Buildings and General Services * * *

Sec. 20. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a) The Commissioner of Buildings and General Services is authorized to sell the building and adjacent land located at 26 Terrace Street in Montpelier (the Redstone Building) pursuant to the requirements of 29 V.S.A. § 166(b).

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

Sec. 21. RANDALL STREET; VILLAGE OF WATERBURY

The Commissioner of Buildings and General Services is authorized to sell a portion of State property in the Village of Waterbury that borders Randall Street if the Commissioner determines that it serves the best interest of the State. The proceeds from the sale shall be appropriated to future capital construction projects.

Sec. 22. SALE OF 26 TERRACE STREET; MONTPELIER

Notwithstanding 29 V.S.A. § 166(d), the proceeds from the sale of 26 Terrace Street in Montpelier (the Redstone building) shall be transferred to Sec. 2(c)(2) of this act.

Sec. 23. 29 V.S.A. § 157 is amended to read:

§ 157. FACILITIES CONDITION ANALYSIS

(a) The Commissioner of Buildings and General Services shall:

* * *

(2) Conduct a facilities condition analysis each year of ~~ten~~ 20 percent of the building area and infrastructure under the Commissioner's jurisdiction so that within ~~ten~~ five years all property is assessed. At the end of the ~~ten~~ five years, the process shall begin again. The analysis conducted pursuant to this subsection shall include the thermal envelope of buildings and a report on the annual energy consumption and energy costs and recommendations for reducing energy consumption.

* * *

Sec. 24. 2 V.S.A. § 62(a) is amended to read:

(a) The Sergeant at Arms shall:

* * *

(6) ~~maintain~~ Maintain in a good state of repair and provide security for all furniture, draperies, rugs, desks, ~~paintings~~ and ~~office equipment~~ other furnishings kept in the State House;

* * *

Sec. 25. 2 V.S.A. chapter 19 is amended to read:

CHAPTER 19. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

(a) A Legislative Advisory Committee on the State House is created.

(b) The Committee shall be composed of 11 members: ~~three members of the House of Representatives appointed by the speaker; three members of the Senate appointed by the Committee on Committees; the Chair of the Board of Trustees of the Friends of the Vermont State House; the Director of the Vermont Historical Society; the Director of the Vermont Council on the Arts; the Commissioner of Buildings and General Services; and the Sergeant-at-Arms~~

(1) three members of the House of Representatives, appointed biennially by the Speaker of the House;

(2) three members of the Senate, appointed biennially by the Committee on Committees;

(3) the Chair of the Board of Trustees of the Friends of the Vermont State House;

(4) the Director of the Vermont Historical Society;

(5) the Director of the Vermont Council on the Arts;

(6) the Commissioner of Buildings and General Services; and

(7) the Sergeant at Arms.

(c) The Committee shall biennially elect a chair from among its legislative members. A quorum shall consist of six members.

(d) The Committee shall meet at the State House ~~on the first Monday of each third month beginning in July, 1984,~~ at least one time during the months of July and December or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

* * *

§ 653. FUNCTIONS

(a) The Legislative Advisory Committee on the State House shall be consulted on all activities relating to the acquisition and care of paintings and historic artifacts and furnishings, and the refurbishing, renovation, preservation, and expansion of the building and its interior.

(b) The Sergeant at Arms and the Commissioner of Buildings and General Services, in discharging responsibilities under subdivision 62(a)(6) of this title and ~~29 V.S.A. § 154(a)~~ 29 V.S.A. §§ 154(a) and 154a, respectively, shall consider the recommendations of the ~~Advisory~~ Advisory Committee. The ~~Advisory~~ Advisory Committee's recommendations shall be advisory only.

Sec. 26. 29 V.S.A. § 154 is amended to read:

§ 154. PRESERVATION OF STATE HOUSE AND HISTORIC STATE BUILDINGS

(a) ~~The commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall give special consideration to the ~~state house~~ State House as a building of first historical importance and significance. He or she shall preserve the ~~state house~~ State House structure and its unique interior and exterior architectural form and design, with particular attention to the detail of form and design, in addition to keeping the buildings, its furnishings, facilities, appurtenances, appendages, and grounds surrounding and attached to it in the best possible physical and functional condition. ~~No~~ Any permanent change, alteration, addition, or removal in form, materials, design, architectural detail, furnishing, fixed in place or otherwise, interior or exterior, of the ~~state house,~~ State House may not be made without legislative mandate. Emergency and immediately necessary repairs may, however, be made without legislative mandate upon prior approval of the ~~governor~~ Governor.

(b) ~~The commissioner of buildings and general services, as time and funds~~

~~permit, shall prepare such records as will permit the reproduction of state-owned historic buildings should any of them be destroyed. [Repealed.]~~

Sec. 27. 29 V.S.A. § 154a is added to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, and tours; and

(3) acquisition, management and care of State collections of art and historic furnishing, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a).

Sec. 28. 32 V.S.A. § 1001a is amended to read:

§ 1001a. REPORTS

(a) The Capital Debt Affordability Advisory Committee shall prepare and submit consistent with 2 V.S.A. § 20(a) a report on:

(1) ~~General~~ general obligation debt, pursuant to subsection 1001(c) of this title; and

(2) ~~How~~ how many, if any, Transportation Infrastructure Bonds have been issued and under what conditions. ~~The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.~~

(b) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the reports to be made under this section.

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

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2017~~ July 1, 2018.

* * * Human Services * * *

Sec. 30. SECURE RESIDENTIAL FACILITY; LAND

On or before June 30, 2018, the Commissioner of Buildings and General

Services is authorized to purchase an option on land or purchase land for a permanent, secure residential facility; provided, however, that the size and location of the land shall be consistent with the siting and design examination conducted by the Agency of Human Services, as required by 2015 Acts and Resolves No. 26, Sec. 30.

Sec. 31. AGENCY OF HUMAN SERVICES; FACILITIES

(a) It is the intent of the General Assembly that the State address the pressing facility needs for the following populations:

(1) individuals who no longer require hospitalization but who remain in need of long-term treatment in a secure residential facility setting;

(2) individuals who are not willing or able to engage in voluntary community treatment but do not require hospitalization;

(3) elders with significant psychiatric needs who meet criteria for skilled nursing facilities;

(4) elders with significant psychiatric and medical needs who do not meet criteria for skilled nursing facilities;

(5) children in need of residential treatment;

(6) juvenile delinquents in need of residential detention;

(7) offenders in correctional facilities; and

(8) any other at-risk individuals.

(b) The Secretary of Human Services, in consultation with the Commissioner of Buildings and General Services, shall evaluate and develop a plan to support the populations described in subsection (a) of this section. In developing the plan, the Secretary and Commissioner shall take into consideration the data collected and the report submitted by the Corrections Facility Planning Committee, pursuant to 2016 Acts and Resolves No. 160, Sec. 30. The evaluation and plan shall include the following:

(1) an evaluation and recommendation of the use, condition, and maintenance needs of existing facilities, including whether any facility should be closed, renovated, relocated, repurposed, or sold, provided that if a recommendation is made to close a facility, a plan must be developed that addresses the future use or sale of that facility;

(2) an analysis of the historic population trends of existing facilities, and anticipated future population trends, including age, gender, court involvement, and medical, mental health, and substance abuse conditions;

(3) an evaluation of whether the design and use of existing facilities

adequately serve the current population and anticipated future populations;

(4) an evaluation of whether constructing new facilities would better serve current or anticipated future populations, including whether the use of out-of-state facilities could be reduced or eliminated; and

(5) a recommendation on options for the Southeast State Correctional Facility, including whether to use, sell, or repurpose the Facility.

(c) On or before September 1, 2017, the Secretary shall provide an update on the status of the evaluation and plan to the Joint Legislative Committee on Justice Oversight.

(d) On or before January 15, 2018, the Secretary shall submit the plan and recommendations to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services, and the Senate Committees on Appropriations, on Health and Welfare, and on Institutions.

* * * Information Technology * * *

Sec. 32. INFORMATION TECHNOLOGY REVIEW

(a) The Executive Branch shall transfer, upon request, one vacant position for use in the Legislative Joint Fiscal Office (JFO) for a staff position, or the JFO may hire a consultant, to provide support to the General Assembly to conduct independent reviews of State information technology projects and operations.

(b) The Secretary of Administration and the Chief Information Officer shall:

(1) provide to the JFO access to the reviews conducted by Independent Verification and Validation (IVV) firms hired to evaluate the State's current and planned information technology project, as requested;

(2) ensure that IVV firms' contracts allow the JFO to make requests for information related to the projects that it is reviewing and that such requests are provided to the JFO in a confidential manner; and

(3) provide to the JFO access to all other documentation related to current and planned information technology projects and operations, as requested.

(c) The JFO shall maintain a memorandum of understanding with the Executive Branch relating to any documentation provided under subsection (b) of this section that shall protect security and confidentiality.

(d) In FY 2018 and FY 2019, the JFO is authorized to use up to \$250,000.00 of the amounts appropriated in Sec. 4 of this act to fund activities described in this section.

Sec. 33. AGENCY OF DIGITAL SERVICES; ORGANIZATION

(a) The Secretary and Chief Information Officer (CIO) of Digital Services and the Secretary of Administration shall:

(1) provide an update on the development of an organizational model and design of the new Agency that improves efficiency, data sharing, and coordination on information technology (IT) procurement;

(2) collaborate with State information technology staff to better utilize technology skills and resources and create efficiencies across all State agencies and departments; and

(3) examine functions of the new Agency such as budget, administrative support, and supervision, and its space requirements, to establish a more efficient delivery of services to the public.

(b) On or before January 15, 2018, the Secretary and CIO of Digital Services shall prepare and present to the House Committees on Appropriations, on Corrections and Institutions, on Energy and Technology, and on Government Operations, and to the Senate Committees on Appropriations, on Government Operations, and on Institutions:

(1) a report containing additional recommendations for restructuring the Agency;

(2) draft legislation necessary to conform existing statutes; and

(3) a report on the budgetary impacts and transitional costs of restructuring, including an update on savings related to staffing changes and consolidation of resources.

* * * Natural Resources * * *

Sec. 34. AGENCY OF NATURAL RESOURCES PLAN FOR
IMPLEMENTING BASIN PLANNING PROJECTS WITH
REGIONAL PLANNING COMMISSIONS

On or before December 15, 2017, the Secretary of Natural Resources shall submit to the House Committees on Corrections and Institutions and on Natural Resources, Fish and Wildlife and the Senate Committees on Institutions and on Natural Resources and Energy a plan or process for how and to the extent the Secretary shall:

(1) contract with regional planning commissions and the Natural Resources Conservation Council to assist in or produce tactical basin plans under 10 V.S.A. § 1253; and

(2) assign the development, implementation, and administration of water quality projects identified in the basin planning process to

municipalities, regional planning commissions, or other organizations.

Sec. 35. DEPARTMENT OF FOREST, PARKS AND RECREATION;
LAND TRANSACTIONS

(a) The Commissioner of Forest, Parks and Recreation is authorized to:

(1) Amend certain terms and conditions of two conservation easements, in order to define and clarify the allowed uses for sugaring and other forestry-management-related structures and facilities, and including their associated infrastructure and utilities, and related site preparation activities on the following lands:

(A) approximately 31,343 acres, designated as the Hancock Legacy Easement 1996, on the map prepared by the Department of Forests, Parks and Recreation, entitled "Hancock Forest Legacy Easement Lands Essex and Orleans Counties, Vermont," dated December 27, 2016; and

(B) approximately 207 acres, designated as the Averill Inholdings Easement 2005, on the map prepared by the Department of Forests, Parks and Recreation, entitled "Hancock Forest Legacy Easement Lands Essex and Orleans Counties, Vermont," dated December 27, 2016.

(2) Sell to the Trust for Public Land, with the goal that the Trust will subsequently convey these tracts to the U.S. Forest Service for inclusion in the Green Mountain National Forest, the following two tracts:

(A) an approximately 113-acre tract in the Town of Mendon, designated as the Bertha Tract, on the map prepared by the Trust For Public Land, entitled "Rolston Rest Addition to Green Mountain National Forest," dated July 6, 2016; and

(B) an approximately 58-acre tract in the Town of Killington designated as the Burch Tract, on the map prepared by the Trust For Public Land, entitled "Rolston Rest Addition to Green Mountain National Forest," dated July 6, 2016.

(b) The sale described in subdivision (a)(2) of this section shall be pursuant to the terms of a mutually satisfactory purchase and sales agreement. The selling price shall be based on the fair market value for the Bertha Tract and Burch Tract, as determined by an appraisal. The sale of these tracts is contingent on support from the Towns of Mendon and of Killington. The proceeds of the sale shall be deposited in the Agency of Natural Resources' Land Acquisition Fund to be used to acquire additional properties for Long Trail protection purposes.

* * * Public Safety * * *

Sec. 36. PUBLIC SAFETY FIELD STATION; WILLISTON

(a) The Commissioner of Buildings and General Services is authorized to purchase land for a public safety field station and an equipment storage facility. The location of the land shall be based on the results of the detailed proposal for the site location developed by the Commissioner of Buildings and General Services, in consultation with the Commissioner of Public Safety, as required by 2016 Acts and Resolves No. 160, Sec. 34.

(b) The Commissioner of Buildings and General Services is authorized to sell the Williston Public Safety Field Station and adjacent land pursuant to the requirements of 29 V.S.A. § 166.

* * * Effective Date * * *

Sec. 37. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 5, 2017, pages 621-622.)

Reported favorably with recommendation of proposal of amendment by Senator McCormack for the Committee on Appropriations.

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Institutions with the following amendments thereto:

First: In Sec. 31, Agency of Human Services; Facilities, in subdivision (b)(1) by striking out “the future use or sale of that facility” and inserting in lieu thereof: its future use and by striking out subdivision (b)(5) in its entirety.

Second: In Sec. 33, Agency of Digital Services; Organization, in subsection (a), by inserting a new subdivision (2) that reads as follows:

(2) evaluate the use of this organizational model in other states, including the successes and failures in implementing the model, and any lessons learned;

And by renumbering the remaining subdivisions to be numerically correct.

(Committee vote: 6-0-1)

House Proposal of Amendment

S. 12

An act relating to increasing the maximum prison sentence for first, second, and subsequent offenses of aggravated animal cruelty.

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

Sec. 1. 13 V.S.A. chapter 8 is amended to read:

CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS

Subchapter 1. Cruelty to Animals

§ 351. DEFINITIONS

As used in this chapter:

(1) “Animal” means all living sentient creatures, not human beings.

* * *

(19) “Sexual conduct” means:

(A) any act between a person and animal that involves contact between the mouth, sex organ, or anus of a person and the mouth, sex organ, or anus of an animal; or

(B) without a bona fide veterinary or animal husbandry purpose, the insertion, however slight, of any part of a person’s body or of any instrument, apparatus, or other object into the vaginal or anal opening of an animal.

* * *

§ 352. CRUELTY TO ANIMALS

A person commits the crime of cruelty to animals if the person:

(1) intentionally kills or attempts to kill any animal belonging to another person without first obtaining legal authority or consent of the owner, or engages in a reckless course of conduct that results in the death of an animal;

* * *

(10) uses a live animal as bait or lure in a race, game, or contest, or in training animals in a manner inconsistent with 10 V.S.A. Part 4 of Title 10 or the rules adopted thereunder;

(11)(A) engages in sexual conduct with an animal;

(B) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that it be used for sexual conduct;

(C) organizes, promotes, conducts, aids, abets, or participates in as an observer an act involving any sexual conduct with an animal;

(D) causes, aids, or abets another person to engage in sexual conduct with an animal;

(E) permits sexual conduct with an animal to be conducted on premises under his or her charge or control; or

(F) advertises, offers, or accepts the offer of an animal with the intent that it be subject to sexual conduct in this State.

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

A person commits the crime of aggravated cruelty to animals if the person:

(1) kills an animal by intentionally causing the animal undue pain or suffering;

(2) intentionally, maliciously, and without just cause tortures, mutilates, or cruelly beats an animal; or

(3) intentionally injures or kills an animal that is in the performance of official duties while under the supervision of a law enforcement officer.

* * *

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3) ~~or~~ (4), or (5) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

* * *

(5) A person who violates subdivision 352(1) of this title by intentionally killing or attempting to kill an animal belonging to another or subdivision 352(2) of this title by torturing, administering poison to, or cruelly beating or mutilating an animal shall be imprisoned not more than two years or fined not more than \$5,000.00, or both.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

House Proposal of Amendment

S. 75

An act relating to aquatic nuisance species control.

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

Sec. 1. 10 V.S.A. § 1452 is amended to read:

§ 1452. DEFINITIONS

As used in this chapter:

(1) “Agency” means the ~~agency of natural resources~~ Agency of Natural Resources.

(2) “Aquatic nuisance” means undesirable or excessive substances or populations that interfere with the recreational potential or aquatic habitat of a body of water, including rooted aquatic plants and animal and algal populations. Aquatic nuisances include ~~rooted aquatic plants and animal and algal populations~~ zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), Asian clam (*Corbicula fluminea*), fishhook waterflea (*Cercopagis pengoi*), rusty crayfish (*Orconectes rusticus*), spiny waterflea (*Bythotrephes longimanus*), or other species identified by the Secretary by rule.

(3) “Aquatic plant” means a plant that naturally grows in water, saturated soils, or seasonally saturated soils, including algae and submerged, floating-leafed, floating, or emergent plants.

(4) “Biological controls” ~~mean~~ means multi-cellular organisms.

(5) “Board” ~~means the water resources panel of the natural resources board.~~ [Repealed.]

* * *

(9) “Secretary” means the ~~secretary of natural resources~~ Secretary of Natural Resources.

(10) “Water resources” means the waters and the values inherent or potential in waters and their uses.

(11) “Waters” means all rivers, streams, creeks, brooks, reservoirs, ponds, lakes, and springs and all bodies of surface waters, artificial or natural,

which ~~that~~ are contained within, flow through, or border upon the ~~state~~ State or any portion of it.

(12) “Baitbox” means a receptacle, not exceeding 25 cubic feet in volume, used for holding or keeping baitfish alive for personal use.

(13) “Live well” means a well for keeping fish alive in a vessel by allowing water to circulate through the well.

(14) “Ballast tank” means any tank or hold on a vessel used for carrying ballast water, whether or not the tank or hold was designed for that purpose.

(15) “Bilge area” means the lowest point in the vessel where water can collect when the vessel is in its static floating position.

(16) “Decontaminate” means a process used to kill, destroy, or remove aquatic nuisance species and other organic material that may be present in or on a vessel, motor vehicle transporting the vessel, trailer, or other equipment. Decontamination may include washing a vessel, motor vehicle transporting the vessel, trailer, or other equipment with water at a sufficiently high temperature to kill or remove aquatic nuisance species.

(17) “Lake association” means a lake protection organization registered with the Secretary of Natural Resources on a form provided by the Secretary.

(18) “Marina” means a property, other than a public access or landing area regulated under section 4145 of this title, on the shoreline of a water of the State that contains a dock, basin, or ramp that, at no cost or for remuneration, provides to the public secure moorings or vessel access to the water.

(19) “Motor vehicle” means any vehicle propelled or drawn by power other than muscular power, including a snowmobile, motorcycle, all-terrain vehicle, farm tractor, or tracked vehicle.

(20) “Personal watercraft” shall have the same meaning as set forth in 23 V.S.A. § 3302.

(21) “Transport” means to move motor vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment over land, but does not include movement within the immediate area required for loading and preparing vehicles, vessels, personal watercraft, seaplanes, trailers, and other equipment prior to movement into or away from a body of water.

(22) “Vessel” means every description of watercraft used or capable of being used as a means of transportation on water, including personal watercraft.

Sec. 2. 10 V.S.A. § 1454 is amended to read:

§ 1454. TRANSPORT OF AQUATIC PLANTS AND AQUATIC
NUISANCE SPECIES

(a) ~~No~~ Transport of aquatic nuisance species; prohibition. A person shall not transport an aquatic plant or, aquatic plant part, zebra mussels (*Dreissena polymorpha*), quagga mussels (*Dreissena bugensis*), or other aquatic nuisance species identified by the Secretary by rule to or from any Vermont waters on the outside of a vehicle, boat, personal watercraft, trailer, or other equipment water. This section shall not restrict:

(1) proper harvesting or other control activities undertaken for the purpose of eliminating or controlling the growth or propagation of aquatic plants, zebra mussels, quagga mussels, or other aquatic nuisance species; or

(2) proper collection of water samples for the purpose of water quality monitoring.

(b) Inspection of vessel entering or leaving water. A person transporting a vessel to or from a water shall, prior to launching the vessel and upon leaving a water, inspect the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment, and shall remove and properly dispose of any aquatic plants, aquatic plant parts, and aquatic nuisance species.

(c) Aquatic nuisance species inspection station. It shall be a violation of this section for a person transporting a vessel to or from a water to not have the vessel, the motor vehicle transporting the vessel, the trailer, and other equipment inspected and, if determined necessary, decontaminated at an approved aquatic nuisance species inspection station prior to launching the vessel and upon leaving a water if:

(1) an aquatic nuisance species inspection station is maintained at the area where the vessel is entering or leaving the water;

(2) the aquatic nuisance species inspection station is open; and

(3) an individual operating the aquatic nuisance species inspection station identifies the vessel for inspection or decontamination.

(d) Draining of vessel; transport.

(1)(A) When leaving a water of the State and prior to transport away from the area where the vessel left the water, a person operating a vessel shall drain the vessel, trailer, and other equipment of water, including water in live wells, ballast tanks, and bilge areas. A person is not required to drain:

(i) baitboxes when authorized under 10 App. V.S.A. § 122(5) to transport bait in a baitbox away from a water; or

(ii) vehicles and trailers specifically designed and used for water

hauling.

(B) A person operating a vessel shall drain the vessel, trailer, and other equipment of water in a manner to avoid a discharge to the water of the State. This subdivision (d)(1) does not authorize a person to discharge waste, as defined in section 1251 of this title, to waters of the State. A person shall dispose of waste in the manner required by law.

(2) When a person transports a vessel, the person shall remove or open the drain plugs, bailers, valves, and other devices that are used to control the draining of water from ballast tanks, bilge areas, and live wells of the vessel, trailer, and other equipment, except for vehicles and trailers specifically designed and used for water hauling and emergency response vehicles and equipment.

(e) Presumption of compliance; Aquatic nuisance species inspection station. A person transporting a vessel to or from a water will be presumed to have not violated subsections (a), (b), and (d) of this section if, upon launching a vessel and upon leaving a water, the vessel is decontaminated at an approved aquatic nuisance inspection station. If staff of an approved aquatic nuisance inspection station observe a violation of subsection (a), (b), or (d) of this section, staff shall notify the person transporting the vessel.

(f) Exceptions to transport prohibition. The Secretary may grant exceptions to persons to allow the transport of aquatic plants, zebra mussels, quagga mussels, aquatic plant parts, or other aquatic nuisance species for scientific or purposes, educational purposes, or other purposes specifically authorized by the Secretary. When granting exceptions allowing the transport of aquatic plants, aquatic plant parts, or aquatic nuisance species under this subsection, the Secretary shall take into consideration both the value of the scientific or educational purpose and the risk to Vermont surface waters posed by the transport and ultimate use of the specimens. A letter from the Secretary authorizing the transport must accompany the specimens during transport.

(e)(g) Signage; access areas and marinas. Signage shall be posted at all public access and landing areas regulated under section 4145 of this title and at all marinas regarding the requirements of subsections (a)–(d) of this section relating to aquatic nuisance transport and inspection and decontamination of vessels, motor vehicles transporting vessels, trailers, or other equipment. The Secretary shall provide marinas with the signs required under this section.

(h) Violations. A Pursuant to 4 V.S.A. § 1102, a violation of this section may be brought in the Judicial Bureau by any law enforcement officer, as that term is defined in 23 V.S.A. § 3302(2), or, pursuant to section 8007 or 8008 of this title, a violation of this section may be brought in the Environmental Division of the Superior Court. When a violation is brought by an

~~enforcement officer other than an environmental enforcement officer employed by the Agency of Natural Resources, the enforcement officer shall submit to the Secretary a copy of the citation for purposes of compliance with the public participation requirements of section 8020 of this title. If a violation of this section is adjudicated in the Judicial Bureau or the Environmental Division, the violation shall not be addressed or adjudicated a second time in the other court.~~

Sec. 3. 10 V.S.A. § 1455(a) is amended to read:

(a) ~~No~~ A person may shall not use pesticides, chemicals other than pesticides, biological controls, bottom barriers, structural barriers, structural controls, or powered mechanical devices in waters of the State to control nuisance aquatic plants, insects, or other aquatic nuisances, including lamprey, unless that person has been issued a permit by the ~~secretary~~ Secretary.

Sec. 4. 10 V.S.A. § 1461 is added to read:

§ 1461. AQUATIC NUISANCE INSPECTION STATIONS; TRAINING PROGRAM

(a) The Secretary of Natural Resources shall establish a training program regarding how to conduct inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall include online training, recorded material, training manuals, or other material that allows a person to complete training remotely.

(b) The Secretary of Natural Resources shall establish a training program regarding how to decontaminate vessels, motor vehicles, trailers, and other equipment to prevent the spread of aquatic plants, aquatic plant parts, and aquatic nuisance species. The training program shall:

(1) require a person operating aquatic nuisance decontamination equipment to complete in-person training conducted by the Secretary or an entity approved by the Secretary; and

(2) instruct participants regarding how to address noncompliance with the requirements of section 1454 of this title, including how to report a violation to law enforcement, if a violation needs to be reported, and how operators of the inspection station do not have law enforcement authority to mandate compliance with the requirements of section 1454 of this title.

(c) In order to establish an aquatic nuisance species inspection station for the purposes of the vessel inspection and decontamination requirements of subsection 1454(c) of this title, a lake association, municipality, or the Commissioner of Environmental Conservation shall apply to the Secretary for approval. As a condition of approval, a representative of a lake association or

municipality shall complete the training programs established under subsections (a) and (b) of this section. A lake association or municipality seeking to operate an aquatic nuisance species inspection station shall designate a representative to complete the training programs established under subsections (a) and (b) of this section.

(d) A lake association or municipality approved to operate an aquatic nuisance species inspection station under subsection (b) of this section shall provide persons who will operate the aquatic nuisance species inspection station with training materials furnished by the Secretary regarding how to:

(1) conduct the inspection of vessels, motor vehicles, trailers, and other equipment for the presence of aquatic plants, aquatic plant parts, and aquatic nuisance species; and

(2) complete the in-person training required under subsection (b) of this section in order to operate decontamination equipment.

(e) The Secretary may adopt rules under section 1460 of this title to implement the training requirements of this section, including an annual schedule of available training.

Sec. 5. 4 V.S.A. § 1102(b) is amended to read:

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(27) Violations of 10 V.S.A. § 1454(a)–(d) relating to the transport of aquatic plants and aquatic nuisance species.

Sec. 6. 23 V.S.A. § 3317(b) is amended to read:

(b) A person who violates a requirement under 10 V.S.A. § 1454 shall be subject to enforcement under 10 V.S.A. ~~chapter 201~~ § 8007 or 8008 or a fine under this chapter, provided that the person shall be assessed a penalty or fine of not more than \$1,000.00 for each violation. A person who violates a rule adopted under 10 V.S.A. § 1424 shall be subject to enforcement under 10 V.S.A. chapter 201, provided that the person shall be assessed a penalty of not more than \$300.00 for each violation. A person who violates any of the following sections of this title shall be subject to a penalty of not more than \$300.00 for each violation:

§ 3306(e) marine toilet

§ 3312a operation of personal watercraft

Sec. 7. USE OF BOTTOM BARRIERS WITHOUT PERMIT

The Secretary of Natural Resources shall not require an aquatic nuisance

control permit under 10 V.S.A. § 1455 for the use of up to 15 bottom barriers on an inland lake to control nonnative aquatic nuisance species, provided that:

(1) the bottom barriers are managed and controlled by a lake association;

(2) each bottom barrier shall be of no greater size than 14 feet by 14 feet;

(3) the bottom barriers are not installed in an area where they:

(A) create a hazard to public health; or

(B) unreasonably impede boating or navigation;

(4) the lake association notifies the Secretary of the use of the barriers three days prior to placement of the barriers in a water; and

(5) the Secretary may require the removal of the bottom barriers upon a determination that the barriers pose a threat to a threatened or endangered species.

Sec. 8. REPEAL; BOTTOM BARRIERS

Sec. 7 of this act (bottom barriers for aquatic nuisance control) shall be repealed on March 1, 2018.

Sec. 9. AQUATIC NUISANCE CONTROL GENERAL PERMIT

On or before February 1, 2018, the Secretary of Natural Resources shall issue a general permit for aquatic nuisance control activities. The general permit shall allow for nonchemical aquatic nuisance control activities and any other management or control measures that the Secretary considers appropriate and for which the Secretary has general permit authority under 10 V.S.A. chapter 50. The general permit shall authorize rapid response activities that an individual or lake association may take to control aquatic nuisance species. The provisions of 10 V.S.A. § 1456(a) and (c)–(f) related to the rapid response permits for aquatic nuisance control shall apply to the rapid response activities authorized in the permit required under this section.

Sec. 10. ANR PUBLIC OUTREACH REGARDING AQUATIC NUISANCE SPECIES TRANSPORT AND INSPECTION REQUIREMENTS

Beginning on July 1, 2017, the Secretary of Natural Resources shall provide education and outreach to the public regarding the transport and inspection requirements in 10 V.S.A chapter 50 for the reduction of the spread of aquatic nuisance species. The education and outreach shall include a notification in the Department of Fish and Wildlife guides to hunting and fishing in Vermont regarding the aquatic nuisance transport prohibition and the requirements to inspect vessels for aquatic nuisance species when entering or leaving a water.

Sec. 11. ANR REPORT; AQUATIC NUISANCE TRANSPORT; LAKE
CHAMPLAIN

(a) On or before November 15, 2017, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish and Wildlife a report regarding how to control the transport of aquatic nuisances to and from Lake Champlain. The report shall include:

(1) an inventory of the boat decontamination facilities or other aquatic nuisance control measures currently employed at boat launches, marinas, or other areas on Lake Champlain;

(2) a summary of whether the current measures to control aquatic nuisance transport to and from Lake Champlain are adequate;

(3) a proposal for siting boat decontamination facilities or other comparable aquatic nuisance control measures at boat launches, marinas, or other areas on Lake Champlain, including where proposed facilities or other aquatic nuisance control measures would be located;

(4) a summary of how proposed boat decontamination facilities or comparable aquatic nuisance control measures would be staffed, including whether staff would possess sufficient authority to inspect a vessel entering or leaving Lake Champlain in order to require boat decontamination or another aquatic nuisance control measure;

(5) an estimate of the cost to implement proposed boat decontamination facilities or other aquatic nuisance control measures on Lake Champlain; and

(6) a recommendation of whether and how vessels leaving Lake Champlain should be quarantined from entering other waters of the State for a defined time period or until a specific condition is satisfied; and

(7) draft legislation that the Secretary determines is necessary to implement any boat decontamination facility or other aquatic nuisance control measure proposed in the report.

(b) As used in this section, “aquatic nuisance” and “vessel” shall have the same meanings as set forth in 10 V.S.A. § 1452.

Sec. 12. 10 V.S.A. § 1264b is amended to read:

§ 1264b. ~~STORMWATER-IMPAIRED WATERS RESTORATION~~
STORMWATER FUND

(a) A fund to be known as the ~~stormwater-impaired waters restoration fund~~ Stormwater Fund is created in the ~~state treasury~~ State Treasury to be expended by the ~~secretary of natural resources~~ Secretary of Natural Resources. The ~~fund~~

Fund shall be administered by the ~~secretary of natural resources through the facilities engineering division~~ Secretary of Natural Resources. The ~~fund~~ Fund shall consist of:

(1) ~~Stormwater~~ stormwater impact fees paid by permittees ~~in order~~ to meet applicable permitting standards for the discharges of regulated stormwater runoff to the stormwater-impaired waters of the ~~state~~ State and Lake Champlain and waters that contribute to the impairment of Lake Champlain;

(2) ~~Such~~ such sums as may be appropriated or transferred to the ~~fund~~ Fund by the ~~general assembly, the state emergency board, or the joint fiscal committee~~ General Assembly, the State Emergency Board, or the Joint Fiscal Committee during such times when the ~~general assembly~~ General Assembly is not in session;

(3) ~~Principal~~ principal and interest received from the repayment of loans made from the ~~fund~~ Fund;

(4) ~~Private~~ private gifts, bequests, and donations made to the ~~state~~ State for any of the purposes for which the ~~fund~~ Fund was established; and

(5) ~~Other~~ other funds from any public or private source intended for use for any of the purposes for which the ~~fund~~ Fund has been established.

(b) The ~~fund~~ Fund shall maintain separate accounts for each stormwater-impaired water and each phosphorus-impaired lake segment of Lake Champlain and the monies in each account may only be used to fund offsets in the designated water. Offsets shall be designed to reduce the sediment load, phosphorus load, or hydrologic impact of regulated stormwater runoff in ~~stormwater-impaired waters~~ the receiving water. All balances in the ~~fund~~ Fund at the end of any fiscal year shall be carried forward and remain a part of the ~~fund~~ Fund. Interest earned by the ~~fund~~ Fund shall be deposited into the ~~fund~~ Fund.

(c) The ~~facilities engineering division~~ Secretary may authorize disbursements from the ~~fund~~ Fund to offsets that meet the requirements of the rule adopted pursuant to subsection 1264a(e) 1264(f) of this title. The public funds used to capitalize the ~~stormwater-impaired waters restoration fund~~ Fund shall:

(1) ~~Be~~ be disbursed only to an offset that is owned or operated by a municipality or a governmental subdivision, agency, or instrumentality; and

(2) ~~Be~~ be disbursed only to reimburse a municipality or a governmental subdivision, agency, or instrumentality for those funds provided by the municipality or governmental subdivision, agency, or instrumentality to complete or construct an offset.

(d) A municipality or governmental subdivision, agency, or instrumentality may, on an annual basis, reserve capacity in an offset that the municipality or governmental subdivision, agency, or instrumentality operates or owns and that meets the requirements of ~~subsection 1264a(e)~~ the rule adopted pursuant to subsection 1264(f) of this title. A municipality or governmental subdivision, agency, or instrumentality reserving offset capacity shall inform the ~~secretary of natural resources~~ Secretary of the offset capacity for which the offset will not receive disbursements from the ~~stormwater-impaired waters restoration fund~~ Fund for nonmunicipal discharges. ~~A municipality that reserves capacity as an offset may receive disbursements from the fund to mitigate the uncontrolled sediment load or hydrologic impact in discharges for which the municipality is issued a permit for the discharge of regulated stormwater runoff under subdivision 1264a(b)(1) of this title.~~

(e) Eligible persons may apply for a grant from the ~~fund~~ Fund to design and implement an offset. The ~~fund~~ Fund may be used to match other public and private sources of funding for such projects. ~~The funds may also be used to match federal funds otherwise available to capitalize the fund created by 24 V.S.A. § 4753(a)(8).~~

(f) A discharger that pays a stormwater impact fee to the ~~stormwater-impaired waters restoration fund under section 1264a of this title~~ Fund in order to receive a permit for the discharge of regulated stormwater runoff may receive reimbursement of that fee if the discharger fails to discharge under the stormwater discharge permit, if the discharger notifies the ~~secretary~~ Secretary of the abandonment of the discharge permit, and if the ~~secretary~~ Secretary determines that unobligated monies for reimbursement remain in the ~~stormwater-impaired restoration fund~~ Fund.

Sec. 13. REPEAL; INTERIM STORMWATER PERMITTING

10 V.S.A. § 1264a(e) (interim stormwater permitting authority) is repealed.

Sec. 14. EFFECTIVE DATES

(a) This section and Secs. 1–11 (aquatic nuisance species control) shall take effect on passage.

(b) Secs. 12 and 13 (stormwater management) shall take effect on July 1, 2017.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Service Board shall be fully and separately acted upon.

Melissa Bailey of Bolton – Commissioner, Department of Mental Health (term 1/5/17 – 2/28/17) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Melissa Bailey of Bolton – Commissioner, Department of Mental Health (term 3/1/17 – 2/28/19) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Al Gobeille of Shelburne - Secretary, Agency of Human Services (term 1/5/17 – 2/28/17) – By Sen. Ayer for the Committee on Health and Welfare. (3/30/17)

Al Gobeille of Shelburne - Secretary, Agency of Human Services (term 3/1/17 – 2/28/19) – By Sen. Ayer for the Committee on Health and Welfare. (3/30/17)

Cory Gustafson of Montpelier – Commissioner, Department of Vermont Health Access (term 1/5/17 – 2/28/17) – By Sen. Cummings for the Committee on Health and Welfare. (3/30/17)

Cory Gustafson of Montpelier – Commissioner, Department of Vermont Health Access (term 3/1/17 – 2/28/19) – By Sen. Cummings for the Committee on Health and Welfare. (3/30/17)

Monica Hutt of Williston – Commissioner, Department of Aging and Independent Living (term 1/5/17 - 2/28/17) - By Sen. McCormack for the Committee on Health and Welfare. (3/30/17)

Monica Hutt of Williston – Commissioner, Department of Aging and Independent Living (term 3/1/17 - 2/28/19) - By Sen. McCormack for the Committee on Health and Welfare. (3/30/17)

Mark A. Levine, M.D. of Shelburne – Commissioner, Department of Health (term 1/5/17 – 2/28/17) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Mark A. Levine, M.D. of Shelburne – Commissioner, Department of Health

(term 3/1/17 – 2/28/19) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Kenneth Schatz of South Burlington – Commissioner, Department for Children and Families (term 1/5/17 – 2/28/17) – By Sen. Ingram for the Committee on Health and Welfare. (3/30/17)

Kenneth Schatz of South Burlington – Commissioner, Department for Children and Families (term 1/5/17 – 2/28/19) – By Sen. Ingram for the Committee on Health and Welfare. (3/30/17)

David Fenster of Middlebury – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (4/18/17)

Elizabeth Mann of Norwich – Superior Court Judge – By Sen. Nitka for the Committee on Judiciary. (4/18/17)

Matthew Valerio of Proctor – Defender General – By Sen. Sears for the Committee on Judiciary. (4/18/17)

Sabina Haskell of Burlington – Chair, Vermont State Lottery Commission – Sen. Baruth for the Committee on Economic Development, Housing and General Affairs. (4/19/17)

Wendy Knight of Panton – Commissioner, Department of Tourism and Marketing – Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (4/19/17)

Diane Snelling of Hinesburg – Chair, Natural Resources Board (term 1/5/17 – 2/28/17) – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Diane Snelling of Hinesburg – Chair, Natural Resources Board (term 3/1/17 – 2/28/19) – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Michael Snyder of Stowe - Commissioner, Department of Forest, Parks and Recreation - Sen. Rodgers for the Committee on Natural Resources and Energy. (4/19/17)

Robin Lunge of Berlin – Member, Green Mountain Care Board – Sen. Ayer for the Committee on Health and Welfare. (4/21/17)

Lisa Menard of Waterbury – Commissioner, Department of Corrections – Sen. Branagan for the Committee on Institutions. (4/21/17)

Joan Goldstein of Royalton – Commissioner, Department of Economic Development – Sen. Balint for the Committee on Economic Development, Housing and General Affairs. (4/25/17)

Janette Bombardier of Colchester – Trustee, Vermont State Colleges Board of Trustees – Sen. Mullin for the Committee on Education. (4/19/17)

John Carroll of Norwich – Member, State Board of Education – Sen. Baruth for the Committee on Education. (4/19/17)

Elizabeth Courtney of Montpelier – Member, Natural Resources Board – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Martha Illick of Charlotte – Member, Natural Resources Board – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

John O’Keefe of Manchester – Member, State Board of Education – Sen. Baruth for the Committee on Education. (4/19/17)

Sam Guy of Morrisville – Member, Liquor Control Board – Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (4/20/17)

Emily Wadhams of Burlington – Member, Vermont Housing and Conservation Board – Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (4/20/17)

Susan Popowski of Northfield – Member, Vermont State Lottery Commission – Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (4/21/17)