

# Senate Calendar

WEDNESDAY, MARCH 21, 2018

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**ACTION CALENDAR**  
**UNFINISHED BUSINESS OF TUESDAY, MARCH 20, 2018**  
**Second Reading**

**Favorable with Recommendation of Amendment**

**S. 281.**

An act relating to the Systemic Racism Mitigation Oversight and Equity Review Board.

**Reported favorably with recommendation of amendment by Senator Collamore for the Committee on Government Operations.**

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly to promote racial justice reform throughout the State by mitigating systemic racism in all systems of State government and creating a culture of inclusiveness.

Sec. 2. 3 V.S.A. § 2102 is amended to read:

§ 2102. POWERS AND DUTIES

(a) The Governor's Cabinet shall adopt and implement a program of continuing coordination and improvement of the activities carried on at all levels of State and local government.

(b) The Cabinet shall work collaboratively with the Chief Civil Rights Officer and shall provide the Chief with access to all relevant records and information.

Sec. 3. 3 V.S.A. chapter 68 is added to read:

CHAPTER 68. CHIEF CIVIL RIGHTS OFFICER

§ 5001. POSITION

(a) There is created within the Executive Branch an independent position named the Chief Civil Rights Officer to identify and work to eradicate systemic racism within State government.

(b) The Chief Civil Rights Officer shall have the powers and duties enumerated within section 2102 of this title, but shall operate independently of the Governor's Cabinet.

(c) The Chief Civil Rights Officer shall not be attached to any State department or agency, but shall be housed within and have administrative, legal, and technical support of the Agency of Administration.

§ 5002. CIVIL RIGHTS ADVISORY PANEL

(a) The Civil Rights Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel may consult with the Governor's Workforce Equity and Diversity Council, the Vermont Human Rights Commission, and others. The Panel shall have administrative, legal, and technical support of the Agency of Administration.

(b)(1) The Panel shall consist of five members, as follows:

(A) one member appointed by the Senate Committee on Committees who shall not be a current senator;

(B) one member appointed by the Speaker of the House who shall not be a current representative;

(C) one member appointed by the Chief Justice of the Supreme Court who shall not be a current legislator;

(D) one member appointed by the Governor who shall not be a current legislator; and

(E) one member appointed by the Human Rights Commission who shall not be a current legislator.

(2) Members shall have experience working to implement racial justice reform and, to the extent possible, represent geographically diverse areas of the State. At least three members shall be persons of color.

(3) The term of each member shall be three years, except that of the members first appointed, one each shall serve a term of one year, two years, three years, four years, and five years, so that the term of one regular member expires in each ensuing year. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of this subsection. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members shall serve until their successors are elected or appointed. Members shall serve not more than three consecutive terms in any capacity.

(4) Members of the Panel shall elect by majority vote the Chair of the Panel, who shall serve for a term of three years after the implementation period.

(c) The Panel shall have the following duties and responsibilities:

(1) appoint the Chief Civil Rights Officer;

(2) work with the Chief Civil Rights Officer to implement the reforms identified as necessary in the comprehensive organizational review as required by section 5003(a) of this title;

(3) oversee and advise the Chief to ensure ongoing compliance with the purpose of this chapter; and

(4) on or before January 15, 2020, and annually thereafter, report to the House and Senate Committees on Government Operations.

(d) Only the Panel may remove the Chief Civil Rights Officer. The Panel shall adopt rules pursuant to chapter 25 of this title to define the basis and process for removal.

(e) Each member of the Panel shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

#### § 5003. DUTIES OF CHIEF CIVIL RIGHTS OFFICER

(a) The Chief Civil Rights Officer shall work with the agencies and departments to implement a program of continuing coordination and improvement of activities in State government in order to combat systemic racial disparities and measure progress toward fair and impartial governance, including:

(1) oversee a comprehensive organizational review to identify systemic racism in each of the three branches of State government and inventory systems in place that engender racial disparities, which may be completed by a consultant or outside vendor; and

(2) manage and oversee the statewide collection of race-based data to determine the nature and scope of racial discrimination within all systems of State government.

(b) Pursuant to section 2102 of this title, work collaboratively with State agencies and departments to gather relevant existing data and records necessary to carry out the purpose of this chapter.

(c) The Chief shall work with the agencies and departments and with the Chief Performance Officer to develop performance targets and performance measures for the General Assembly, the Judiciary, and the agencies and departments to evaluate respective results in improving systems. These performance measures shall be included in the agency's or department's quarterly reports to the Chief, and the Chief shall include each agency's or department's performance targets and performance measures in his or her annual reports to the General Assembly.

(d) The Chief shall, in consultation with the Department of Human Resources and the agencies and departments, develop and conduct trainings for agencies and departments. Nothing in this subsection shall be construed to discharge the existing duty of the Department of Human Resources to conduct trainings.

(e) In order to enforce the provisions of this chapter and empower the Chief to perform his or her duties, the Chief may issue subpoenas, administer oaths and take the testimony of any person under oath, and require production of data, papers, and records. Any subpoena or notice to produce may be served by registered or certified mail or in person by an agent of the Chief. Service by registered or certified mail shall be effective three business days after mailing. Any subpoena or notice to produce shall provide at least six business days' time from service within which to comply, except that the Chief may shorten the time for compliance for good cause shown. Any subpoena or notice to produce sent by registered or certified mail, postage prepaid, shall constitute service on the person to whom it is addressed. Each witness who appears before the Chief under subpoena shall receive a fee and mileage as provided for witnesses in civil cases in Superior Courts; provided, however, any person subject to the Chief's authority shall not be eligible to receive fees or mileage under this section.

#### Sec. 4. AUTHORIZATION FOR CHIEF CIVIL RIGHTS OFFICER POSITION

One new permanent, exempt position of Chief Civil Rights Officer is created within the Agency of Administration.

#### Sec. 5. APPROPRIATION

There is appropriated to the Agency of Administration from the General Fund for fiscal year 2020 the amount of \$67,848 for the position of Chief Civil Rights Officer.

#### Sec. 6. SECRETARY OF ADMINISTRATION; CIVIL RIGHTS ADVISORY PANEL; CHIEF CIVIL RIGHTS OFFICER; REPORT

(a) On or before September 1, 2018, the Civil Rights Advisory Panel shall be appointed.

(b) On or before November 1, 2018, the Civil Rights Advisory Panel shall, in consultation with the Secretary of Administration and the Department of Human Resources, have developed and posted a job description for the Chief Civil Rights Officer.

(c) On or before January 1, 2019, the Civil Rights Advisory Panel shall appoint the Chief Civil Rights Officer.

(d) On or before April 1, 2019, the Chief Civil Rights Officer shall update the House and Senate Committees on Government Operations regarding how best to complete a comprehensive organizational review to identify systemic racism pursuant to 3 V.S.A. § 5003, and potential private and public sources of funding to achieve the review.

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to the mitigation of systemic racism.

(Committee vote: 5-0-0)

**Reported favorably with recommendation of amendment by Senator Sears for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: By adding a Sec. 4a as follows:

Sec. 4a. CHIEF CIVIL RIGHTS OFFICER; CIVIL RIGHTS ADVISORY PANEL; FUNDING SOURCE; SURCHARGE; REPEAL

(a) Surcharge.

(1) Notwithstanding the provisions of 3 V.S.A. § 2283(c) setting forth the purpose and rate of charges collected in the Human Resource Services Internal Service Fund, in fiscal year 2019, a surcharge of up to 1.65 percent, and in fiscal year 2020 and thereafter, a surcharge of up to 3.3 percent, but no greater than the cost of both the Civil Rights Advisory Panel and the position of Chief Civil Rights Officer set forth in Sec. 3 of this act, on the per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

(2) The amount collected shall be accounted for within the Human Resource Services Internal Service Fund and used solely for the purposes of funding the Civil Rights Advisory Panel and the position of the Chief Civil Rights Officer set forth in Sec. 3 of this act.

(b) Repeal. This section shall be repealed on June 30, 2024.

Second: By striking out Sec. 5 in its entirety and inserting in lieu thereof the following:

Sec. 5. FISCAL YEAR 2019 APPROPRIATION

There is appropriated to the Agency of Administration from the General Fund for fiscal year 2019 the amount of \$75,000.00 for the Civil Rights Advisory Panel and the position of Chief Civil Rights Officer.

(Committee vote: 6-1-0)

**Amendment to the recommendation of amendment of the Committee on Government Operations to S. 281 to be offered by Senator Collamore**

Senator Collamore moves to amend the recommendation of amendment of the Committee on Government Operations as follows:

First: In Sec. 3, in 3 V.S.A. § 5002, in subdivision (b)(3), by striking out the first sentence in its entirety and inserting in lieu thereof the following:

The term of each member shall be three years, except that of the members first appointed, one each shall serve a term of one year, to be appointed by the Human Rights Commission; two years, to be appointed by the Governor; three years, to be appointed by the Speaker of the House; four years, to be appointed by the Senate Committee on Committees; and five years, to be appointed by the Chief Justice of the Supreme Court, so that the term of one regular member expires in each ensuing year.

Second: By adding a Sec. 6a. as follows:

Sec. 6a. REPEAL

On June 30, 2024:

(1) Sec. 3 of this act (creating the Chief Civil Rights Officer and Civil Rights Advisory Panel in 3 V.S.A. chapter 68) is repealed and the Officer position and Panel shall cease to exist; and

(2) Sec. 4 of this act (authorization for Chief Civil Rights Officer position) is repealed.

**Amendment to the recommendation of amendment of the Committee on Government Operations to S. 281 to be offered by Senator Brock**

Senator Brock moves to amend the recommendation of amendment of the Committee on Government Operations as follows:

In Sec. 3, 3 V.S.A., chapter 68, in § 5002(b), by striking out subdivision (2) in its entirety and inserting in lieu thereof the following:

(2) In order to promote vigorous debate and a full exploration of the issues, Panel membership shall reflect a variety of backgrounds, skills, experiences, and perspectives, be racially diverse, and represent geographically diverse areas of the State. All member appointments shall be made in a nondiscriminatory manner.



**NEW BUSINESS**

**Third Reading**

**S. 192.**

An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

**S. 197.**

An act relating to liability for toxic substance exposures or releases.

**S. 269.**

An act relating to blockchain, cryptocurrency, and financial technology.

**S. 273.**

An act relating to miscellaneous law enforcement amendments.

**Amendment to S. 273 to be offered by Senator Sears before Third Reading**

Senator Sears moves to amend the bill as follows:

By adding a new section to be Sec. 7a to read:

Sec. 7a. DEPARTMENT OF PUBLIC SAFETY; REPORT ON TOWN  
CALLS TO THE VERMONT STATE POLICE

(a) The Department of Public Safety shall determine the number of calls from towns the Vermont State Police received in fiscal year 2018 and, in consultation with the Vermont League of Cities and Towns as necessary, determine the number of those calls that came from each town without a police department.

(b) On or before November 15, 2018, the Commissioner of Public Safety shall report to the Senate Committees on Judiciary and on Government Operations and the House Committees on Judiciary and on Government Operations regarding the Department's findings as set forth in subsection (a) of this section.

## Second Reading

### Favorable with Recommendation of Amendment

#### S. 53.

An act relating to a universal, publicly financed primary care system.

**Reported favorably with recommendation of amendment by Senator Ayer for the Committee on Health and Welfare.**

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

#### Sec. 1. UNIVERSAL PRIMARY CARE; INTENT

(a) It is the intent of the General Assembly to create and implement a program of universal, publicly financed primary care for all Vermont residents. The program should ensure that Vermonters have access to primary health care without facing financial barriers that might otherwise discourage them from seeking necessary care.

(b) The General Assembly continues to support the principles for health care reform enacted in 2011 Acts and Resolves No. 48, Sec. 1a, and plans to use universal primary care as a platform for a tiered approach to achieving universal health care coverage.

(c) In order to improve Vermonters' access to essential health care services, it is the intent of the General Assembly that universal access to primary care services should be available without cost-sharing.

#### Sec. 2. UNIVERSAL PRIMARY CARE; FINDINGS

The General Assembly finds that:

(1) Universal access to primary care will advance the health of Vermonters by addressing Vermonters' health care problems before they become more serious and more costly. A large volume of research from throughout the United States concludes that increased access to primary care enhances the overall quality of care and improves patient outcomes.

(2) Universal access to primary care will reduce systemwide health care spending. A study completed in accordance with 2016 Acts and Resolves No. 172, Sec. E.100.10 and submitted on November 23, 2016 found significant cost savings in a review of data from nonuniversal public and private primary care programs in the United States and around the world. One reason for these savings is that better access to primary care reduces the need for emergency room visits and hospital admissions.

(3) The best primary care program is one that provides primary care for

all residents without point-of-service patient cost-sharing or insurance deductibles for primary care services. The study completed in accordance with 2016 Acts and Resolves No. 172, Sec. E.100.10 found that primary care cost-sharing in many locales decreased health care utilization and affected individuals with low income disproportionately.

(4) A universal primary care program will build on and support existing health care reform efforts, such as the Blueprint for Health, the all-payer model, and accountable care organizations.

(5) A universal primary care program can be structured in such a way as to create model working conditions for primary care physicians, who are currently overburdened with paperwork and administrative duties, and who are reimbursed at rates disproportionately lower than those of other specialties.

(6) The costs of a universal primary care program for Vermont were estimated in a study ordered by the General Assembly in 2015 Acts and Resolves No. 54, Secs. 16–19 and submitted on December 16, 2015.

### Sec. 3. UNIVERSAL PRIMARY CARE; DRAFT OPERATIONAL MODEL; REPORT

(a)(1) The Green Mountain Care Board shall convene, facilitate, and supervise the participation of certified accountable care organizations, Bi-State Primary Care, and other interested stakeholders with applicable subject matter expertise to develop a draft operational model for a universal primary care program.

(2)(A) Using as its basis the primary care service categories and primary care specialty types described in 33 V.S.A. § 1852, the draft operational model shall address at least the following components:

(i) who would be eligible to receive publicly financed universal primary care services under the program;

(ii) who would deliver care under the program and in what settings;

(iii) how funding for the primary care services would move through the health care system; and

(iv) how to ensure maintenance of records demonstrating quality of care without increasing the administrative burden on primary care providers.

(B) In addition to the components described in subdivision (A) of this subdivision (2), the draft operational model may also include recommendations regarding the specific services that should be included in the universal primary care program and a methodology or benchmark for determining reimbursement rates to primary care providers.

(3) To the extent permitted under the All-Payer ACO Agreement with the Centers for Medicare and Medicaid Services and Vermont's Medicaid Section 1115 waiver, up to \$300,000.00 in expenses incurred by certified accountable care organizations to develop the draft operational model described in this subsection may be funded through delivery system reform payments.

(4) The Senate Committee on Health and Welfare may meet up to five times following the adjournment of the General Assembly in 2018 to provide guidance and receive updates from the Green Mountain Care Board and participating stakeholders developing the draft operational model for universal primary care pursuant to this subsection.

(5) All relevant State agencies shall provide timely responses to requests for information from the Green Mountain Care Board and participating stakeholders developing the draft operational model for universal primary care pursuant to this subsection.

(6) The Green Mountain Care Board and participating stakeholders shall submit the draft operational model for universal primary care on or before January 1, 2019 to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Department of Human Resources, and the Department of Vermont Health Access.

(b) On or before July 1, 2019, the Departments of Human Resources and of Vermont Health Access, as the administrative departments with expertise and experience in the administration and oversight of health benefit programs in this State, shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance their assessments of the draft operational model plan for universal primary care and their recommendations with respect to implementation of the universal primary care program.

(c) On or before July 1, 2019, the Department of Financial Regulation shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance its recommendations for appropriate mechanisms for the State to employ to obtain reinsurance and to guarantee the solvency of the universal primary care program.

#### Sec. 4. UNIVERSAL PRIMARY CARE; LEGAL ANALYSIS; REPORT

The Office of the Attorney General, in consultation with the Green Mountain Care Board and the Department of Financial Regulation, shall conduct a legal analysis of any potential legal issues regarding implementation of a universal primary care program in Vermont, including whether there are likely any legal impediments due to federal preemption under the Employee

Retirement Income Security Act (ERISA) and whether the program could be designed in a manner that would permit Vermont residents to continue to be eligible under federal law to use a health savings account established in conjunction with a high-deductible health plan. The Office shall submit its legal analysis on or before January 1, 2019 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 5. UNIVERSAL PRIMARY CARE; SCOPE OF SERVICES AND PROVIDERS; REPORT

(a) The Green Mountain Care Board shall convene a working group of interested stakeholders with applicable subject matter expertise to develop:

(1) recommendations for the specific services and providers that should be included in the universal primary care program, including the scope of the mental health and substance use disorder services, and suggested modifications to 18 V.S.A. § 1852(a)(1) and (2);

(2) methods to resolve coordination of benefits issues in the universal primary care program; and

(3) recommendations for strategies to address other issues associated with the development and implementation of the universal primary care program.

(b) On or before October 1, 2018, the Green Mountain Care Board shall provide the working group's recommendations to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 6. IMPLEMENTATION TIMELINE; CONDITIONS

(a) In addition to the plans, assessments, and analyses required by Secs. 3, 4, and 5 of this act, the General Assembly adopts the following implementation timeline for the universal primary care program:

(1) submission by the Agency of Human Services of a final implementation plan for universal primary care on or before January 1, 2020;

(2) enactment by the General Assembly of the funding mechanism or mechanisms during the 2020 legislative session;

(3) application by the Agency of Human Services to the U.S. Department of Health and Human Services for all necessary waivers and approvals for universal primary care on or before January 1, 2021; and

(4) coverage of publicly financed primary care services for Vermont residents under the universal primary care program beginning on or before January 1, 2022.

(b) Implementation of the universal primary care program shall occur only if the following conditions are met:

(1) the program will not increase the administrative burden on primary care providers;

(2) the program will provide reimbursement amounts for primary care services that are sufficient to attract an adequate number of primary care providers to participate;

(3) the program has appropriate financing in place to support the covered services while ensuring the continued solvency of the program;

(4) the program will include coverage for basic mental health care;

(5) the program will not include coverage for dental care services;

(6) the program will provide clear information to health care providers and consumers regarding which services are covered and which services are not covered under the universal primary care program; and

(7) the program adheres to the principles of 2011 Acts and Resolves No. 48, Sec. 1a.

Sec. 7. 33 V.S.A. chapter 18, subchapter 3 is added to read:

Subchapter 3. Universal Primary Care

§ 1851. DEFINITIONS

As used in this section:

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

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

(3) “Health service” means any treatment or procedure delivered by a health care professional to maintain an individual’s physical or mental health or to diagnose or treat an individual’s physical or mental condition or intellectual disability, including services ordered by a health care professional, chronic care management, preventive care, wellness services, and medically necessary services to assist in activities of daily living.

(4) “Primary care” means health services provided by health care professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis. Primary care does not include dental services.

(5) “Vermont resident” means an individual domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent. The Secretary of Human Services shall establish specific criteria for demonstrating residency.

§ 1852. UNIVERSAL PRIMARY CARE

(a) It is the intent of the General Assembly that all Vermont residents should receive publicly financed primary care services.

(1) The following service categories should be included in a universal primary care program when provided by a health care provider in one of the primary care specialty types described in subdivision (2) of this subsection:

- (A) new or established patient office or other outpatient visit;
- (B) initial new or established patient preventive medicine evaluation;
- (C) other preventive services;
- (D) patient office consultation;
- (E) administration of vaccine;
- (F) prolonged patient service or office or other outpatient service;
- (G) prolonged physician service;
- (H) initial or subsequent nursing facility visit;
- (I) other nursing facility service;
- (J) new or established patient home visit;
- (K) new or established patient assisted living visit;
- (L) other home or assisted living facility service;
- (M) alcohol, smoking, or substance use disorder screening or counseling;
- (N) all-inclusive clinic visit at a federally qualified health center or rural health clinic; and
- (O) mental health.

(2) Services provided by a licensed health care provider in one of the following primary care specialty types should be included in universal primary care when providing services in one of the primary care service categories described in subdivision (1) of this subsection:

- (A) family medicine physician;

- (B) registered nurse;
- (C) internal medicine physician;
- (D) pediatrician;
- (E) physician assistant or advanced practice registered nurse;
- (F) psychiatrist;
- (G) obstetrician/gynecologist;
- (H) naturopathic physician;
- (I) geriatrician;
- (J) registered nurse certified in psychiatric or mental health nursing;
- (K) social worker;
- (L) psychologist;
- (M) clinical mental health counselor; and
- (N) alcohol and drug abuse counselor.

(b) For Vermont residents covered under Medicare, Medicare should continue to be the primary payer for primary care services, but the State of Vermont should cover any co-payment or deductible amounts required from a Medicare beneficiary for primary care services.

#### § 1853. UNIVERSAL PRIMARY CARE FUND

(a) The Universal Primary Care Fund is established in the State Treasury as a special fund to be the single source to finance primary care for Vermont residents.

(b) Into the Fund shall be deposited:

(1) transfers or appropriations from the General Fund, authorized by the General Assembly;

(2) revenue from any taxes established for the purpose of funding universal primary care in Vermont;

(3) if authorized by waivers from federal law, federal funds from Medicaid and from subsidies associated with the Vermont Health Benefit Exchange established in subchapter 1 of this chapter; and

(4) the proceeds from grants, donations, contributions, taxes, and any other sources of revenue as may be provided by statute or by rule.

(c) The Fund shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the Fund and any remaining



balance shall be retained in the Fund. The Agency of Human Services shall maintain records indicating the amount of money in the Fund at any time.

(d) All monies received by or generated to the Fund shall be used only for payments to health care providers for primary care health services delivered to Vermont residents and to cover any co-payment or deductible amounts required from Medicare beneficiaries for primary care services.

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

**Reported without recommendation by Senator Lyons for the Committee on Finance.**

(Committee vote: 5-1-1)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with further amendment as follows:

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

#### Sec. 1. UNIVERSAL COVERAGE FOR PRIMARY CARE; REPORT

(a) The Green Mountain Care Board shall convene interested stakeholders with applicable subject matter expertise to develop recommendations on all of the following:

(1) A statutory definition of the health care services, including mental health and substance use disorder services, that constitute primary care services. The definition may be based on the services on which a health insurance plan imposes a primary care co-payment, as well as those services on which a plan would impose a primary care co-payment in the absence of a federal requirement for first dollar coverage.

(2) How to achieve universal coverage for primary care services for all Vermonters, whether the services are publicly financed or covered by health insurance or other means.

(3) How to make coverage for primary care services affordable for all Vermonters, such as through income-sensitized, State-funded cost-sharing assistance.

(b) The Office of the Attorney General and the Department of Financial Regulation shall cooperate with and provide legal assistance to the Green

Mountain Care Board in identifying and analyzing any potential legal issues with achieving universal coverage for primary care in Vermont and in developing proposals to address any legal issues identified.

(c) On or before January 15, 2019, the Green Mountain Care Board and the stakeholders shall provide the recommendations and proposals developed pursuant this section and any proposals for legislative action to the House Committees on Appropriations and on Health Care and the Senate Committees on Appropriations, on Health and Welfare, and on Finance.

## Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to recommendations for achieving universal coverage for primary care in Vermont.

(Committee vote: 6-0-1)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following substitute amendment thereto:

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

## Sec. 1. UNIVERSAL COVERAGE FOR PRIMARY CARE; REPORT

(a) The Green Mountain Care Board shall convene interested stakeholders with applicable subject matter expertise to develop recommendations on all of the following:

(1) The specific services, including mental health and substance use disorder services, and providers that constitute primary care. The determinations may be based in relevant part on those services on which a health insurance plan imposes a primary care co-payment, as well as those services on which a plan would impose a primary care co-payment in the absence of a federal requirement for first dollar coverage.

(2) How to achieve universal coverage for primary care services for all Vermonters, whether the services are publicly financed or covered by health insurance or other means.

(3) How to make coverage for primary care services affordable for all Vermonters, such as through income-sensitized, State-funded cost-sharing assistance.

(4) How to resolve coordination of benefits issues for individuals with more than one form of health coverage and for health care services that are not considered primary care.

(b) The Office of the Attorney General and the Department of Financial Regulation shall cooperate with and provide legal assistance to the Green Mountain Care Board in identifying and analyzing any potential legal issues with achieving universal coverage for primary care in Vermont and in developing proposals to address any legal issues identified.

(c) The Green Mountain Care Board shall provide updates to the Health Reform Oversight Committee every two months beginning on July 1, 2018 on the Board's progress in developing recommendations and proposals pursuant to this section and may request clarifications and guidance from the Committee as needed.

(d) On or before January 15, 2019, the Green Mountain Care Board and the stakeholders shall provide the recommendations and proposals developed pursuant this section and any proposals for legislative action to the House Committees on Appropriations and on Health Care and the Senate Committees on Appropriations, on Health and Welfare, and on Finance.

## Sec. 2. UNIVERSAL PRIMARY CARE; DRAFT OPERATIONAL PLAN

(a) If the Green Mountain Care Board determines that achieving universal coverage for primary care in Vermont is feasible and that the benefits to Vermont residents outweigh the estimated financial costs, the Board, in consultation with the Agency of Human Services and other interested stakeholders with applicable subject matter expertise, shall prepare a draft operational plan for achieving universal coverage for primary care based on the recommendations and proposals developed pursuant to Sec. 1 of this act. In determining feasibility, benefits, and cost estimates, the Board shall take into account existing studies indicating the potential savings and improvements to population health from providing access to primary care services.

(b) On or before October 15, 2019, the Green Mountain Care Board shall provide the preliminary draft operational plan developed pursuant to this section, if any, to the Health Reform Oversight Committee. On or before January 15, 2020, the Board shall provide the final draft operational plan to the House Committees on Appropriations and on Health Care and the Senate Committees on Appropriations, on Health and Welfare, and on Finance.

## Sec. 3. GREEN MOUNTAIN CARE BOARD RESOURCES; LEGISLATIVE INTENT

It is the intent of the General Assembly to provide sufficient resources to the Green Mountain Care Board in fiscal years 2019 and 2020 to enable the Board to carry out the duties set forth in Secs. 1 and 2 of this act.

#### Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to recommendations for achieving universal coverage for primary care in Vermont.

(Committee vote: 7-0-0)

#### **S. 85.**

An act relating to simplifying government for small businesses.

**Reported favorably with recommendation of amendment by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.**

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

#### Sec. 1. SIMPLIFYING GOVERNMENT FOR SMALL BUSINESSES

(a) The Secretary of State, in collaboration with the Department of Labor, the Agency of Commerce and Community Development, the Department of Taxes, the Agency of Digital Services, and other stakeholders, shall review and consider the necessary procedural and substantive steps and shall submit to the General Assembly on or before December 15, 2018, a design proposal, including a timeline, for an easily navigable portal for businesses, entrepreneurs, and citizens to access information about starting and operating a business in Vermont, with an emphasis on small business, and to enable registration with all required State entities with a single login without duplicating data entry.

(b) The Secretary shall consider and integrate to the extent feasible features that:

(1) enhance the State's website to simplify registration and offer a clear compilation of State permitting rules;

(2) simplify the mechanism for making payments to the State, by allowing a person to pay amounts he or she owes to the State for taxes, fees, or other charges, to a single recipient within government;

(3) simplify annual filing requirements by allowing a person to make a single filing to a single recipient within government and simply to check a box if nothing substantive has changed from the prior year; and

(4) provide mentoring, assistance with navigating the process, and more direct support to small businesses, whether by designating an existing position

or creating a new position within either the Office of the Secretary of State or another government entity, and to offer technical guidance, information, and other support to persons who are forming or operating a small business;

(5) after registration, guide the user through secondary requirements and send follow-up e-mail with links to additional services, frequently asked questions, and a point of contact to discuss questions or explore any assistance needed;

(6) provide guidance and links to State, partner organization, and federal programs and initiatives;

(7) provide links to other Vermont-based businesses of interest; and

(8) create a tool set for ongoing communication and updates, including digital channels such as e-mail, social media, and other communications.

Sec. 2. 11 V.S.A. § 1625a is added to read:

§ 1625a. ONE-STOP WEB PORTAL SURCHARGE

(a) In addition to the fee imposed on a business organization at the time of filing its annual report pursuant to the applicable section of this title or Titles 11A-11C of the Vermont Statutes Annotated, the Secretary of State shall collect a surcharge in the amount of \$2.00, which the Secretary shall maintain in a segregated account and use for the purpose of developing and implementing a one-stop navigable portal for businesses, entrepreneurs, and citizens to access information about starting a business in Vermont and to provide ongoing support to businesses interfacing with State government.

(b) The Secretary shall focus the services available pursuant to this section primarily on businesses with fewer than 20 employees.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

**Reported favorably by Senator Sirotkin for the Committee on Finance.**

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs and when so amended ought to pass.

(Committee vote: 7-0-0)

**Reported without recommendation by Senator Starr for the Committee on Appropriations.**

(Committee voted: 7-0-0)

**S. 94.**

An act relating to promoting remote work and flexible work arrangements.

**Reported favorably with recommendation of amendment by Senator Balint for the Committee on Economic Development, Housing and General Affairs.**

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

Sec. 1. 32 V.S.A. chapter 151, subchapter 11P is added to read:

Subchapter 11P. New Remote Worker Tax Credit

§ 5930pp. NEW REMOTE WORKER TAX CREDIT

(a) As used in this section:

(1) “New remote worker” means an individual who:

(A) is a full-time employee of a business with its domicile or primary place of business outside Vermont;

(B) becomes a full-time resident of this State on or after January 1, 2019; and

(C) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(2) “Qualifying remote worker expenses” means a new remote worker’s actual costs incurred for one or more of the following that are necessary to perform his or her employment duties:

(A) relocation to this State;

(B) computer software and hardware;

(C) broadband access or upgrade;

(D) membership in a co-working or similar space;

(E) child care; and

(F) student loan repayment.

(b)(1) A new remote worker shall be eligible for a nonrefundable credit against the income tax liability imposed under this chapter for qualifying remote worker expenses in the amount of not more than \$2,000.00 per year for up to five years, not to exceed \$10,000.00 per new remote worker.

(2)(A) The Agency of Commerce and Community Development shall develop a process to certify new remote workers for eligibility for a credit under this section.

(B) Upon certifying that a new remote worker meets the eligibility requirements of this section and his or her qualifying expenses for a tax year, the Agency shall issue to the new remote worker a credit certificate for the amount of his or her qualifying expenses, which the new remote worker shall file with his or her tax return.

(3) The Agency shall annually award credit certificates on a first-come, first-served basis, up to \$1,000,000.00 in total credits per year.

(c) A new remote worker may:

(1) first claim a credit under this section in the tax year following the year in which he or she becomes a resident of this State;

(2) claim an additional credit in each of the subsequent four tax years, provided he or she remains a resident of this State and a full-time remote worker; and

(3) carry forward the amount of any unused credit for five tax years.

(d) The Agency of Commerce and Community Development shall:

(1) promote awareness of the new remote worker tax credit authorized in this section; and

(2) adopt measurable goals, performance measures that demonstrate results, and an audit strategy to assess the utilization and performance of the credit authorized in this section.

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

(a) The Secretary of Commerce and Community Development, in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services, and other interested stakeholders, shall identify and examine the infrastructure improvements and other support needed to enhance the ability of businesses to establish a remote presence in Vermont and to allow Vermonters and businesses developing from maker spaces, co-working spaces, remote work hubs, and innovation spaces to work and provide services remotely.

(b) Based on his or her findings, and in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services, and other interested stakeholders, the Secretary shall develop a program to address the needs identified pursuant to subsection (a) of this section.

(c) Specifically, the program shall:

(1) address the infrastructure needs of remote workers and businesses developing from generator spaces;

(2) promote and facilitate the use of remote worksites and maker spaces, co-working spaces, remote work hubs, and innovation spaces;

(3) encourage out-of-state companies to use remote workers in Vermont;

(4) reduce the administrative and regulatory burden on businesses employing remote workers in Vermont;

(5) increase the ease of start-up companies finding remote work or maker spaces, co-working spaces, remote work hubs, and innovation spaces in the State; and

(6) support the interconnection of current and future maker spaces, co-working spaces, remote work hubs, and innovation spaces in this State.

(d) On or before January 15, 2019, the Secretary shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a written report detailing:

(1) his or her findings, plan, and any recommendations for legislative action to implement the plan; and

(2) policy changes to improve the climate for remote workers, including zoning measures, insurance and liability issues, workforce training needs, broadband access, access to co-working spaces, and an assessment of environmental implications of working remotely.

### Sec. 3. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

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

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

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

### Sec. 4. BROADBAND AVAILABILITY FOR REMOTE WORKERS

On or before January 15, 2019, the Director of Telecommunications and



Connectivity, in consultation with the Agency of Commerce and Community Development, shall submit with the annual report required by 30 V.S.A. § 202e findings and recommendations concerning:

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

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

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to remote work.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In Sec. 1, in 32 V.S.A. § 5930pp(b)(3) by striking out “\$1,000,000.00” and inserting in lieu thereof \$250,000.00

(Committee vote: 7-0-0)

**Reported favorably with recommendation of amendment by Senator Starr for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended by the Committee on Finance, with the following amendment thereto:

By striking out Sec. 1 in its entirety and inserting a new Sec. 1 to read:

#### Sec. 1. NEW REMOTE WORKER GRANT PROGRAM

(a) As used in this section:

(1) “New remote worker” means an individual who:

(A) is a full-time employee of a business with its domicile or primary place of business outside Vermont;

(B) becomes a full-time resident of this State on or after January 1, 2019; and

(C) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(2) “Qualifying remote worker expenses” means a new remote worker’s actual costs incurred for one or more of the following that are necessary to perform his or her employment duties:

(A) relocation to this State;

(B) computer software and hardware;

(C) broadband access or upgrade; and

(D) membership in a co-working or similar space.

(b)(1) The Agency of Commerce and Community Development shall have the authority to design and implement the New Remote Worker Grant Program, which shall include a process to certify new remote workers and certify qualifying expenses for a grant under this section.

(2) A new remote worker may be eligible for a grant under the Program for qualifying remote worker expenses in the amount of not more than \$2,000.00 per year for up to five years, not to exceed \$10,000.00 per new remote worker.

(3) The Agency may annually award grants under the Program on a first-come, first-served basis, up to \$250,000.00 in total grants per year, subject to available funding.

(c) If the Agency implements the Program pursuant to this section, it shall:

(1) promote awareness of the Program; and

(2) adopt measurable goals, performance measures that demonstrate results, and an audit strategy to assess the utilization and performance of the Program.

(Committee vote: 5-1-1)

### **S. 253.**

An act relating to Vermont’s adoption of the Interstate Medical Licensure Compact.

**Reported favorably with recommendation of amendment by Senator Ingram for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended by striking out Sec. 2, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 2. 3 V.S.A. § 123(j)(1) is amended to read:

(j)(1) The Office may inquire into the criminal background histories of applicants for licensure and for biennial license renewal for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter ~~59~~ 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59; ~~and~~

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; ~~and~~

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.

Sec. 3. 26 V.S.A. § 1404 is added to read:

§ 1404. APPLICANT FOR EXPEDITED LICENSURE; FINGERPRINT DATA

(a) An applicant for expedited licensure pursuant to section 1420e of this chapter shall submit a full set of fingerprints to the Board for the purpose of obtaining State and federal criminal background checks pursuant to subdivision 1420e(b)(2) of this chapter. The Department of Public Safety may exchange fingerprint data with the Federal Bureau of Investigation.

(b) Communications between the Board and the Interstate Medical Licensure Compact Commission regarding verification of physician eligibility for licensure under the Interstate Medical Licensure Compact shall not include any information received from the Federal Bureau of Investigation related to State and federal criminal background checks performed for the purposes of subdivision 1420e(b)(2) of this chapter.

Sec. 4. EFFECTIVE DATE

This act shall take effect on January 1, 2020.

(Committee vote: 5-0-0)

**Reported favorably by Senator Lyons for the Committee on Finance.**

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare and when so amended ought to pass.

(Committee vote: 7-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

By adding two new sections to be Secs. 3a and 3b to read as follows:

Sec. 3a. 26 V.S.A. § 1401a(d) is added to read:

(d) If at any time an assessment is imposed on the State for its membership in the Interstate Medical Licensure Compact Commission pursuant to section 1420m of this title, the Board and the Board of Osteopathic Physicians and Surgeons shall assume responsibility for paying the assessment from their respective special funds in proportional amounts based on their numbers of licensees for professions eligible for licensure through the Compact.

Sec. 3b. 26 V.S.A. § 1794 is amended to read:

§ 1794. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

\* \* \*

(b) If at any time an assessment is imposed on the State for its membership in the Interstate Medical Licensure Compact Commission pursuant to section 1420m of this title, the Board and the Board of Medical Practice shall assume responsibility for paying the assessment from their respective special funds in proportional amounts based on their numbers of licensees for professions eligible for licensure through the Compact.

(Committee vote: 7-0-0)

### **S. 257.**

An act relating to miscellaneous changes to education law.

**Reported favorably with recommendation of amendment by Senator Baruth for the Committee on Education.**

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

\* \* \* Out-of-state Independent Schools \* \* \*

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

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

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

(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an

independent school meeting education quality standards, to be selected by the parents or guardians of the student, ~~within or outside the State~~; or

\* \* \*

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

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

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

(1) a public school;

(2) an approved independent school, in Vermont;

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

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

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

(6) an independent school in another state ~~or country~~ approved under the laws of that state ~~or country~~, ~~nor shall payment~~ that is either:

(A) contiguous to Vermont; or

(B) in a state that pays publicly funded tuition for its resident students to attend a public or approved independent school in Vermont; or

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

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

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

Sec. 3. TRANSITION

Notwithstanding Sec. 2 of this act, a school district may pay tuition on behalf of a student to an approved independent school that is located in a state that is not contiguous to Vermont or in a state that does not pay publicly funded tuition for its resident students to attend a public or approved independent school in Vermont if, during the 2017-2018 school year, the student attended that school; provided that tuition shall be paid for no more than four years after enactment of this act.

\* \* \* Dual Enrollment; Parochial Schools \* \* \*

Sec. 4. 16 V.S.A. § 944 is amended to read:

§ 944. DUAL ENROLLMENT PROGRAM

(a) Program creation. There is created a the statewide Dual Enrollment Program to be a potential component of a student's flexible pathway. The Program shall include college courses offered on the campus of an accredited postsecondary institution and college courses offered by an accredited postsecondary institution on the campus of a secondary school. The Program may include online college courses or components.

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not received a high school diploma is eligible to participate in the Program if:

(A) the student:

(i) is enrolled in:

(I) a Vermont public school, including a Vermont career technical center;

(II) a public school in another state or an approved independent school that is designated as the public secondary school for the student's district of residence; or

(III) an approved independent school in Vermont ~~to which the student's district of residence pays publicly funded tuition on behalf of the student;~~

(ii) is assigned to a public school through the High School Completion Program; or

(iii) is a home study student;

\* \* \*

\* \* \* Child Abuse and Neglect Hotline \* \* \*

Sec. 5. 16 V.S.A. § 914 is added to read:

§ 914. CHILD ABUSE AND NEGLECT HOTLINE

Each public school and each independent school shall post, in a place clearly visible to students and on its website, the toll-free telephone number operated by the Department for Children and Families to receive reports of child abuse and neglect and directions for accessing the office of the Department for Children and Families. The postings shall be in English and Spanish.

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

Sec. 6. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

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

(1) promptly inform the State Board;

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

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

\* \* \*

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

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

\* \* \*

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

~~(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and~~

~~(2) contribute on an equitable basis and in a manner determined in the~~

~~sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section. If an institution of higher education is placed on probation for financial reasons by its accrediting agency, the institution shall, not later than two days after learning that it has been placed on probation, inform the State Board of Education of its status, and not later than 90 days after being place on probation, shall submit a student record plan to the State Board for approval.~~

(2) The student record plan shall include an agreement with an institution of higher education or other entity to act as a repository for the institution's records with funds set aside, if necessary, for the permanent maintenance of the student records.

(3) If the State Board does not approve the plan, the State may take action under subsections (d) and (e) of this section.

\* \* \* Interstate School District \* \* \*

## Sec. 7. INTERSTATE SCHOOL DISTRICT

In order to increase educational opportunities for students in the Stamford school district, and given the geographic and other challenges involved in merging the Stamford school district with another Vermont school district, the General Assembly supports the creation of an interstate school district that would combine the Stamford school district with the Clarksburg, Massachusetts, school district.

\* \* \* Elections to Unified Union School District Board \* \* \*

## Sec. 8. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

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

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

(c) This section is repealed on July 1, 2019.



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

Sec. 9. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

\* \* \*

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

\* \* \*

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

Sec. 10. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION

(a) Definitions. As used in this section:

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

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

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

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

(3) ~~“Prequalified private~~ Private provider” means a private provider of prekindergarten education that is ~~qualified pursuant to subsection (c) of this section~~ regulated as a center-based child care program or family child care home to provide child care by the Child Development Division of the Department for Children and Families.

(4) “Public provider” means a provider of prekindergarten education that is a school district.

(b) Access to publicly funded prekindergarten education.

(1) ~~No~~ Not fewer than ten hours per week of publicly funded

prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, ~~prequalified~~ prekindergarten education program operated by a public school or a private provider.

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

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

(i)(A) a ~~prequalified~~ private provider located in Vermont; or

(ii)(B) a Vermont public school that operates a prekindergarten education program whether located inside or outside the district that operates a prekindergarten program that has been prequalified pursuant to subsection (c) of this section; or

(B) ~~enroll the child in the prekindergarten education program that it operates in which the child resides.~~

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

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

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

(1) ~~A program of prekindergarten education, whether provided by a~~

~~school district or a private provider, shall have received private provider shall meet minimum program quality by:~~

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

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

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

~~(B)(i) for a private provider that is regulated as a center-based child care program, employing or contracting for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title who is present at the private provider's program site during the hours that are publicly funded; or~~

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

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

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

~~(B) meeting safety and quality rules adopted by the State Board of Education.~~

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

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

(1) On behalf of a resident prekindergarten child, ~~a district~~ the Secretary shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a ~~prequalified~~ private provider or to a public school ~~outside the district that is prequalified pursuant to subsection (c) of this section; provided, however, that the district shall pay tuition for weeks that are within the district's academic year~~ provider. Tuition Notwithstanding subsection 4025(d) of this title, tuition paid under this section shall be paid from the Education Fund at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the Agencies Agency of Education and of Human Services. A district shall pay tuition upon The Secretary shall establish procedures for payment of tuition to public and private providers that require, at a minimum, receiving:

(A) ~~receiving annual~~ notice from the child's parent or guardian that the child is or will be admitted to the chooses to participate in a publicly funded prekindergarten education program operated by the prequalified public or private provider or the other district; and

(B) ~~concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining average daily membership~~ notice from the public or private provider that the child is enrolled in its program; and

(C) a request for reimbursement from the public or private provider that reports enrollment for the period covered by the request and certifies that the provider is eligible for public funding under subsection (c) of this section for the period covered by the request.

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

(3) Pursuant to subdivision 4001(1)(C) of this title, ~~the district of residence~~ a district in which the child resides may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education ~~or on whose behalf it has paid tuition pursuant to this section~~ in excess of ten hours per week for 35 weeks annually and the district shall not charge tuition for these educational services.

(4)(3) A prequalified private provider, or a public provider that is not the child's district of residence, may receive additional payment directly from

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

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

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

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

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

~~(4) To establish a process by which:~~

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

~~(B) a district:~~

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

~~(ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; and~~

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

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

~~(6) [Repealed.]~~

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

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

~~(9) To provide an administrative process for:~~

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

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

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

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

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

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

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

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

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

(1) To require that the Secretary provide opportunities for effective parental participation in the prekindergarten education program.

(2) To establish a process by which tuition payments are requested and made that includes the conditions in subdivisions (d)(1)(A)–(C) of this section.

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

(4) To provide an administrative process for:

(A) a parent or guardian to challenge a provider’s action or inaction with respect to enrollment or billing; and

(B) a provider to appeal a decision of the Secretary not to pay a request for reimbursement.

(5) To establish a system by which the Secretary shall evaluate implementation of publicly funded prekindergarten education programs to promote optimal results for children that support the relevant population-level outcomes set forth in 3 V.S.A. § 2311 and collect data that will inform future decisions. The Secretary shall report annually to the General Assembly in January on the prior year. At a minimum, the system shall evaluate:

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

(B) the quality criteria of public and private kindergarten education programs, training, and technical assistance; and

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

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

- (A) help individualize instruction and improve program practice; and
- (B) collect and report child progress data as required by the Secretary on an annual basis.

(7) To establish safety and quality requirements for public providers. In establishing these safety and quality requirements, the Secretary shall consult with the Agency of Human Services and recommend to the State Board safety and quality requirements that align with the requirements for private providers, except to the extent that the Secretary determines that there are compelling reasons that are unique to the public school environment that justify applying different requirements.

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

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

~~(h) Geographic limitations.~~

~~(1) Notwithstanding the requirement that a district pay tuition to any prequalified public or private provider in the State, a school board may choose to limit the geographic boundaries within which the district shall pay tuition by paying tuition solely to those prequalified providers in which parents and guardians choose to enroll resident prekindergarten children that are located within the district's "prekindergarten region" as determined in subdivision (2) of this subsection.~~

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

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

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

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



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

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

Sec. 11. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

(1) "Average daily membership" of a school district, or if needed in order to calculate the appropriate homestead tax rate, of the municipality as defined in 32 V.S.A. § 5401(9), in any year means:

\* \* \*

~~(C) The full-time equivalent enrollment for each prekindergarten child as follows: If a child is enrolled in 10 or more hours of prekindergarten education per week or receives 10 or more hours of essential early education services per week, the child shall be counted as one full-time equivalent pupil. If a child is enrolled in six or more but fewer than 10 hours of prekindergarten education per week or if a child receives fewer than 10 hours of essential early education services per week, the child shall be counted as a percentage of one full-time equivalent pupil, calculated as one multiplied by the number of hours per week divided by ten. A child enrolled in prekindergarten education for fewer than six hours per week shall not be included in the district's average daily membership enrolled in excess of ten hours in a public school in the district in which the child resides prorated to reflect the hours of education provided by the school up to an additional ten hours. There is no limit on the total number of children who may be enrolled in prekindergarten education or who receive essential early education services.~~

\* \* \*

Sec. 12. 33 V.S.A. § 3502 is amended to read:

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

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

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

\* \* \*

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

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

\* \* \*

Sec. 13. 16 V.S.A. § 11 is amended to read:

#### § 11. CLASSIFICATIONS AND DEFINITIONS

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

\* \* \*

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

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

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

\* \* \*

\* \* \* School Radon Mitigation Study Committee \* \* \*

#### Sec. 14. SCHOOL RADON MITIGATION STUDY COMMITTEE

(a) Creation. There is created the School Radon Mitigation Study Committee to explore funding opportunities for the mitigation of elevated radon concentrations in schools and contingency plans for the loss of related federal funding.

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

(1) the State Treasurer or designee;

(2) the Secretary of Education or designee;

(3) the Commissioner of Health or designee;

(4) a member appointed by the State School Boards Association;

(5) a member appointed by the Vermont Superintendents Association;

(6) a member appointed by the Vermont Independent Schools Association; and

(7) a radon mitigation professional certified for testing and mitigation by the National Radon Proficiency Program, appointed by the Director of the Department of Labor's Workers' Compensation and Safety Division.

(c) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(d) Report. On or before December 15, 2018, the Committee shall submit a written report to the House and Senate Committees on Education containing viable options for funding the mitigation of elevated radon concentrations in schools.

(e) Meetings.

(1) The State Treasurer or designee shall call the first meeting of the Committee to occur on or before October 1, 2018.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) The Committee shall cease to exist on December 31, 2018.

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

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

#### Sec. 15. EFFECTIVE DATES

(a) Secs. 9-13 shall take effect on July 1, 2019.

(b) The remaining sections shall take effect on July 1, 2018.

(Committee vote: 6-0-0)

**Reported favorably by Senator Campion for the Committee on Finance.**

The Committee recommends that the bill be amended as recommended by the Committee on Education and when so amended ought to pass.

(Committee vote: 7-0-0)

**Amendment to the recommendation of amendment of the Committee on Education to S. 257 to be offered by Senators Baruth, Balint, Benning, Branagan, Bray and Ingram**

Senators Baruth, Balint, Benning, Branagan, Bray and Ingram move to amend the recommendation of amendment of the Committee on Education as follows:

First: In Sec. 2, 16 V.S.A. § 828, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read:

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

(1) a public school;

(2) an approved independent school in Vermont;

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

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

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

(6) an independent school in another state ~~or country~~ approved under the laws of that state ~~or country~~, ~~nor shall payment~~ that is either:

(A) contiguous to Vermont; or

(B) in a state that pays publicly funded tuition for its resident students to attend a public or approved independent school in Vermont;

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

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

Second: By striking out Sec. 3 in its entirety and inserting in lieu thereof a new Sec. 3 to read:

Sec. 3. TRANSITION

Notwithstanding Sec. 2 of this act, a school district may pay tuition on

behalf of a student to a school located in another country or to an approved independent school that is located in a state that is not contiguous to Vermont or in a state that does not pay publicly funded tuition for its resident students to attend a public or approved independent school in Vermont if, during the 2017-2018 school year, the student attended that school; provided, however, that tuition shall be paid for not more than four years after enactment of this act.

Third, in Sec.14 by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

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

(1) the Secretary of Education or designee;

(2) the Commissioner of Health or designee;

(3) a member appointed by the State School Boards Association;

(4) a member appointed by the Vermont Superintendents Association;

(5) a member appointed by the Vermont Independent Schools Association; and

(6) a radon mitigation professional certified for testing and mitigation by the National Radon Proficiency Program, appointed by the Director of the Department of Labor's Workers' Compensation and Safety Division.

Fourth, in Sec.14 by striking out subdivision (e)(1) in its entirety and inserting in lieu thereof a new subdivision (e)(1) to read:

(1) The Secretary of Education or designee shall call the first meeting of the Committee to occur on or before October 1, 2018.

#### **S. 260.**

An act relating to funding the cleanup of State waters.

**Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.**

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

\* \* \* Clean Water Planning, Funding, and Implementation Committee \* \* \*

#### Sec. 1. FINDINGS

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

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

(2) Current assessment of State waters or water segments indicates that there are:

(A) 101 waters or water segments that do not meet the State's water quality standards for at least one criterion and require a plan for cleanup;

(B) 114 waters or water segments that are impaired due to a pollutant and that do have a current cleanup plan, but which may not be meeting water quality standards;

(C) 114 waters or water segments that are stressed, meaning that there are one or more factors or influences that prohibit the water from maintaining a higher quality; and

(D) at least 56 waters that are altered due to aquatic nuisance species, meaning that one or more of the designated uses of the water are prohibited due to the presence of aquatic nuisance species.

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

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

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

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

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

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

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

(6) After determining that a method to achieve equitable and effective long-term funding methods to support clean water efforts in Vermont was

necessary, the General Assembly established in 2017 Acts and Resolves No. 73, Sec. 26 the Working Group on Water Quality Funding to develop draft legislation to accomplish this purpose, but the Working Group on Water Quality Funding failed to comply with its statutory charge.

(7) The U.S. Environmental Protection Agency (EPA) testified to the General Assembly that the State of Vermont was overdue in establishing a long-term revenue source to support water quality improvement that the EPA required of Vermont in the accountability framework of the Lake Champlain Total Maximum Daily Load plan.

(8) To ensure that the State has sufficient funds to clean and protect the State's waters so that they will continue to provide their integral and inherent environmental and economic benefits, the State should commit to achieving what the Act 73 Working Group on Water Quality failed to accomplish by requiring the Clean Water Board and a legislative study committee to recommend separately to the General Assembly draft legislation to establish equitable and effective long-term funding methods to support clean water efforts in Vermont.

## Sec. 2. LEGISLATIVE CLEAN WATER PLANNING, FUNDING, AND IMPLEMENTATION COMMITTEE

(a) Creation. There is created the Clean Water Planning, Funding, and Implementation Committee to recommend to the General Assembly draft legislation to establish an equitable and effective long-term funding method for:

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

(2) coordinating water quality financing in the State;

(3) planning for the water quality financing needs of the State; and

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

(b) Membership. The Clean Water Planning, Funding, and Implementation Committee shall be composed of the following six members:

(1) the Chair of the Senate Committee on Appropriations or designee;

(2) the Chair of the House Committee on Appropriations or designee;

(3) the Chair of the Senate Committee on Natural Resources and Energy or designee;

(4) the Chair of the House Committee on Natural Resources, Fish, and Wildlife or designee;

(5) the Chair of the Senate Committee on Finance or designee; and

(6) the Chair of the House Committee on Ways and Means or designee.

(c) Powers and duties. The Clean Water Planning, Funding, and Implementation Committee shall study the following issues:

(1) Whether and how the State should establish an independent authority to coordinate, plan, and finance water quality programs and projects across State government.

(2) How to develop a financing plan for water quality programs and projects in the State that will generate revenue sufficient to fund the following State obligations:

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

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

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

(3)(A) How the State will raise the revenue or reduce existing expenditures to enable an equivalent level of support necessary to fund fully a financing plan for water quality that:

(i) meets the State's obligations;

(ii) maintains a water quality budget that is not less than the funding provided in fiscal year 2019 and that is capable of meeting an equivalent level of support, adjusted for inflation, for fiscal years 2020 through 2024; and

(iii) includes how a per parcel fee or other fee shall be assessed to property owners in a manner that corresponds to the effect of the parcel on water quality.

(B) In determining how a fee will be assessed to a property, the Committee shall consider whether the fee should account for:

(i) the size of the parcel;

(ii) the location of the parcel;

(iii) whether the parcel or use of the parcel contributes to an impairment of a water of the State or otherwise adversely affects water quality;

(iv) the surface coverage of the parcel, including the amount of impervious surface on the parcel, the amount of cropland or forestland on the parcel, or the number of residential, commercial, or industrial structures on the parcel;



(v) stormwater treatment practices or other water quality measures implemented on the parcel;

(vi) whether to provide credits or reduced charges for payment of a municipal stormwater utility fee or other similar water quality charge; and

(vii) whether the enforcement history or continuing violation of a parcel owner shall be a basis for an adjustment to a fee.

(4) How the State would most efficiently assess and collect a fee on property owners contributing to water quality issues in the State.

(5) Whether the State should adopt by rule a system of priorities for issuance of water quality grants or other financing from the Clean Water Fund and other State-administered financing programs, including whether priorities should be adjusted based on:

(A) the condition of the waters affected by the project, activity, or program;

(B) whether a project will address water quality issues identified in a basin plan;

(C) whether the project will abate or control pollution that is causing or may cause a threat to public health;

(D) whether the project will address an emergency situation affecting or constituting a threat to the environment or the public health, safety, or welfare;

(E) whether the project will address an agricultural water quality issue for which other sources of funds are unavailable;

(F) the fiscal integrity and sustainability of the project, including whether the project is a cost-effective alternative when compared to other alternatives;

(G) if the project removes a pollutant by which the water or waters affected by the project are impaired, the cost-effectiveness of the project at removing that pollutant; and

(H) income or financial resources available to an applicant to conduct the proposed project.

(6) How the State should maintain accountability of the efforts of the State to clean up impaired waters, maintain and achieve the Vermont Water Quality Standards in all waters, and prevent the future degradation of waters.

(d) Assistance. The Clean Water Planning, Funding, and Implementation Committee shall have the administrative, technical, legal, and fiscal assistance

of the Office of Legislative Council and the Joint Fiscal Office. The Committee shall also be entitled to seek financial, technical, and scientific input or services from the Office of the State Treasurer, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, the Vermont Center for Geographic Information Services, the Agency of Commerce and Community Development, and the Department of Taxes.

(e) Report. On or before November 15, 2018, the Clean Water Planning, Funding, and Implementation Committee shall submit to the General Assembly draft legislation that addresses the issues set forth under subsection (c) of this section.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Clean Water Planning, Funding, and Implementation Committee to occur on or before August 1, 2018.

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

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

(4) The Clean Water Planning, Funding, and Implementation Committee shall cease to exist on February 1, 2019.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Clean Water Planning, Funding, and Implementation Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

\* \* \* Clean Water Board \* \* \*

Sec. 3. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation.

(1) There is created the Clean Water Fund Board which that shall:

(A) be responsible and accountable for advising the General Assembly regarding planning, coordinating, and financing of the remediation, improvement, and protection of the quality of State waters;

(B) recommend to the Secretary of Administration expenditures General Assembly:

(i) appropriations from the Clean Water Fund, including appropriate block grant amounts from the Agency of Natural Resources' River Basin Block Grant Program; and

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

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

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

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

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

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

(5) the Secretary of Transportation or designee; and

(6) four members of the public, who are not legislators, with expertise in one or more of the following subject matters: public management, civil engineering, agriculture, ecology, wetlands, stormwater system management, forestry, transportation, law, banking, finance, and investment, to be appointed as follows:

(A) the Speaker of the House shall appoint two members of the public; and

(B) the Committee on Committees shall appoint two members of the public.

(c) Officers; committees; rules.

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

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

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

(1) Annually, on or before December 15, the Clean Water Board shall submit to the General Assembly a plan for the appropriation of all State water quality revenues in a manner that:

(A) maintains a water quality budget that is not less than the funding provided in fiscal year 2019 and that is capable of meeting an equivalent level of support, adjusted for inflation, for fiscal years 2020 through 2024; and

(B) adequately funds the following State obligations in the subsequent fiscal years:

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

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

(iii) the Agency of Natural Resources' Combined Sewer Overflow Rule.

(2) The Clean Water Fund Board shall recommend to the Secretary of Administration General Assembly the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306 financing the Board's recommended annual financing plan. The recommendations shall include a recommended appropriation to the Agency of Natural Resources' River Basin Block Grant Program under section 1389c of this title. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

~~(2)~~(3) The Clean Water Fund Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

~~(3)~~(4) The Clean Water Fund Board shall:

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

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

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

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

(E) solicit, consult with, and accept public comment from

organizations interested in improving water quality in Vermont regarding recommendations under this subsection (d) for the allocation of funds from the Clean Water Fund.

(e) Priorities.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Sec. 4. CLEAN WATER BOARD RECOMMENDED DRAFT LEGISLATION; WATER QUALITY FUNDING METHOD

(a) On or before November 15, 2018, the Clean Water Board shall submit to the General Assembly draft legislation to establish an equitable and effective long-term funding method for:

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

(2) coordinating water quality financing in the State;

(3) planning for the water quality financing needs of the State; and

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

(b) In developing the draft legislation required under subsection (a) of this section, the Clean Water Board shall study the following issues:

(1) Whether and how the State should establish an independent authority to coordinate, plan, and finance water quality programs and projects across State government.

(2) How to develop a financing plan for water quality programs and projects in the State that will generate revenue sufficient to fund the following State obligations:

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

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

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

(3)(A) How the State will raise the revenue or reduce existing State expenditures to enable an equivalent level of support necessary to fund fully a financing plan for water quality that:

(i) meets the State's obligations;

(ii) maintains a water quality budget that is not less than the funding provided in fiscal year 2019 and that is capable of meeting an equivalent level of support, adjusted for inflation, for fiscal years 2020 through 2024; and

(iii) includes how a per parcel fee or other fee shall be assessed to property owners in a manner that corresponds to the effect of the parcel on water quality.

(B) In determining how a fee will be assessed to a property, the Committee shall consider whether the fee should account for:

(i) the size of the parcel;

(ii) the location of the parcel;

(iii) whether the parcel or use of the parcel contributes to an impairment of a water of the State or otherwise adversely affects water quality;

(iv) the surface coverage of the parcel, including the amount of impervious surface on the parcel, the amount of cropland or forestland on the parcel, or the number of residential, commercial, or industrial structures on the parcel;

(v) stormwater treatment practices or other water quality measures implemented on the parcel;

(vi) whether to provide credits or reduced charges for payment of a municipal stormwater utility fee or other similar water quality charge; and

(vii) whether the enforcement history or continuing violation of a parcel owner shall be a basis for an adjustment to a fee.

(4) How the State would most efficiently assess and collect a fee on property owners contributing to water quality issues in the State.

(5) Whether the State should adopt by rule a system of priorities for issuance of water quality grants or other financing from the Clean Water Fund and other State-administered financing programs, including whether priorities should be adjusted based on:

(A) the condition of the waters affected by the project, activity, or program;

(B) whether a project will address water quality issues identified in a basin plan;

(C) whether the project will abate or control pollution that is causing or may cause a threat to public health;

(D) whether the project will address an emergency situation affecting or constituting a threat to the environment or the public health, safety, or welfare;

(E) whether the project will address an agricultural water quality issue for which other sources of funds are unavailable;

(F) the fiscal integrity and sustainability of the project, including whether the project is a cost-effective alternative when compared to other alternatives;

(G) if the project removes a pollutant by which the water or waters affected by the project are impaired, the cost-effectiveness of the project at removing that pollutant; and

(H) income or financial resources available to an applicant to conduct the proposed project.

(6) How the State should maintain accountability of the efforts of the State to clean up impaired waters, maintain and achieve the Vermont Water Quality Standards in all waters, and prevent the future degradation of waters.

\* \* \* ANR River Basin Block Grant \* \* \*

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

§ 1389c. RIVER BASIN BLOCK GRANT PROGRAM

(a) Establishment. There is established within the Agency of Natural Resources the River Basin Block Grant Program to fund annually in each of the river basins of the State water quality programs and projects that restore and protect the waters of the State.

(b) Eligible entities; programs and projects.



(1) River basin cooperative councils, regional planning commissions, natural resources conservation districts, nonprofit associations, citizen groups, and municipalities are eligible to apply for a river basin block grant.

(2) One or more of following shall be eligible for funding under a block grant issued under this section:

(A) a water quality program or project identified in the tactical basin plan for a river basin;

(B) a water quality program or project to fund compliance with one or more of the following:

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

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

(iii) the requirements of 6 V.S.A. chapter 215; and

(iv) the Agency of Natural Resources' Combined Sewer Overflow Rule.

(c) Priorities. The Secretary, after consultation with the Secretary of Agriculture, Food and Markets, shall grant river basin block grants under this section to eligible parties for eligible projects on the basis of need within a river basin as determined according to a system of priorities adopted by procedure by the Secretary. In developing the system of priorities, the Secretary shall give additional weight to the following factors:

(1) whether the applicant is a river basin cooperative council;

(2) the need within a river basin for funding or administrative capacity to implement water quality programs or projects;

(3) whether a proposed program or project is identified within a tactical basin plan;

(4) the estimated nutrient pollutant reduction potential of the proposed program or project;

(5) the cost effectiveness of the program or project at removing the pollutant when compared to other alternatives; and

(6) the readiness of the program or project for timely implementation.

(d) Administrative costs. Each river basin block grant shall include funds eligible for use by the recipient for administrative costs or costs of providing technical services.

(e) Application. The Secretary of Natural Resources may establish requirements for application for a river basin block grant, including the manner of application and timing of applications.

(f) Performance measures. To ensure accountability of block grant recipients, each river basin block grant shall include performance measures.

(g) Report. As part of the Clean Water Investment report required under section 1389a of this title, the Clean Water Board shall report on the implementation of the River Basin Block Grant Program, including:

(1) the name and location of each river basin cooperative council sponsored project;

(2) the entity or organization implementing each river basin cooperative council sponsored project;

(3) the estimated reduction in the pollutant targeted for reduction or remediation by each river basin cooperative council sponsored project;

(4) the cost of each river basin cooperative council sponsored project; and

(5) administrative costs for each river basin cooperative council sponsored project as compared to all other costs of the project.

Sec. 6. 10 V.S.A. § 1389d is added to read:

§ 1389d. RIVER BASIN COOPERATIVE COUNCILS

(a) Formation. The State encourages the formation of River Basin Cooperative Councils within each river basin of the State to assist in the coordination, planning, implementation, and administration of water quality programs and projects within a river basin.

(b) Composition. A River Basin Cooperative Council shall comprise at a minimum the following members:

(1) the Agency of Natural Resources' tactical basin planner for the river basin;

(2) a representative of the regional planning commission or commissions in which the basin is located;

(3) a representative of the natural resource conservation district or districts in which the basin is located; and

(4) a representative of at least one community organization the primary purpose of which is water quality improvement in the river basin in which the organization is located.

(c) Authority; eligibility. A River Basin Cooperative Council shall have the authority to:

(1) apply for a river basin block grant under section 1389c of this title;

(2) allocate funds received in a river basin block grant to other entities, projects, or programs within the river basin, provided that:

(A) the recipient entity, project, or program is an eligible entity under the River Basin Block Grant Program;

(B) the funds are allocated in a manner consistent with the Agency of Natural Resources' system of priorities established under section 1389c of this title; and

(C) the River Basin Cooperative Council requires performance measures and maintains accountability for any funds allocated to an entity, project, or program; and

(3) implement or administer eligible water quality programs or projects funded by a river basin block grant.

(d) Limitation. Only one River Basin Cooperative Council shall be formed for each river basin of the State. The Secretary of Natural Resources shall approve a River Basin Cooperative Council for each river basin.

(e) Report. Annually, each River Basin Cooperative Council shall report to the Secretary of Natural Resources on the implementation of any river basin block grant it receives. The report shall include the following:

(1) the name and location of each river basin cooperative council sponsored project;

(2) the entity or organization implementing each river basin cooperative council sponsored project;

(3) the estimated reduction in the pollutant targeted for reduction or remediation by each river basin cooperative council sponsored project;

(4) the cost of each river basin cooperative council sponsored project; and

(5) administrative costs for each river basin cooperative council sponsored project as compared to all other costs of the project.

\* \* \* Citizen Right of Action \* \* \*

Sec. 7. 10 V.S.A. chapter 205 is added to read:

#### CHAPTER 205. CITIZEN RIGHT OF ACTION

##### § 8055. CITIZEN RIGHT OF ACTION

(a) Suit authorized. Except as provided in subsection (c) of this section, a person may commence a civil action for equitable or declaratory relief on the person's own behalf against one or more of the following persons:

(1) any person who is alleged to be in violation of any statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215;

(2) any person subject to regulation under this chapter who is alleged to be in violation of any statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under chapter 47 of this title;

(3) the Secretary of Agriculture, Food and Markets when there is an alleged failure of the Agency of Agriculture, Food and Markets to perform any act or duty under 6 V.S.A. chapter 215 that is not discretionary for the Secretary of Agriculture, Food and Markets or the Agency of Agriculture, Food and Markets; and

(4) the Secretary of Natural Resources when there is an alleged failure of the Agency of Natural Resources to perform any act or duty under chapter 47 of this title that is not discretionary for the Secretary of Natural Resources or the Agency of Natural Resources.

(b) Prerequisite to commencement of action. A person shall not commence an action under subsection (a) of this section prior to 60 days after the plaintiff has given notice of the violation to:

(1) the Secretary of Agriculture, Food and Markets for an action initiated under subdivision (a)(1) or (3) of this section;

(2) the Secretary of Natural Resources for an action initiated under subdivision (a)(2) or (4) of this section; and

(3) any person who is alleged to be in violation of a statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215 or under chapter 47 of this title.

(c) Action prohibited. A person shall not commence an action under subsection (a) of this section under either of the following circumstances:

(1) if the Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General has commenced and is diligently prosecuting a civil or criminal action to require compliance with a statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215 or under chapter 47 of this title; or

(2) if the alleged violator is diligently proceeding with complying with an assurance of discontinuance, corrective action, cease and desist order, or emergency administrative order issued under 6 V.S.A. chapter 215 or under chapter 201 of this title.

(d) Venue. A person shall bring an action under subsection (a) of this section in the Environmental Division of the Superior Court.

(e) Joinder; necessary parties.

(1) If a person brings an action in the Environmental Division of the Superior Court under subdivision (a)(1) of this section, the Secretary of Agriculture, Food and Markets shall be deemed a necessary party to the action and shall be joined as a party under Rule 19 of the Vermont Rules of Civil Procedure.

(2) If a person brings an action in the Environmental Division of the Superior Court under subdivision (a)(2) of this section, the Secretary of Natural Resources shall be deemed a necessary party to the action and shall be joined as a party under Rule 19 of the Vermont Rules of Civil Procedure.

(f) Intervention. In any action under subsection (a) of this section:

(1) Any person may intervene as a matter of right when the person seeking intervention claims an interest relating to the subject of the action and he or she is so situated that the disposition of the action may, as a practical matter, impair or impede his or her ability to protect that interest, unless the Secretary of Agriculture, Food and Markets or the Secretary of Natural Resources shows that the applicant's interest is adequately represented by existing parties.

(2) The Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General may intervene as a matter of right as a party to represent its interests.

(g) Notice of action. A person bringing an action under subsection (a) of this section shall provide the notice required under subsection (b) of this section in writing. The notice shall be served on the alleged violator in person or by certified mail, return receipt requested. The notice to the Secretary shall be served by certified mail, return receipt requested. The notice shall include a brief description of the alleged violation and identification of the statute, permit, certification, rule, permit condition, prohibition, or order that is the subject of the violation.

(h) Attorney's fees; costs. The Environmental Division of the Superior Court may award costs, including reasonable attorney's fees and fees for expert witnesses, to a person bringing an action under subsection (a) of this section when the court determines that the award is appropriate.

(i) Rights preserved. Nothing in this section shall be construed to impair or diminish any common law or statutory right or remedy that may be available to any person. Rights and remedies created by this section shall be in addition to any other right or remedy, including the authority of the State to bring an enforcement action separate from an action brought under this section. No determination made by a court in an action maintained under this section, to

which the State has not been a party, shall be binding upon the State in any enforcement action.

\* \* \* Required Agricultural Practices; Healthy Soils \* \* \*

Sec. 8. 6 V.S.A. § 4810a is amended to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) ~~On or before September 15, 2016, the~~ The Secretary of Agriculture, Food and Markets shall ~~file under 3 V.S.A. § 841 a final proposal of a rule amending~~ amend by rule the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the ~~amendments to the~~ required agricultural practices shall:

\* \* \*

(4) Establish standards for nutrient management on farms, including:

(A) required nutrient management planning on all farms that manage agricultural wastes;

(B) ~~recommended~~ required practices incorporated within a nutrient management plan for improving and maintaining soil quality and healthy soils in order to increase the capacity of soil to retain water, improve flood resiliency, reduce sedimentation, reduce reliance on fertilizers and pesticides, and prevent agricultural stormwater runoff, including requirements for tillage; and

(C) methods for complying with individual load allocations, if any, for a farm if required under a total maximum daily load plan or other remediation plan for an impaired water.

\* \* \*

Sec. 9. IMPLEMENTATION

On or before July 1, 2019, the Secretary of Agriculture, Food and Markets shall revise the Required Agricultural Practices to include the practices for improving and maintaining soil quality and healthy soils required under 6 V.S.A. § 4810a(a)(4).

\* \* \* Joint Lake Carmi Pilot Project \* \* \*

Sec. 10. AGENCY OF NATURAL RESOURCES AND AGENCY OF AGRICULTURE, FOOD AND MARKETS JOINT LAKE CARMİ PILOT PROGRAM FOR PHOSPHORUS MANAGEMENT

(a) Definitions. As used in this section:

(1) “Commercial feed” shall have the same meaning as in 6 V.S.A. § 323.

(2) “Custom formula feed” shall have the same meaning as in 6 V.S.A. § 323.

(3) “Farm” means a parcel or parcels of land used for farming.

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

(5) “Fertilizer” shall have the same meaning as in 6 V.S.A. § 363.

(6) “Manure” shall have the same meaning as in 6 V.S.A. § 4802.

(7) “Total nutrient sources” mean the sum of all commercial feed, custom formula feed, fertilizer, or manure used or produced by a farm.

(b) Farm-specific nutrient management.

(1) On or before July 1, 2018, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall develop individual water quality remediation plans for each farm within the Lake Carmi watershed. The water quality remediation plan shall:

(A) establish the annual tonnage of total nutrient sources that a farm may import, produce on, or apply to land in a year without increasing the phosphorus load in the waters to which the non-point source pollution from the farm runs off;

(B) specify measures or management practices that a farm may be required to implement in order to prevent an increase of phosphorus loads in the waters to which the non-point source pollution from the farm runs off; and

(C) require a farm to cover crop fields in the winter.

(2) Beginning on August 1, 2018, the owner or operator of a farm within the Lake Carmi watershed shall document the following on a monthly basis:

(A) the amount of total nutrient sources imported to, produced on, or applied to land in the prior 30 days on the farm; and

(B) implementation or administration of measures or management practices that a farm may be required to implement in order to prevent an increase of phosphorus loads.

(3) The owner or operator of a farm within the Lake Carmi watershed shall submit to the Secretary of Natural Resources the monthly documentation required under subdivision (2) of this subsection.

(c) Monitoring. The Secretary of Natural Resources shall conduct monitoring of the waters to which the non-point source pollution from each farm within the Lake Carmi watershed runs off.

(d) Best management practices. If monitoring conducted under subsection (c) of this section indicates increasing phosphorus loads in the waters due to non-point source pollution from a farm within the Lake Carmi watershed, the Secretary of Agriculture, Food and Markets shall require the farm to implement best management practices under 6 V.S.A. § 4810 to reduce runoff from the farm.

(e) Enforcement; appeal.

(1) The Secretary of Natural Resources may take action under 10 V.S.A. chapter 201 to enforce the requirements of this section.

(2) A person may appeal an act or decision of the Secretary under this section, excluding enforcement actions under 10 V.S.A. chapter 201 or 220.

(f) Term. A farm subject to the requirements of this section shall implement an individual water quality remediation plan until January 1, 2021, provided that the Secretary of Natural Resources may, by order, require a farm to continue implementation of the plan.

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

Sec. 11. AGENCY OF AGRICULTURE, FOOD AND MARKETS  
REPORT ON FARMING PRACTICES IN VERMONT

On or before January 15, 2019, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry a report regarding how to revise farming practice in Vermont in a manner that mitigates existing environmental impacts while maintaining economic viability. The report shall include recommendations for:

(1) building healthy soils;

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

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

(4) how to provide financial and technical support to facilitate the transition by farms to less-polluting practices, including:

(A) cover cropping;

(B) reduced tillage or no tillage;

(C) transition out of dairy farming through a whole-herd buyout program;



(D) how to accelerate the implementation of best management practices (BMPs);

(E) how to evaluate the effectiveness of using riparian buffers in excess of 25 feet;

(F) how to accelerate the use of direct manure injection;

(G) how to use crop rotations to build soil health, including limits on the planting of continuous corn; and

(H) how to eliminate, or at least reduce, the use of herbicides in the termination of cover crops.

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

## Sec. 12. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-1-0)

**Reported favorably with recommendation of amendment by Senator Collamore for the Committee on Agriculture.**

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

\* \* \* Clean Water Planning, Funding, and Implementation Committee \* \* \*

## Sec. 1. LEGISLATIVE CLEAN WATER PLANNING, FUNDING, AND IMPLEMENTATION COMMITTEE

(a) Creation. There is created the Clean Water Planning, Funding, and Implementation Committee to recommend to the General Assembly draft legislation to establish an equitable and effective long-term funding method for:

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

(2) coordinating water quality financing in the State;

(3) planning for the water quality financing needs of the State; and

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

(b) Membership. The Clean Water Planning, Funding, and Implementation Committee shall be composed of the following eight members:

(1) the Chair of the Senate Committee on Appropriations or designee;

- (2) the Chair of the House Committee on Appropriations or designee;
- (3) the Chair of the Senate Committee on Natural Resources and Energy or designee;
- (4) the Chair of the House Committee on Natural Resources, Fish, and Wildlife or designee;
- (5) the Chair of the Senate Committee on Finance or designee;
- (6) the Chair of the House Committee on Ways and Means or designee;
- (7) the Chair of the Senate Committee on Agriculture or designee; and
- (8) the Chair of the House Committee on Agriculture and Forestry or designee.

(c) Powers and duties.

(1) The Clean Water Planning, Funding, and Implementation Committee shall study how to develop a financing plan for water quality programs and projects in the State that will generate revenue sufficient to fund the following State obligations:

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

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

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

(2) In developing a financing plan for water quality programs and projects in the State under this subsection, the Committee shall:

(A) evaluate implementation of a per parcel fee or other revenue source that can be assessed equitably on all property in the State, based on the impact or effect of the property on water quality;

(B) base its revenue recommendation on maintaining a water quality budget that is not less than the funding provided in fiscal year 2019 and that is capable of meeting an equivalent level of support, adjusted for inflation, for fiscal years 2020 through 2024; and

(C) review whether the State Treasurer's estimate of State funding needs in the Clean Water Report in January 2017 should be revised or updated after fiscal 2024 due to economic conditions or due to the need to reflect the most effective measures to improve water quality.

(d) Assistance. The Clean Water Planning, Funding, and Implementation Committee shall have the administrative, technical, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office. The

Committee shall also be entitled to seek financial, technical, and scientific input or services from the Office of the State Treasurer, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, the Vermont Center for Geographic Information Services, the Agency of Commerce and Community Development, and the Department of Taxes.

(e) Report. On or before January 15, 2019, the Clean Water Planning, Funding, and Implementation Committee shall submit to the General Assembly draft legislation that addresses the issues set forth under subsection (c) of this section. The Clean Water Planning, Funding, and Implementation Committee shall cease to exist on February 1, 2019.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Clean Water Planning, Funding, and Implementation Committee to occur on or before August 1, 2018.

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

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

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Clean Water Planning, Funding, and Implementation Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

\* \* \* Clean Water Fund Board \* \* \*

Sec. 2. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation.

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

(A) appropriations from the Clean Water Fund; and

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

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

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

- (1) the Secretary of Administration or designee;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Secretary of Commerce and Community Development or designee;
- (5) the Secretary of Transportation or designee; and

(6) two members of the public who are not legislators, one of whom shall represent a municipality subject to the municipal separate storm sewer system (MS4) permit and one of whom shall represent a municipality that is not subject to the MS4 permit, appointed as follows:

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

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

(c) Officers; committees; rules.

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

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

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

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

and Forestry, and on Natural Resources, Fish and Wildlife a copy of any recommendations provided to the Governor.

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

(3) The Clean Water Fund Board shall:

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

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

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

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

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

(e) Priorities.

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

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

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

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

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

(E) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach,

demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;

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

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

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

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

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

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

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

Sec. 3. CLEAN WATER FUND BOARD FUNDING AND SERVICE  
DELIVERY REPORT

On or before November 15, 2018, the Clean Water Fund Board shall report to the Senate Committees on Appropriations, on Finance, on Agriculture, and on Natural Resources and Energy and the House Committees on Appropriations, on Ways and Means, on Agriculture and Forestry, and on Natural Resources, Fish and Wildlife on the following:

(1) A recommendation on the appropriate State share with respect to grants to support governmental and private obligations to comply with water quality improvement. In addition to this recommendation, the Board shall provide:

(A) an inventory of existing State grant and funding programs related to water quality improvement;

(B) the existing State share with respect to each grant or funding program identified in subdivision (A); and

(C) whether that existing State share is required by State or federal law and a reference to that legal requirement.

(2) A recommendation on how funding and services should be delivered to ensure compliance with the phosphorous reduction targets in the Lake Champlain total maximum daily load and the State's water quality objectives. At a minimum, the Board shall evaluate as a part of its recommendation a statewide clean water authority, a regional utility or service-delivery model, and a municipal model. The evaluation shall include an assessment of the ability of the entity to raise revenue, administer programs, and fund projects.

\* \* \* Joint Lake Carmi Pilot Project \* \* \*

Sec. 4. AGENCY OF NATURAL RESOURCES AND AGENCY OF  
AGRICULTURE, FOOD AND MARKETS JOINT LAKE CARMİ  
PILOT PROGRAM FOR PHOSPHORUS MANAGEMENT

(a) Farm-specific plans.

(1) On or before July 1, 2018, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall contract with a third-party consultant to develop individual water quality remediation plans for each owner or operator of farmland within the Lake Carmi watershed.

(2) A water quality remediation plan shall:

(A) include an analysis of the soil phosphorus levels, the nutrient sources produced or imported to farmland to be applied on the land, the crop

nutrient requirements, phosphorus index rating, tillage methods, land application of nutrients, methods and timing of nutrient application, and any other data necessary to ensure that the nutrient management plan for the farmland meets the State and federal requirements;

(B) specify measures or management practices that an owner or operator of farmland shall implement according to the nutrient management plan; and

(C) identify options available to owners or operators of farmland to protect their land in a manner that mitigates existing environmental impacts while maintaining economic viability or to provide alternatives when the costs of improving water quality exceed the value of the farmland.

(2) Beginning on May 1, 2018, the owner or operator of farmland within the Lake Carmi watershed shall document the following on an annual basis:

(A) the amount of total nutrient sources imported to, produced on, or applied to the farmland in the past year; and

(B) a summary of practices that an owner or operator of farmland has implemented in the last year in order to prevent an increase of phosphorus loads.

(b) Monitoring. The Secretary of Natural Resources shall conduct monitoring of the watershed to establish accountability for the non-point source pollution load into the Lake Carmi watershed.

(c) Best management practices. If monitoring conducted under subsection (c) of this section indicates increasing phosphorus loads in the waters due to non-point source pollution from farmland within the Lake Carmi watershed, the Secretary of Agriculture, Food and Markets shall require the owner or operator of the farmland to implement best management practices under 6 V.S.A. § 4810 to reduce runoff from the farmland.

\* \* \* Report on Future Farming Practices \* \* \*

Sec. 5. AGENCY OF AGRICULTURE, FOOD AND MARKETS  
REPORT ON FARMING PRACTICES IN VERMONT

The Secretary of Agriculture, Food and Markets shall convene a Nutrient Management Commission in order to review farming practices in Vermont and recommend ways to revise them in a manner that mitigates existing environmental impacts while maintaining economic viability. On or before January 15, 2019, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and to the House Committees on Natural Resources, Fish, and Wildlife and on



Agriculture and Forestry a report summarizing the recommendations of the Nutrient Management Commission. The report shall include potential strategies and timelines for implementing the following:

(1) building healthy soils;

(2) reducing agriculturally based pollution in areas of highly polluted, stressed, or impaired waters;

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

(4) including whole-farm nutrient balancing principles into the nutrient management standards for farms in the State;

(5) ways to provide financial and technical support to facilitate the implementation by farms of less-polluting practices, including:

(A) cover cropping;

(B) reduced tillage or no tillage;

(C) options available to farms to protect their land in a manner that mitigates existing environmental impacts while maintaining economic viability or to provide alternatives when the costs of improving water quality exceed the value of the farm;

(D) ways to accelerate the implementation of best management practices (BMPs);

(E) ways to evaluate the effectiveness of using riparian buffers in excess of 25 feet;

(F) ways to accelerate the use of and accountability for direct manure injection;

(G) ways to use crop rotations to build soil health, including limits on the continuous planting of corn; and

(H) ways to eliminate, or at least reduce, the use of herbicides in the termination of cover crops.

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

## Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

**Reported without recommendation by Senator Cummings for the Committee on Finance.**

(Committee voted: 6-1-0)

**Reported favorably with recommendation of amendment by Senator Ashe for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with further amendment as follows:

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

\* \* \* Clean Water Planning, Funding, and Implementation Committee \* \* \*

Sec. 1. FINDINGS

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

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

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

(3) The U.S. Environmental Protection Agency (EPA) testified to the General Assembly that the State of Vermont was overdue in establishing a long-term revenue source to support water quality improvement that the EPA required of Vermont in the accountability framework of the Lake Champlain Total Maximum Daily Load plan.

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

Sec. 2. LEGISLATIVE CLEAN WATER PLANNING, FUNDING, AND IMPLEMENTATION COMMITTEE

(a) Creation. There is created the Clean Water Planning, Funding, and Implementation Committee to recommend to the General Assembly draft legislation to establish an equitable and effective long-term funding method for:

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

(2) coordinating water quality financing in the State;

(3) planning for the water quality financing needs of the State; and

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

(b) Membership. The Clean Water Planning, Funding, and Implementation Committee shall be composed of the following eight members:

(1) the Chair of the Senate Committee on Appropriations or designee;

(2) the Chair of the House Committee on Appropriations or designee;

(3) the Chair of the Senate Committee on Natural Resources and Energy or designee;

(4) the Chair of the House Committee on Natural Resources, Fish, and Wildlife or designee;

(5) the Chair of the Senate Committee on Finance or designee;

(6) the Chair of the House Committee on Ways and Means or designee;

(7) the Chair of the Senate Committee on Agriculture or designee; and

(8) the Chair of the House Committee on Agriculture and Forestry or designee.

(c) Powers and duties. The Clean Water Planning, Funding, and Implementation Committee shall study the following issues:

(1) Whether and how the State should establish an independent authority to coordinate, plan, and finance water quality programs and projects across State government.

(2) How to develop a financing plan for water quality programs and projects in the State that will generate revenue sufficient to fund the following State obligations:

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

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

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

(3)(A) How the State will raise the revenue or reduce existing

expenditures to enable an equivalent level of support necessary to fund fully a financing plan for water quality that:

(i) meets the State's obligations;

(ii) maintains a water quality budget that is not less than the funding provided in fiscal year 2019 and that is capable of meeting an equivalent level of support, adjusted for inflation, for fiscal years 2020 through 2024; and

(iii) includes how a per parcel fee or other fee shall be assessed to property owners in a manner that corresponds to the effect of the parcel on water quality.

(B) In determining how a fee will be assessed to a property, the Committee shall consider whether the fee should account for:

(i) the size of the parcel;

(ii) the location of the parcel;

(iii) whether the parcel or use of the parcel contributes to an impairment of a water of the State or otherwise adversely affects water quality;

(iv) the surface coverage of the parcel, including the amount of impervious surface on the parcel, the amount of cropland or forestland on the parcel, or the number of residential, commercial, or industrial structures on the parcel;

(v) stormwater treatment practices or other water quality measures implemented on the parcel;

(vi) whether to provide credits or reduced charges for payment of a municipal stormwater utility fee or other similar water quality charge; and

(vii) whether the enforcement history or continuing violation of a parcel owner shall be a basis for an adjustment to a fee.

(4) How the State would most efficiently assess and collect a fee on property owners contributing to water quality issues in the State.

(5) Whether the State should adopt by rule a system of priorities for issuance of water quality grants or other financing from the Clean Water Fund and other State-administered financing programs, including whether priorities should be adjusted based on:

(A) the condition of the waters affected by the project, activity, or program;

(B) whether a project will address water quality issues identified in a basin plan;

(C) whether the project will abate or control pollution that is causing or may cause a threat to public health;

(D) whether the project will address an emergency situation affecting or constituting a threat to the environment or the public health, safety, or welfare;

(E) whether the project will address an agricultural water quality issue for which other sources of funds are unavailable;

(F) the fiscal integrity and sustainability of the project, including whether the project is a cost-effective alternative when compared to other alternatives;

(G) if the project removes a pollutant by which the water or waters affected by the project are impaired, the cost-effectiveness of the project at removing that pollutant; and

(H) income or financial resources available to an applicant to conduct the proposed project.

(6) How the State should maintain accountability of the efforts of the State to clean up impaired waters, maintain and achieve the Vermont Water Quality Standards in all waters, and prevent the future degradation of waters.

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

(e) Report. On or before November 15, 2018, the Clean Water Planning, Funding, and Implementation Committee shall submit to the General Assembly draft legislation that addresses the issues set forth under subsection (c) of this section.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Clean Water Planning, Funding, and Implementation Committee to occur on or before August 1, 2018.

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

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

(4) The Clean Water Planning, Funding, and Implementation Committee shall cease to exist on February 1, 2019.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Clean Water Planning, Funding, and Implementation Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

\* \* \* Clean Water Board \* \* \*

Sec. 3. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation.

(1) There is created the Clean Water Fund Board which that shall:

(A) be responsible and accountable for advising the General Assembly regarding planning, coordinating, and financing of the remediation, improvement, and protection of the quality of State waters;

(B) recommend to the Secretary of Administration expenditures General Assembly:

(i) appropriations from the Clean Water Fund, including appropriate block grant amounts from the Agency of Natural Resources' River Basin Block Grant Program; and

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

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

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

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

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

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

(5) the Secretary of Transportation or designee; and

(6) four members of the public, who are not legislators, with expertise in one or more of the following subject matters: public management, civil engineering, agriculture, ecology, wetlands, stormwater system management, forestry, transportation, law, banking, finance, and investment, to be appointed as follows:

(A) the Speaker of the House shall appoint two members of the public, one of whom shall represent a municipality subject to the municipal separate storm sewer system (MS4) permit; and

(B) the Committee on Committees shall appoint two members of the public.

(c) Officers; committees; rules.

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

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

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

(1) Annually, on or before December 15, the Clean Water Board shall submit to the General Assembly a plan for the appropriation of all State water quality revenues in a manner that:

(A) maintains a water quality budget that is not less than the funding provided in fiscal year 2019 and that is capable of meeting an equivalent level of support, adjusted for inflation, for fiscal years 2020 through 2024; and

(B) adequately funds the following State obligations in the subsequent fiscal years:

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

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

(iii) the Agency of Natural Resources' Combined Sewer Overflow Rule.

~~(2)~~ The Clean Water Fund Board shall recommend to the ~~Secretary of Administration General Assembly~~ the appropriate allocation of funds from the Clean Water Fund for the purposes of ~~developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306~~ financing the Board's recommended annual financing plan. The recommendations shall include a recommended appropriation to the Agency of Natural Resources' River Basin Block Grant Program under section 1389c of this title. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

~~(2)~~(3) The Clean Water Fund Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

~~(3)~~(4) The Clean Water Fund Board shall:

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

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

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

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

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

(e) Priorities.

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

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

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



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

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

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

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

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

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

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

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

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

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

Sec. 4. CLEAN WATER BOARD RECOMMENDED DRAFT  
LEGISLATION; WATER QUALITY FUNDING METHOD

(a) On or before November 15, 2018, the Clean Water Board shall submit to the General Assembly draft legislation to establish an equitable and effective long-term funding method for:

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

(2) coordinating water quality financing in the State;

(3) planning for the water quality financing needs of the State; and

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

(b) In developing the draft legislation required under subsection (a) of this section, the Clean Water Board shall study the following issues:

(1) Whether and how the State should establish an independent authority to coordinate, plan, and finance water quality programs and projects across State government.

(2) How to develop a financing plan for water quality programs and projects in the State that will generate revenue sufficient to fund the following State obligations:

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

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

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

(3)(A) How the State will raise the revenue or reduce existing State expenditures to enable an equivalent level of support necessary to fund fully a financing plan for water quality that:

(i) meets the State's obligations;

(ii) maintains a water quality budget that is not less than the funding provided in fiscal year 2019 and that is capable of meeting an equivalent level of support, adjusted for inflation, for fiscal years 2020 through 2024; and

(iii) includes how a per parcel fee or other fee shall be assessed to property owners in a manner that corresponds to the effect of the parcel on water quality.

(B) In determining how a fee will be assessed to a property, the Committee shall consider whether the fee should account for:

(i) the size of the parcel;

(ii) the location of the parcel;

(iii) whether the parcel or use of the parcel contributes to an impairment of a water of the State or otherwise adversely affects water quality;

(iv) the surface coverage of the parcel, including the amount of impervious surface on the parcel, the amount of cropland or forestland on the parcel, or the number of residential, commercial, or industrial structures on the parcel;

(v) stormwater treatment practices or other water quality measures implemented on the parcel;

(vi) whether to provide credits or reduced charges for payment of a municipal stormwater utility fee or other similar water quality charge; and

(vii) whether the enforcement history or continuing violation of a parcel owner shall be a basis for an adjustment to a fee.

(4) How the State would most efficiently assess and collect a fee on property owners contributing to water quality issues in the State.

(5) Whether the State should adopt by rule a system of priorities for issuance of water quality grants or other financing from the Clean Water Fund and other State-administered financing programs, including whether priorities should be adjusted based on:

(A) the condition of the waters affected by the project, activity, or program;

(B) whether a project will address water quality issues identified in a basin plan;

(C) whether the project will abate or control pollution that is causing or may cause a threat to public health;

(D) whether the project will address an emergency situation affecting or constituting a threat to the environment or the public health, safety, or welfare;

(E) whether the project will address an agricultural water quality issue for which other sources of funds are unavailable;

(F) the fiscal integrity and sustainability of the project, including whether the project is a cost-effective alternative when compared to other alternatives;

(G) if the project removes a pollutant by which the water or waters affected by the project are impaired, the cost-effectiveness of the project at removing that pollutant; and

(H) income or financial resources available to an applicant to conduct the proposed project.

(6) How the State should maintain accountability of the efforts of the State to clean up impaired waters, maintain and achieve the Vermont Water Quality Standards in all waters, and prevent the future degradation of waters.

\* \* \* Water Quality Block Grant \* \* \*

## Sec. 5. WATER QUALITY BLOCK GRANTS

(a) Definition. As used in this section, “local partner” means a regional planning commission, natural resource conservation district, or watershed organization located or operating in the watershed for which the Agency of Natural Resources has issued a watershed basin plan.

(b) Establishment; purpose.

(1) The Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall coordinate prior to awarding water quality grants or financing in order to maximize the water quality benefit or impact of funded projects in a watershed planning basin. When possible, grants or financing for water quality programs shall be issued as a block grant that enhances the capacity of local partners.

(2) A portion of each block grant issued under this section shall include funds authorized for the following:

(A) to support capacity to implement projects in the watershed basin; and

(B) to identify and develop water quality projects listed under the basin plan for the watershed as necessary for the restoration and protection of the waters of the State.

(c) Requirements. On or before January 1, 2019, the Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall establish a process for coordinating water quality grants and issuing water quality block grants under this section. The process shall address the following:

- (1) requirements for eligibility;
- (2) a system of priorities for the award of block grants;
- (3) performance measures, reporting requirements, or accountability requirements for recipients of water quality block grants;
- (4) uses for which a recipient of a water block grant may allocate or award portions of the block grants to other eligible entities for implementation of water quality programs or projects in a river basin;
- (5) methods for identifying watersheds or other areas where the State should focus on enhancing the capacity of local partners; and
- (6) any other provision necessary to implement the block grants under this section.

\* \* \* Citizen Right of Action \* \* \*

Sec. 6. 10 V.S.A. chapter 205 is added to read:

#### CHAPTER 205. CITIZEN RIGHT OF ACTION

##### § 8055. CITIZEN RIGHT OF ACTION

(a) Suit authorized. Except as provided in subsection (c) of this section, a person may commence a civil action for equitable or declaratory relief on the person's own behalf against one or more of the following persons:

(1) any person who is alleged to be in violation of any statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215;

(2) any person subject to regulation under this chapter who is alleged to be in violation of any statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under chapter 37 or 47 of this title;

(3) the Secretary of Agriculture, Food and Markets when there is an alleged failure of the Agency of Agriculture, Food and Markets to perform any act or duty under 6 V.S.A. chapter 215 that is not discretionary for the Secretary of Agriculture, Food and Markets or the Agency of Agriculture, Food and Markets; and

(4) the Secretary of Natural Resources when there is an alleged failure of the Agency of Natural Resources to perform any act or duty under chapter 37 or 47 of this title that is not discretionary for the Secretary of Natural Resources or the Agency of Natural Resources.

(b) Prerequisite to commencement of action. A person shall not commence an action under subsection (a) of this section prior to 90 days after the plaintiff has given notice of the violation to:

(1) the Secretary of Agriculture, Food and Markets for an action initiated under subdivision (a)(1) or (3) of this section;

(2) the Secretary of Natural Resources for an action initiated under subdivision (a)(2) or (4) of this section; and

(3) any person who is alleged to be in violation of a statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this title.

(c) Action prohibited. A person shall not commence an action under subsection (a) of this section under either of the following circumstances:

(1) if the Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General has commenced and is diligently prosecuting a civil or criminal action to require compliance with a statute, permit, certification, rule, permit condition, prohibition, or order set forth, issued, or required under 6 V.S.A. chapter 215 or under chapter 37 or 47 of this title; or

(2) if the alleged violator is diligently proceeding with complying with an assurance of discontinuance, corrective action, cease and desist order, or emergency administrative order issued under 6 V.S.A. chapter 215 or under chapter 201 of this title.

(d) Venue. A person shall bring an action under subsection (a) of this section in the Environmental Division of the Superior Court.

(e) Intervention. In any action under subsection (a) of this section:

(1) Any person may intervene as a matter of right when:

(A) the person seeking intervention claims an interest relating to the subject of the action and he or she is so situated that the disposition of the action may, as a practical matter, impair or impede his or her ability to protect that interest; and

(B)(i) for an action initiated under subdivision (a)(1) or (3) of this section, the Secretary of Agriculture, Food and Markets or the Secretary of Natural Resources demonstrates that the applicant's interest is adequately represented by existing parties; or

(ii) for an action initiated under subdivision (a)(2) or (4) of this section, the Secretary of Natural Resources demonstrates that the applicant's interest is adequately represented by existing parties.

(2) The Secretary of Agriculture, Food and Markets, the Secretary of Natural Resources, or the Attorney General may intervene as a matter of right as a party to represent its interests.

(f) Notice of action. A person bringing an action under subsection (a) of this section shall provide the notice required under subsection (b) of this section in writing. The notice shall be served on the alleged violator in person or by certified mail, return receipt requested. The notice to the Secretary shall be served by certified mail, return receipt requested. The notice shall include a brief description of the alleged violation and identification of the statute, permit, certification, rule, permit condition, prohibition, or order that is the subject of the violation.

(g) Attorney's fees; costs. The Environmental Division of the Superior Court may award costs, including reasonable attorney's fees and fees for expert witnesses, to a person bringing an action under subsection (a) of this section when the court determines that the award is appropriate. The Environmental Division of the Superior Court may award costs, including reasonable attorney's fees and fees for expert witnesses, to the State or to a person subject to an action under this section if the court determines that the action was frivolous, unreasonable, or without foundation.

(h) Rights preserved. Nothing in this section shall be construed to impair or diminish any common law or statutory right or remedy that may be available to any person. Rights and remedies created by this section shall be in addition to any other right or remedy, including the authority of the State to bring an enforcement action separate from an action brought under this section. No determination made by a court in an action maintained under this section, to which the State has not been a party, shall be binding upon the State in any enforcement action.

\* \* \* Required Agricultural Practices; Healthy Soils \* \* \*

Sec. 7. 6 V.S.A. § 4810a is amended to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) ~~On or before September 15, 2016, the~~ The Secretary of Agriculture, Food and Markets shall ~~file under 3 V.S.A. § 841 a final proposal of a rule amending~~ amend by rule the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the ~~amendments to the~~ required agricultural practices shall:

\* \* \*

(4) Establish standards for nutrient management on farms, including:

(A) required nutrient management planning on all farms that manage agricultural wastes;

(B) ~~recommended~~ required practices incorporated within a nutrient management plan for improving and maintaining soil quality and healthy soils in order to increase the capacity of soil to retain water, improve flood resiliency, reduce sedimentation, reduce reliance on fertilizers and pesticides, and prevent agricultural stormwater runoff, including requirements for tillage; and

(C) methods for complying with individual load allocations, if any, for a farm if required under a total maximum daily load plan or other remediation plan for an impaired water.

\* \* \*

## Sec. 8. IMPLEMENTATION

On or before July 1, 2019, the Secretary of Agriculture, Food and Markets shall revise the Required Agricultural Practices to include the practices for improving and maintaining soil quality and healthy soils required under 6 V.S.A. § 4810a(a)(4).

\* \* \* Joint Lake Carmi Pilot Project \* \* \*

## Sec. 9. AGENCY OF NATURAL RESOURCES AND AGENCY OF AGRICULTURE, FOOD AND MARKETS JOINT LAKE CARMİ PILOT PROGRAM FOR PHOSPHORUS MANAGEMENT

(a) Farm-specific plans.

(1) On or before July 1, 2018, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall contract with a third-party consultant to develop individual water quality remediation plans that each owner or operator of farmland within the Lake Carmi watershed shall be required to implement.

(2) A water quality remediation plan shall:

(A) include an analysis of the soil phosphorus levels, the nutrient sources produced or imported to farmland to be applied on the land, the crop nutrient requirements, phosphorus index rating, tillage methods, land application of nutrients, methods and timing of nutrient application, and any other data necessary to reduce the export or runoff of nutrients from the farmland and ensure that the nutrient management plan for the farmland meets the State and federal requirements;



(B) specify requirements, measures, or management practices that an owner or operator of farmland shall implement according to a nutrient management plan; and

(C) identify options available to owners or operators of farmland to protect their land in a manner that mitigates existing environmental impacts while maintaining economic viability or to provide alternatives when the costs of improving water quality exceed the value of the farmland.

(3) Beginning on May 1, 2018, the owner or operator of farmland within the Lake Carmi watershed shall document the following on an annual basis:

(A) the amount of total nutrient sources imported to, produced on, or applied to the farmland in the past year; and

(B) a summary of practices that an owner or operator of farmland has implemented in the last year in order to prevent an increase of phosphorus loads from the farmland.

(b) Monitoring. The Secretary of Natural Resources shall conduct monitoring of the watershed to establish accountability for the nonpoint source pollution load into the Lake Carmi watershed.

(c) Best management practices. If monitoring conducted under subsection (b) of this section indicates increasing phosphorus loads in the waters due to nonpoint source pollution from farmland within the Lake Carmi watershed, the Secretary of Agriculture, Food and Markets shall require the owner or operator of the farmland to implement best management practices under 6 V.S.A. § 4810 to reduce runoff from the farmland.

(d) Enforcement; appeal.

(1) The Secretary of Natural Resources may take action under 10 V.S.A. chapter 201 to enforce the requirements of this section.

(2) A person may appeal an act or decision of the Secretary of Natural Resources under this section, excluding enforcement actions under 10 V.S.A. chapter 201 or 220.

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

Sec. 10. AGENCY OF AGRICULTURE, FOOD AND MARKETS  
REPORT ON FARMING PRACTICES IN VERMONT

On or before January 15, 2019, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry a report

regarding how to revise farming practice in Vermont in a manner that mitigates existing environmental impacts while maintaining economic viability. The report shall include recommendations for:

(1) building healthy soils;

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

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

(4) how to provide financial and technical support to facilitate the transition by farms to less-polluting practices, including:

(A) cover cropping;

(B) reduced tillage or no tillage;

(C) transition out of dairy farming through a whole-herd buyout program;

(D) how to accelerate the implementation of best management practices (BMPs);

(E) how to evaluate the effectiveness of using riparian buffers in excess of 25 feet;

(F) how to accelerate the use of direct manure injection;

(G) how to use crop rotations to build soil health, including limits on the planting of continuous corn; and

(H) how to eliminate, or at least reduce, the use of herbicides in the termination of cover crops.

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

#### Sec. 11. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-1-1)

**S. 262.**

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

**Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.**

The Committee recommends that the bill be amended as follows:

First: In Sec. 3, 33 V.S.A. § 1958, in subsection (a), in the fourth sentence, by striking out the number “10” and inserting in lieu thereof the number 30

Second: By striking out Sec. 8, 3 V.S.A. § 3091, and its reader assistance heading in their entirety and inserting in lieu thereof a new Sec. 8 and reader assistance heading to read as follows:

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

Sec. 8. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

\* \* \*

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

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

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

\* \* \*

(i) In the case of an appeal of a Medicaid covered service decision made by the Department of Vermont Health Access or any entity with which the Department of Vermont Health Access enters into an agreement to perform service authorizations that may result in an adverse benefit determination, the right to a fair hearing granted by subsection (a) of this section shall be available to an aggrieved beneficiary only after that individual has exhausted,

or is deemed to have exhausted, the Department of Vermont Health Access's internal appeals process and has received a notice that the adverse benefit determination was upheld.

Third: By adding a section to be Sec. 8a to read as follows:

Sec. 8a. APPEAL OF MEDICAID COVERED SERVICE DECISIONS;  
FAIR HEARING; RULEMAKING

The Department of Vermont Health Access shall adopt rules pursuant to 3 V.S.A. chapter 25 establishing a process by which the Department shall ensure that a Medicaid beneficiary who files a request for a fair hearing with the Human Services Board prior to exhausting the Department's internal appeals process receives appropriate assistance with filing the internal appeal and, if the internal appeal results in an adverse determination, with filing a timely request for a fair hearing with the Human Services Board if the beneficiary wishes to do so.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

In Sec. 5, 33 V.S.A. § 403, in the heading of the section, by striking out the words "BANKS AND" and in subsection (a), by striking out subsection (a) in its entirety and relettering the remaining subsections accordingly

(Committee vote: 6-0-1)

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

The Committee recommends that the bill be amended as recommended by the Committee on Health and Welfare with the following substitute amendments thereto:

First: By adding a reader assistance heading and a new section to be Sec. 2a to read as follows:

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

Sec. 2a. 33 V.S.A. § 1901(c) is amended to read:

(c) The Secretary may charge a monthly premium, in amounts set by the General Assembly, per family for pregnant women and children eligible for medical assistance under Sections 1902(a)(10)(A)(i)(III), (IV), (VI), and (VII) of Title XIX of the Social Security Act, whose family income exceeds ~~485~~ 195

percent of the federal poverty level, as permitted under section 1902(r)(2) of that act. Fees collected under this subsection shall be credited to the State Health Care Resources Fund established in section 1901d of this title and shall be available to the Agency to offset the costs of providing Medicaid services. Any co-payments, coinsurance, or other cost sharing to be charged shall also be authorized and set by the General Assembly.

Second: In Sec. 5, 33 V.S.A. § 403, in the heading of the section, by striking out the words “BANKS AND” and in subsection (a), by striking out subsection (a) in its entirety and relettering the remaining subsections accordingly

(Committee vote: 7-0-0)

### S. 276.

An act relating to rural economic development.

**Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Agriculture.**

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

\* \* \* Rural Economic Development Initiative \* \* \*

Sec. 1. 10 V.S.A. § 325m is amended to read:

§ 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

(a) Definitions. As used in this subchapter:

(1) ~~“Industrial park” means an area of land permitted as an industrial park under chapter 151 of this title or under 24 V.S.A. chapter 117, or under both.~~

(2) “Rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

~~(3)~~(2) “Small town” means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created ~~within the Vermont Housing and Conservation Board~~ a Rural Economic Development Initiative ~~to promote and facilitate to be administered by the Vermont Housing and Conservation Board~~ for the purpose of promoting and facilitating community economic development in the small towns and rural areas of the State. The Rural Economic Development Initiative shall collaborate with municipalities, businesses, ~~industrial parks~~, regional development corporations, and other appropriate entities to access funding and other assistance available to small

towns and businesses in rural areas of the State when existing State resources or staffing assistance is not available.

(c) Services; access to funding.

(1) The Rural Economic Development Initiative shall provide the following services to small towns and businesses in rural areas:

~~(A)(1)~~ identification of grant or other funding opportunities available to small towns, businesses in rural areas, and industrial parks in small towns and rural areas that facilitate business development, siting of businesses, workforce development, broadband deployment, infrastructure development, or other economic development opportunities;

~~(B)(2)~~ technical assistance to small towns, businesses in rural areas, and industrial parks in small towns and rural areas in writing grants, accessing and completing the application process for identified grants or other funding opportunities, including writing applications for grants or other funding, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding.

~~(2)(d)~~ In providing services under this subsection, the Rural Economic Development Initiative shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation.

~~(d)(e)~~ Services; business development Priority projects. The Rural Economic Development Initiative shall provide small towns and rural areas with services to facilitate business development in these areas. These services shall include:

~~(1)~~ Identifying businesses or business types suitable for a small town, rural areas, industrial parks in a small town or rural area, or coworker spaces or generator spaces in rural areas. In identifying businesses or business types, the Rural Economic Development Initiative shall seek to assist the following priority types of projects:

~~(A)~~ identify businesses or business types in the following priority areas:

~~(i)(1)~~ milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

~~(ii)(2)~~ the outdoor recreation and equipment or recreation industry enterprises;

~~(iii)(3)~~ the value-added food and forest products industry

enterprises;

~~(iv)(4) the value-added food industry farm operations, including phosphorus removal technology for farm operations;~~

~~(v)(5) phosphorus removal technology coworking or business generator and accelerator spaces; and~~

~~(vi)(6) commercial composting facilities; and~~

~~(7) restoration and rehabilitation of historic buildings in community centers.~~

~~(B) explore with a small town or rural area whether underused or closed school buildings are appropriate sites for coworker or generator spaces.~~

~~(2) Recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.~~

~~(3)(f) In providing services under this subsection, the Rural Economic Development Initiative shall coordinate with the Secretary of Commerce and Community Development in order to avoid duplication by the Rural Economic Development Initiative of business recruitment and workforce development services provided by the Agency of Commerce and Community Development and regional development corporations.~~

~~(e)(g) Report. Beginning on January 15, 2018 31, 2019, and annually thereafter, the Rural Economic Development Initiative shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the Initiative as part of the report of the Vermont Farm and Forest Viability Program. The report shall include:~~

~~(1) a summary of the Initiative's activities in the preceding calendar year;~~

~~(2) an evaluation of the effectiveness of the services provided by the Initiative to small towns, rural areas, and industrial parks;~~

~~(3) a summary of the Initiative's progress in attracting priority businesses to small towns and rural areas;~~

~~(4) an accounting of the grants or other funding that the Initiative facilitated or provided assistance with;~~

~~(5) an accounting of the funds acquired by the Rural Economic Development Initiative for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Initiative; and~~

~~(6) recommended changes to the program, including proposed legislative amendments to further economic development in small towns and rural areas in the State summarize the Initiative's activities in the preceding year; evaluate the effectiveness of the services provided by the Initiative; and provide an accounting of the grants or other funding that the Initiative facilitated or helped secure.~~

\* \* \* Outdoor Recreation Friendly Community Program \* \* \*

## Sec. 2. OUTDOOR RECREATION FRIENDLY COMMUNITY PROGRAM

(a) Establishment. The Outdoor Recreation Friendly Community Program (Program) is created to provide incentives for communities to leverage outdoor recreation assets to foster economic growth within a town, village, city, or region of the State.

(b) Administration. The Program shall be administered by the Department of Forests, Parks and Recreation in association with the Agency of Commerce and Community Development.

(c) Selection. The Commissioner of Forests, Parks and Recreation in consultation with the Agency of Commerce and Community Development and the Vermont Outdoor Recreation Economic Collaborative steering committee shall select communities for the Program using, at minimum, the following factors.

(1) community economic need;

(2) identification of outdoor recreation as a priority in a town plan or other pertinent planning document;

(3) community commitment to an outdoor recreation vision; demonstrated support from community officials, the public, local business, and local and statewide outdoor recreation nonprofit organizations; and commitment to adhere to accepted standards and recreation ethos;

(4) a community with a good foundation of outdoor recreation assets already in place with strong potential for growth on both private and public lands;

(5) a community with good opportunities for connecting assets within the community with assets of other nearby communities;

(6) a community with an existing solid network of local supporting businesses; and

(7) community commitment to track and measure outcomes to demonstrate economic and social success.

(d) Incentives. Communities accepted into the Program shall be offered, at minimum, the following incentives.



(1) preferential consideration to become part of the Vermont Trail System;

(2) preferential consideration when applying for grant assistance through the Recreational Trails Program and the Land and Water Conservation Fund Program;

(3) access to other economic development assistance if available and appropriate; and

(4) recognition as part of a network of Outdoor Recreation Friendly Communities connected through a common branding and adherence to high standards of quality and service.

(e) Pilot project and appropriation. A sum of \$100,000.00 shall be allocated to the Agency of Commerce and Community Development to be administered in association with the Department of Forests, Parks and Recreation and used in support of pilot communities chosen by the Commissioner of Forests, Parks and Recreation to serve as a prototype for the Program. The funding may be used for the following purposes.

(1) communitywide outdoor recreation planning, including assessment, mapping, and identifying possibilities and priorities;

(2) services of consultants and other technical assistance providers;

(3) public facing mapping and other informational materials;

(4) securing access;

(5) implementation of public access improvements;

(6) stewardship;

(7) marketing; and

(8) program administration.

(f) Reports. On or before January 15, 2019, the Commissioner of Forests, Parks and Recreation shall submit a report to the General Assembly detailing the progress made with the pilot project authorized under subsection (e) of this section. On or before January 15, 2020, the Commissioner of Forests, Parks and Recreation shall submit a report to the General Assembly detailing any measurable results of economic activity growth.

\* \* \* Vermont Trail System; Act 250 \* \* \*

Sec. 3. 10 V.S.A. § 6001(3) is amended to read:

(3)(A) “Development” means each of the following:

\* \* \*

(v) The construction of improvements on a tract of land involving

more than 10 acres that is to be used for municipal, county, or State purposes. In computing the amount of land involved, land shall be included that is incident to the use such as lawns, parking areas, roadways, leaching fields and accessory buildings. Trails designated as part of the Vermont Trails System under chapter 20 of this title shall be deemed to be for the use of a State purpose.

\* \* \*

Sec. 4. 10 V.S.A. § 6001(3)(F) is added to read

(F) Trail projects.

(i) When jurisdiction over a trail has been established pursuant to 10 V.S.A. § 6001(3)(A), jurisdiction shall extend only to the trail corridor and to any area directly or indirectly impacted by the construction, operation, or maintenance of the trail corridor. The width of the corridor shall be 10 feet unless the Commission determines that circumstances warrant a wider or narrower corridor width.

(ii) Except in the case of construction on State lands, which are subject to an independent review of environmental impacts by a State agency, or the case of construction of a trail that is recognized as a trail within the Vermont Trails System pursuant to chapter 20 of this title, when the construction of improvements for a trail is proposed for a project on both private and public land and for both a private and governmental purposes and the portion of the project on private land reaches the threshold for jurisdiction under subdivision 6001(3)(A)(i) or (ii) of this title, the portion of the project on public land shall also be subject to jurisdiction under this chapter, even if jurisdiction would not otherwise apply under the chapter.

\* \* \* Forest Products Industry; Act 250 \* \* \*

Sec. 5. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF REVIEW

\* \* \*

(g) Where an application concerns the construction of improvements for a sawmill that produces two million board feet or less annually, the application shall be processed as a minor application under subdivision (b)(2) of this section.

\* \* \* Forest Products Industry; Wood Energy; Supply \* \* \*

Sec. 6. 16 V.S.A. § 837 is added to read:

§ 837. PUBLIC SCHOOLS; WOOD HEAT; FUEL SUPPLIERS

Public schools and independent schools designated under section 827 of this title that use wood to produce heat or electricity, or both, shall give preference to Vermont suppliers when making fuel supply purchases.

Sec. 7. 30 V.S.A. § 8009(a)(2) is amended to read:

(2) “Baseload renewable power portfolio requirement” means an annual average of 175,000 MWh of baseload renewable power from an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, uses woody biomass from Vermont or from Vermont suppliers for the majority of its fuel supply, and was in service as of January 1, 2011, provided that the woody biomass plant during times of inadequate supply of woody biomass may use a majority of wood from non-Vermont suppliers. Under this subdivision, woody biomass may be supplied by an out-of-state supplier who harvests woody biomass in Vermont. A Vermont supplier under this subdivision includes a business located in the State that harvests wood in other states for sale in Vermont.

Sec. 8. PUBLIC BUILDINGS; WOOD ENERGY; VERMONT SUPPLIERS; REPORT

(a) On or before December 15, 2018, the Commissioner of Buildings and General Services (Commissioner), in consultation with the Commissioner of Public Service, shall submit a written report and recommendation on the feasibility and impacts of requiring State or municipally-owned public buildings that use wood to produce heat or electricity, or both, to give preference to Vermont suppliers when making fuel supply purchases.

(b) As used in this section, “public building” has the same meaning as in 20 V.S.A. § 2730.

(c) The submission shall include the Commissioner’s specific recommendations as to each of the following categories:

(1) public buildings owned or occupied by the State of Vermont, counties, municipalities, or other public entities; and

(2) public buildings in Vermont that receive incentives or financing, or both, from the State of Vermont and are not within the category described in subdivision (1) of this subsection.

(d) The Commissioner shall submit the report and recommendation to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Energy and Technology.

\* \* \*Self-administered Efficiency Charge \* \* \*

Sec. 9. 30 V.S.A. § 209(d)(3)(B) is amended to read:

(B) The charge established by the Commission pursuant to this subdivision (3) shall be in an amount determined by the Commission by rule or order that is consistent with the principles of least-cost integrated planning as defined in section 218c of this title.

(i) As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings.

(ii) In setting the amount of the charge and its allocation, the Commission shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value.

(iii) The Commission, by rule or order, shall establish a process by which a customer ~~who pays an average annual energy efficiency charge under this subdivision (3) of at least \$5,000.00~~ may apply to the Commission to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Commission. The remaining portion of the charge shall be used for systemwide energy benefits. The Commission in its rules or order shall establish criteria for approval of these applications. A customer shall be eligible for an energy savings account if one of the following applies:

(I) The customer pays an average annual energy efficiency charge under this subdivision (3) of at least \$5,000.00.

(II) The served premises of the customer are located in an industrial park in a rural area. As used in this subdivision (II):

(aa) "Industrial park" means an area of land permitted as an industrial park under 10 V.S.A. chapter 151 or under 24 V.S.A. chapter 117, or under both.

(bb) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

\* \* \* Forestland; Use Value Appraisal \* \* \*

Sec. 10. 32 V.S.A. § 3756 is amended to read:

§ 3756. QUALIFICATION FOR USE VALUE APPRAISAL

(a) The owner of eligible agricultural land, farm buildings, or managed forestland shall be entitled to have eligible property appraised at its use value, provided the owner shall have applied to the Director on or before September 1 of the previous tax year, on a form approved by the Board and provided by the Director. A farmer, whose application has been accepted on or before December 31 by the Director of the Division of Property Valuation and Review of the Department of Taxes for enrollment for the use value program for the current tax year, shall be entitled to have eligible property appraised at its use value, if he or she was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

\* \* \*

~~(i)(1) After providing 30 days' notice to the owner, the Director shall remove from use value appraisal an entire parcel of managed forestland and notify the owner when the Commissioner of Forests, Parks and Recreation has not received a required management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.~~

~~(2)(A)~~ The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:

~~(i)(A)~~ found, after administrative hearing, or contested judicial hearing or motion, to be in violation of water quality requirements established under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215; or

~~(ii)(B)~~ who is not in compliance with the terms of an administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215.

~~(B)(2)~~ The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by mailing notification of removal to the owner or operator's last and usual place of abode. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application for use value appraisal for the agricultural land or farm building until the

Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A. chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of this section.

\* \* \*

(k)(1) As used in this subsection:

(A) “Contiguous” means touching, bordering, or adjoining along the boundary of a property. Properties that would be contiguous if except for separation by a roadway, railroad, or other public easement shall be considered contiguous.

(B) “Parcel” shall have the same meaning as in 32 V.S.A. § 4152.

(2) After providing 30 days’ notice to the owner, the Director shall remove from use value appraisal an entire parcel of contiguous managed forestland and notify the owner when the Commissioner of Forests, Parks and Recreation has not received a required management activity report or has received an adverse inspection report on greater than one percent of enrolled forestland on a parcel, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan. When the Director receives an adverse inspection report documenting violations on less than or equal to one percent of forestland on a parcel, the forestland enrolled in the municipality in which the violation occurred shall be removed from use value appraisal, unless the lack of conformance consists solely of the failure to make a prescribed planned cutting under a forest management plan. If a violation consists solely of failure to make a prescribed planned cutting, the Director may delay removal of a parcel of forestland from use value appraisal for a period of one year at a time to allow the owner of the parcel opportunity to bring the parcel into conformance with its forest management plan.

Sec. 11. 32 V.S.A. § 3755(d) is amended to read:

(d) After managed forestland has been removed from use value appraisal due to an adverse inspection report under ~~subdivision 3756(i)(1)~~ subsection 3756(k) of this title, a new application for use value appraisal shall not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application, certifying that appropriate measures have

been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

\* \* \* Energy Efficiency; Households with Low Income \* \* \*

Sec. 12. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

\* \* \*

(e) Thermal energy and process fuel efficiency funding.

\* \* \*

(2) If a program combines regulated fuel efficiency services with unregulated fuel efficiency services supported by funds under this section, the Commission shall allocate the costs of the program among the funding sources for the regulated and unregulated fuel sectors in proportion to the benefits provided to each sector.

\* \* \*

(f) Goals and criteria; all energy efficiency programs. With respect to all energy efficiency programs approved under this section, the Commission shall:

(1) Ensure that all retail consumers, regardless of retail electricity, gas, or heating or process fuel provider or of household income, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation. To further this goal, the Commission shall require that a percentage of energy efficiency funds be used to deliver energy efficiency programs to customers with household incomes below 80 percent of the statewide median income, as defined by the U.S. Department of Housing and Urban Development, and the requirements of subdivision (e)(2) of this section shall not apply to such delivery.

\* \* \*

\* \* \* Electric Utility Demand Charges; Rural Towns \* \* \*

Sec. 13. DEMAND CHARGES; REPORT

(a) On or before January 31, 2019, the Commissioner of Public Service (Commissioner), in consultation with the Secretary of Commerce and Community Development, shall submit a written report on electric utility demand charges in Vermont and their effect on the ability of industrial enterprises to locate in rural towns of the State.

(b) The Commissioner shall submit the report to the House Committees on Agriculture and Forestry, on Commerce and Community Development, and on Energy and Technology and the Senate Committees on Agriculture, on Economic Development, Housing and General Affairs, and on Finance.

(c) The report under this section shall include:

(1) a narrative summary of the terms, conditions, and rates for each demand charge tariff of each Vermont electric utility;

(2) a table that shows the rates and applicability of each such tariff, with such other information as the Commissioner may consider relevant, organized by electric utility;

(3) an analysis of the alternatives to these tariffs that will improve the ability of industrial enterprises to locate in rural towns of the State;

(4) the Commissioner's recommendations on changes to demand charge tariffs that would encourage locating industrial enterprises in rural towns of the State or that would reduce or remove disincentives posed by demand charge tariffs to such locations.

(d) In this section, "rural town" shall have the same meaning as in 24 V.S.A. § 4303.

\* \* \* Environmental Permitting Fees \* \* \*

Sec. 14. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

\* \* \*

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection (j) and an application fee of:

(A) \$0.75 per square foot of proposed impact to Class I or II wetlands.

(B) \$0.25 per square foot of proposed impact to Class I or II wetland buffers.

(C) Maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use or for installation of a pipeline in a wetland for the transport of manure for the purposes of farming, as that term is defined in 10 V.S.A. § 6001(22), \$200.00 per application. As used in this subdivision, "cropland" means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees, or vines, and the production of Christmas trees.

\* \* \*



\* \* \* Purchase and Use Tax; Forestry Equipment \* \* \*

Sec. 15. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

(1) Motor vehicles owned or registered, or motor vehicles rented, by any state or province or any political subdivision thereof.

\* \* \*

(23) The following motor vehicles used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimiters, loader slashers, log loaders, whole-tree chippers, stationary screening systems, portable sawmills, and firewood processors, elevators, and screens.

\* \* \* Sales and Use Tax; Tax Credit; Advanced Wood Boilers \* \* \*

Sec. 16. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

\* \* \*

(54) “Noncollecting vendor” means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) “Advanced wood boiler” means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 80 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and total particulate matter standards established by the Department of Public Service.

Sec. 17. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

\* \* \*

(52) Advanced wood boilers, as defined in section 9701 of this title, whether for residential or commercial use.

Sec. 18. 32 V.S.A. § 5930I is added to read:

§ 5930I. ADVANCED WOOD BOILER TAX CREDIT

(a) As used in this section “advanced wood boiler” means a boiler or furnace:

(1) installed as a primary central heating system;

(2) rated as high-efficiency, meaning a higher heating value or gross calorific value of 80 percent or more;

(3) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(4) meeting other efficiency and total particulate matter standards established by the Department of Public Service.

(b) A taxpayer of this State shall be eligible for a credit against the tax imposed under this chapter in an amount equal to 50 percent of the purchase cost of an advanced wood boiler.

(c) Any unused credit available under subsection (b) of this section may be carried forward for up to 10 years.

Sec. 19. 32 V.S.A. § 5813(p) is amended to read:

(p) The statutory purpose advanced wood boiler tax credit in section 5930I of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

Sec. 20. 32 V.S.A. § 9706 is amended to read:

(ll) The statutory purpose of the exemption for advanced wood boilers in subdivision 9741(52) of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

\* \* \* Hemp \* \* \*

Sec. 21. PURPOSE

The purpose of Sections 21-23 of this act are to amend the laws of Vermont regarding the cultivation of industrial hemp to conform with federal requirements for industrial hemp research set forth in section 7606 of the federal Agricultural Act of 2014, Public Law No. 113-79, codified at 7 U.S.C. § 5940.

Sec. 22. 6 V.S.A. chapter 34 is amended to read:

## CHAPTER 34. HEMP

### § 561. FINDINGS; INTENT

#### (a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, ~~bio-fuel~~ biofuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(5) The federal Agricultural Act of 2014, Public Law No. 113-79 authorized the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act, if certain criteria are satisfied.

(b) Purpose. The intent of this chapter is to establish policy and procedures for growing hemp in Vermont that comply with federal law so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity.

### § 562. DEFINITIONS

As used in this chapter:

(1) [Repealed.]

(2) “Hemp products” means all products made from hemp, including cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation.

(3) “Hemp” or “industrial hemp” means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(4) “Secretary” means the Secretary of Agriculture, Food and Markets.

§ 563. HEMP; AN AGRICULTURAL PRODUCT

~~Hemp~~ Industrial hemp is an agricultural product ~~which~~ that may be grown as a crop, produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of industrial hemp shall be subject to and comply with ~~the requirements of~~ the required agricultural practices adopted under section 4810 of this title.

§ 564. REGISTRATION; ADMINISTRATION; PILOT PROJECT

(a) The Secretary shall establish a pilot program to research the growth, cultivation, and marketing of industrial hemp. Under the pilot program, the Secretary shall register persons who will participate in the pilot program through growing or cultivating industrial hemp. The Secretary shall certify the site where industrial hemp will be cultivated by each person registered under this chapter. A person who intends to participate in the pilot program and grow industrial hemp shall register with the Secretary and submit on a form provided by the Secretary the following:

(1) the name and address of the person;

(2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and

(3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.

(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that, ~~until current federal law is amended to provide otherwise:~~

(1) cultivation and possession of industrial hemp in Vermont is a violation of the federal Controlled Substances Act unless the industrial hemp is grown, cultivated, or marketed under a pilot program authorized by section 7606 of the federal Agricultural Act of 2014, Public Law No. 113-79; and

(2) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs.

(c) A person registered with the Secretary pursuant to this section shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Secretary or ~~his or her~~ designee. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(d) The Secretary may assess an annual registration fee of \$25.00 for the performance of his or her duties under this chapter.

#### § 566. RULEMAKING AUTHORITY

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the pilot project authorized under this chapter, which may include rules to require hemp to be tested during growth for tetrahydrocannabinol levels and to require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

(b) The Secretary shall adopt rules establishing how the Agency of Agriculture, Food and Markets will conduct research within the pilot program for industrial hemp.

#### Sec. 23. TRANSITION; IMPLEMENTATION

All persons registered prior to July 1, 2018 with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp shall be deemed to be registered with the Secretary of Agriculture, Food and Markets as participants in the industrial hemp pilot project established by this act under 6 V.S.A. § 564, and those previously registered persons shall not be required to reregister with the Secretary of Agriculture, Food and Markets.

Sec. 24. 6 V.S.A. § 567 is added to read:

#### § 567. TEST RESULTS; ENFORCEMENT

(a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, the person registered with the Secretary as growing the hemp crop shall:

(1) enter into an agreement with a dispensary registered under 18 V.S.A. chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the hemp crop, return of the hemp crop to the person registered with the Secretary, and retention of the separated delta-9 tetrahydrocannabinol by the dispensary.

(2) sell the hemp crop to a dispensary registered under 18 V.S.A. chapter 86; or

(3) arrange for the Secretary to destroy or order the destruction of the hemp crop.

(b) A person registered with the Secretary as growing the hemp crop shall not be subject to civil, criminal, or administrative liability or penalty under 18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9

tetrahydrocannabinol concentration of one percent or less on a dry weight basis.

Sec. 25. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

\* \* \*

(1) Acquire, possess, cultivate, manufacture, process, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

\* \* \*

(5) Acquire, possess, manufacture, process, transfer, transport, and test hemp provided by persons registered with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp.

Sec. 26. 18 V.S.A. § 4474n is added to read:

§ 4474n. TESTING BY THE AGENCY OF AGRICULTURE, FOOD AND MARKETS

The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for hemp, hemp-infused products, marijuana, and marijuana-infused products;

(2) to verify cannabinoid label guarantees of hemp, hemp-infused products, marijuana and marijuana-infused products;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp, hemp-infused products, marijuana and marijuana-infused products; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this section.

\* \* \* Fire Prevention and Building Code Fees \* \* \*

Sec. 27. 20 V.S.A. § 2731(c) is amended to read:

(c) The following fire prevention and building code fees are established:

(1) The permit application fee for a construction plan approval shall be based on \$8.00 per each \$1,000.00 of the total valuation of the construction work proposed to be done for all buildings, but in no event shall the permit application fee exceed ~~\$185,000.00~~ \$130,000.00 nor be less than \$50.00.

(2) When an inspection is required due to the change in use or ownership of a public building, the fee shall be \$125.00.

(3) The proof of inspection fee for fire suppression, alarm, detection, and any other fire protection systems shall be \$30.00.

(4) Three-year initial certificate of fitness and renewal fees for individuals performing activities related to fire or life safety established under subsection (a) of this section shall be:

\* \* \*

(5) The Commissioner may waive all or part of a fee under this subsection if the Commissioner determines that prior review or ongoing review of the construction plan or building was suitable or completed in a manner that justifies reduction of the fee.

\* \* \* Industrial Park Designation \* \* \*

Sec. 28. AGENCY OF COMMERCE AND COMMUNITY  
DEVELOPMENT; INDUSTRIAL PARK DESIGNATION

(a) On or before December 15, 2018, the Secretary of Commerce and Community Development, after consultation with the Secretary of Natural Resources, the Chair of the Natural Resources Board, Regional Development Corporations, and Regional Planning Commissions, shall submit to the to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development, recommendations for establishing an economic development program under which defined parcels in rural areas of the State are designated as industrial parks for the purposes of providing regulatory and permitting incentives to businesses sited within the industrial park. The report shall include:

(1) recommended criteria for establishing an industrial park in a rural area;

(2) eligibility criteria, if any, for a business to site within a designated industrial park in a rural area;

(3) recommended incentives for businesses sited within a designated industrial park in a rural area, including permitting incentives, permit fee reductions, reduced electric rates, net-metering incentives, and other regulatory incentives;

(4) recommended technical or financial assistance that a business would be eligible to receive for locating within a designated industrial park in a rural area; and

(5) draft legislation necessary to implement any recommendation.

(b) As used in this section, “rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

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

Sec. 29. EFFECTIVE DATES

(a) This section and Secs. 3 and 4 (Act 250 trails designation) and 5 (Act 250 minor application; small sawmills) and 14 (wetland permit fees) shall take effect on passage.

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

(Committee vote: 4-1-0)

**Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.**

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

\* \* \* Rural Economic Development Initiative \* \* \*

Sec. 1. 10 V.S.A. § 325m is amended to read:

§ 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

(a) Definitions. As used in this subchapter:

(1) ~~“Industrial park” means an area of land permitted as an industrial park under chapter 151 of this title or under 24 V.S.A. chapter 117, or under both.~~

(2) “Rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

(3)(2) “Small town” means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created ~~within the Vermont Housing and Conservation Board~~ a the Rural Economic Development Initiative to promote and facilitate to be administered by the Vermont Housing and Conservation Board for the purpose of promoting and facilitating community economic development in the small towns and rural areas of the State. The Rural Economic Development Initiative shall collaborate with municipalities, businesses, ~~industrial parks~~, regional development corporations, and other appropriate entities to access funding and other assistance available to small towns and businesses in rural areas of the State when existing State resources or staffing assistance is not available.



(c) Services; access to funding.

(4) The Rural Economic Development Initiative shall provide the following services to small towns and businesses in rural areas:

~~(A)(1)~~ identification of grant or other funding opportunities available to small towns, businesses in rural areas, and industrial parks in small towns and rural areas that facilitate business development, siting of businesses, workforce development, broadband deployment, infrastructure development, or other economic development opportunities;

~~(B)(2)~~ technical assistance to small towns, businesses in rural areas, and industrial parks in small towns and rural areas in writing grants, accessing and completing the application process for identified grants or other funding opportunities, including writing applications for grants or other funding, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding.

~~(2)(d)~~ In providing services under this subsection, the Rural Economic Development Initiative shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation.

~~(d)(e)~~ Services; business development Priority projects. The Rural Economic Development Initiative shall provide small towns and rural areas with services to facilitate business development in these areas. These services shall include:

~~(1)~~ Identifying businesses or business types suitable for a small town, rural areas, industrial parks in a small town or rural area, or coworker spaces or generator spaces in rural areas. In identifying businesses or business types, the Rural Economic Development Initiative shall seek to assist the following priority types of projects:

~~(A)~~ identify businesses or business types in the following priority areas:

~~(i)(1)~~ milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

~~(ii)(2)~~ the outdoor recreation and equipment or recreation industry enterprises;

~~(iii)(3)~~ the value-added food and forest products industry enterprises;

~~(iv)(4)~~ the value-added food industry farm operations, including phosphorus removal technology for farm operations;

~~(v)(5) phosphorus removal technology coworking or business generator and accelerator spaces; and~~

~~(vi)(6) commercial composting facilities; and~~

~~(7) restoration and rehabilitation of historic buildings in community centers.~~

~~(B) explore with a small town or rural area whether underused or closed school buildings are appropriate sites for coworker or generator spaces.~~

~~(2) Recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.~~

~~(3)(f) In providing services under this subsection, the Rural Economic Development Initiative shall coordinate with the Secretary of Commerce and Community Development in order to avoid duplication by the Rural Economic Development Initiative of business recruitment and workforce development services provided by the Agency of Commerce and Community Development and regional development corporations.~~

~~(e)(g) Report. Beginning on January 15, 2018 31, 2019, and annually thereafter, the Rural Economic Development Initiative shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the Initiative as part of the report of the Vermont Farm and Forest Viability Program. The report shall include:~~

~~(1) a summary of the Initiative's activities in the preceding calendar year;~~

~~(2) an evaluation of the effectiveness of the services provided by the Initiative to small towns, rural areas, and industrial parks;~~

~~(3) a summary of the Initiative's progress in attracting priority businesses to small towns and rural areas;~~

~~(4) an accounting of the grants or other funding that the Initiative facilitated or provided assistance with;~~

~~(5) an accounting of the funds acquired by the Rural Economic Development Initiative for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Initiative; and~~

~~(6) recommended changes to the program, including proposed legislative amendments to further economic development in small towns and rural areas in the State summarize the Initiative's activities in the preceding~~

year; evaluate the effectiveness of the services provided by the Initiative; and provide an accounting of the grants or other funding that the Initiative facilitated or helped secure.

\* \* \* Outdoor Recreation-Friendly Community Program \* \* \*

## Sec. 2. OUTDOOR RECREATION-FRIENDLY COMMUNITY PROGRAM

(a) Establishment. The Outdoor Recreation-Friendly Community Program (Program) is created to provide incentives for communities to leverage outdoor recreation assets to foster economic growth within a town, village, city, or region of the State.

(b) Administration. The Program shall be administered by the Department of Forests, Parks and Recreation in association with the Agency of Commerce and Community Development.

(c) Selection. The Commissioner of Forests, Parks and Recreation in consultation with the Agency of Commerce and Community Development and the Vermont Outdoor Recreation Economic Collaborative steering committee shall select communities for the Program using, at minimum, the following factors.

(1) community economic need;

(2) identification of outdoor recreation as a priority in a town plan or other pertinent planning document;

(3) community commitment to an outdoor recreation vision; demonstrated support from community officials, the public, local business, and local and statewide outdoor recreation nonprofit organizations; and commitment to adhere to accepted standards and recreation ethos;

(4) a community with a good foundation of outdoor recreation assets already in place with strong potential for growth on both private and public lands;

(5) a community with good opportunities for connecting assets within the community with assets of other nearby communities;

(6) a community with an existing solid network of local supporting businesses; and

(7) community commitment to track and measure outcomes to demonstrate economic and social success.

(d) Incentives. Communities accepted into the Program shall be offered, at minimum, the following incentives.

(1) preferential consideration to become part of the Vermont Trail System;

(2) preferential consideration when applying for grant assistance through the Recreational Trails Program and the Land and Water Conservation Fund Program;

(3) access to other economic development assistance if available and appropriate; and

(4) recognition as part of a network of Outdoor Recreation-Friendly Communities connected through a common branding and adherence to high standards of quality and service.

(e) Pilot project and appropriation. The sum of \$100,000.00 shall be allocated to the Agency of Commerce and Community Development to be administered in association with the Department of Forests, Parks and Recreation and used in support of pilot communities chosen by the Commissioner of Forests, Parks and Recreation to serve as a prototype for the Program. The funding may be used for the following purposes.

(1) communitywide outdoor recreation planning, including assessment, mapping, and identifying possibilities and priorities;

(2) services of consultants and other technical assistance providers;

(3) public facing mapping and other informational materials;

(4) securing access;

(5) implementation of public access improvements;

(6) stewardship;

(7) marketing; and

(8) program administration.

(f) Reports. On or before January 15, 2019, the Commissioner of Forests, Parks and Recreation shall submit a report to the General Assembly detailing the progress made with the pilot project authorized under subsection (e) of this section. On or before January 15, 2020, the Commissioner of Forests, Parks and Recreation shall submit a report to the General Assembly detailing any measurable results of economic activity growth.

\* \* \* Electric Utility Demand Charges; Rural Towns \* \* \*

### Sec. 3. DEMAND CHARGES; REPORT

(a) On or before January 31, 2019, the Commissioner of Public Service (Commissioner), in consultation with the Secretary of Commerce and Community Development, shall submit a written report on electric utility demand charges in Vermont and their effect on the ability of industrial enterprises to locate in rural towns of the State.

(b) The Commissioner shall submit the report to the House Committees on Agriculture and Forestry, on Commerce and Community Development, and on Energy and Technology and the Senate Committees on Agriculture, on Economic Development, Housing and General Affairs, and on Finance.

(c) The report under this section shall include:

(1) a narrative summary of the terms, conditions, and rates for each demand charge tariff of each Vermont electric utility;

(2) a table that shows the rates and applicability of each such tariff, with such other information as the Commissioner may consider relevant, organized by electric utility;

(3) an analysis of the alternatives to these tariffs that will improve the ability of industrial enterprises to locate in rural towns of the State, including the use of energy efficiency, self-generation, and other measures to reduce the demand of such enterprises on the interconnecting electric utility;

(4) the Commissioner's recommendations on changes to demand charge tariffs and other methods to reduce demand that would encourage locating industrial enterprises in rural towns of the State or that would reduce or remove disincentives posed by demand charge tariffs to such locations.

(d) In this section, "rural town" shall have the same meaning as in 24 V.S.A. § 4303.

\* \* \* Purchase and Use Tax; Forestry Equipment \* \* \*

Sec. 4. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

(1) Motor vehicles owned or registered, or motor vehicles rented, by any state or province or any political subdivision thereof.

\* \* \*

(23) The following motor vehicles used for timber cutting, timber removal, and processing of timber or other solid wood forest products intended to be sold ultimately at retail: skidders with grapple and cable, feller bunchers, cut-to-length processors, forwarders, delimiters, loader slashers, log loaders, whole-tree chippers, stationary screening systems, portable sawmills, and firewood processors, elevators, and screens.

\* \* \* Sales and Use Tax; Tax Credit; Advanced Wood Boilers \* \* \*

Sec. 5. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

\* \* \*

(54) “Noncollecting vendor” means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) “Advanced wood boiler” means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and air emission standards established by the Department of Environmental Conservation.

Sec. 6. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

\* \* \*

(52) Advanced wood boilers, as defined in section 9701 of this title, whether for residential or commercial use.

Sec. 7. 32 V.S.A. § 5930I is added to read:

§ 5930I. ADVANCED WOOD BOILER TAX CREDIT

(a) As used in this section, “advanced wood boiler” means a boiler or furnace:

(1) installed as a primary central heating system;

(2) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(3) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(4) meeting other efficiency and air emission standards established by the Department of Environmental Conservation.

(b) A taxpayer of this State shall be eligible for a credit against the tax

imposed under this chapter in an amount equal to 50 percent of the purchase cost of an advanced wood boiler.

(c) Any unused credit available under subsection (b) of this section may be carried forward for up to 10 years.

Sec. 8. 32 V.S.A. § 5813(w) is added to read:

(w) The statutory purpose advanced wood boiler tax credit in section 5930l of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

Sec. 9. 32 V.S.A. § 9706(ll) is added to read:

(ll) The statutory purpose of the exemption for advanced wood boilers in subdivision 9741(52) of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

\* \* \* Hemp \* \* \*

Sec. 10. PURPOSE

The purpose of Secs. 10-12 of this act is to amend the laws of Vermont regarding the cultivation of industrial hemp to conform with federal requirements for industrial hemp research set forth in section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79, codified at 7 U.S.C. § 5940.

Sec. 11. 6 V.S.A. chapter 34 is amended to read:

#### CHAPTER 34. HEMP

§ 561. FINDINGS; INTENT

(a) Findings.

(1) Hemp has been continuously cultivated for millennia, is accepted and available in the global marketplace, and has numerous beneficial, practical, and economic uses, including: high-strength fiber, textiles, clothing, ~~bio-fuel~~ biofuel, paper products, protein-rich food containing essential fatty acids and amino acids, biodegradable plastics, resins, nontoxic medicinal and cosmetic products, construction materials, rope, and value-added crafts.

(2) The many agricultural and environmental beneficial uses of hemp include: livestock feed and bedding, stream buffering, erosion control, water and soil purification, and weed control.

(3) The hemp plant, an annual herbaceous plant with a long slender stem ranging in height from four to 15 feet and a stem diameter of one-quarter to three-quarters of an inch is morphologically distinctive and readily identifiable as an agricultural crop grown for the cultivation and harvesting of its fiber and seed.

(4) Hemp cultivation will enable the State of Vermont to accelerate economic growth and job creation, promote environmental stewardship, and expand export market opportunities.

(5) The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act, if certain criteria are satisfied.

(b) Purpose. The intent of this chapter is to establish policy and procedures for growing hemp in Vermont that comply with federal law so that farmers and other businesses in the Vermont agricultural industry can take advantage of this market opportunity.

## § 562. DEFINITIONS

As used in this chapter:

(1) [Repealed.]

(2) “Hemp products” means all products made from hemp, including cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation.

(3) “Hemp” or “industrial hemp” means the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(4) “Secretary” means the Secretary of Agriculture, Food and Markets.

## § 563. HEMP; AN AGRICULTURAL PRODUCT

~~Hemp~~ Industrial hemp is an agricultural product ~~which~~ that may be grown as a crop, produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter. The cultivation of industrial hemp shall be subject to and comply with ~~the requirements of~~ the required agricultural practices adopted under section 4810 of this title.

## § 564. REGISTRATION; ADMINISTRATION; PILOT PROJECT

(a) The Secretary shall establish a pilot program to research the growth, cultivation, and marketing of industrial hemp. Under the pilot program, the Secretary shall register persons who will participate in the pilot program through growing or cultivating industrial hemp. The Secretary shall certify the site where industrial hemp will be cultivated by each person registered under this chapter. A person who intends to participate in the pilot program and grow industrial hemp shall register with the Secretary and submit on a form provided by the Secretary the following:



- (1) the name and address of the person;
- (2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and
- (3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.

(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that, ~~until current federal law is amended to provide otherwise:~~

(1) cultivation and possession of industrial hemp in Vermont is a violation of the federal Controlled Substances Act unless the industrial hemp is grown, cultivated, or marketed under a pilot program authorized by section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79; and

(2) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs.

(c) A person registered with the Secretary pursuant to this section shall allow industrial hemp crops, throughout sowing, growing season, harvest, storage, and processing, to be inspected and tested by and at the discretion of the Secretary or ~~his or her~~ designee. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(d) The Secretary may assess an annual registration fee of \$25.00 for the performance of his or her duties under this chapter.

#### § 566. RULEMAKING AUTHORITY

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the pilot project authorized under this chapter, which may include rules to require hemp to be tested during growth for tetrahydrocannabinol levels and to require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law.

(b) The Secretary shall adopt rules establishing how the Agency of Agriculture, Food and Markets will conduct research within the pilot program for industrial hemp.

#### Sec. 12. TRANSITION; IMPLEMENTATION

All persons registered prior to July 1, 2018 with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp shall be deemed to be registered with the Secretary of Agriculture, Food and Markets as participants in the industrial hemp pilot project established by this act under 6 V.S.A. § 564, and those previously registered persons shall not be required to reregister with the Secretary of Agriculture, Food and Markets.

Sec. 13. 6 V.S.A. § 567 is added to read:

§ 567. TEST RESULTS; ENFORCEMENT

(a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, the person registered with the Secretary as growing the hemp crop shall:

(1) enter into an agreement with a dispensary registered under 18 V.S.A. chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the hemp crop, return of the hemp crop to the person registered with the Secretary, and retention of the separated delta-9 tetrahydrocannabinol by the dispensary.

(2) sell the hemp crop to a dispensary registered under 18 V.S.A. chapter 86; or

(3) arrange for the Secretary to destroy or order the destruction of the hemp crop.

(b) A person registered with the Secretary as growing the hemp crop shall not be subject to civil, criminal, or administrative liability or penalty under 18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9 tetrahydrocannabinol concentration of one percent or less on a dry weight basis.

Sec. 14. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, process, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

\* \* \*

(5) Acquire, possess, manufacture, process, transfer, transport, and test hemp provided by persons registered with the Secretary of Agriculture, Food and Markets under 6 V.S.A. chapter 34 to grow or cultivate hemp.

\* \* \*

Sec. 15. 18 V.S.A. § 4474n is added to read:

§ 4474n. TESTING BY THE AGENCY OF AGRICULTURE, FOOD AND MARKETS

The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for hemp, hemp-infused products, marijuana, and marijuana-infused products;

(2) to verify cannabinoid label guarantees of hemp, hemp-infused products, marijuana, and marijuana-infused products;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp, hemp-infused products, marijuana, and marijuana-infused products; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this section.

\* \* \* Fire Prevention and Building Code Fees \* \* \*

Sec. 16. 20 V.S.A. § 2731(c) is amended to read:

(c) The following fire prevention and building code fees are established:

(1) The permit application fee for a construction plan approval shall be based on \$8.00 per each \$1,000.00 of the total valuation of the construction work proposed to be done for all buildings, but in no event shall the permit application fee exceed ~~\$185,000.00~~ \$130,000.00 nor be less than \$50.00.

(2) When an inspection is required due to the change in use or ownership of a public building, the fee shall be \$125.00.

(3) The proof of inspection fee for fire suppression, alarm, detection, and any other fire protection systems shall be \$30.00.

(4) Three-year initial certificate of fitness and renewal fees for individuals performing activities related to fire or life safety established under subsection (a) of this section shall be:

\* \* \*

(5) The Commissioner may waive all or part of a fee under this subsection if the Commissioner determines that prior review or ongoing review of the construction plan or building was suitable or completed in a manner that justifies reduction of the fee.

\* \* \* Industrial Park Designation \* \* \*

Sec. 17. AGENCY OF COMMERCE AND COMMUNITY  
DEVELOPMENT; INDUSTRIAL PARK DESIGNATION

(a) On or before December 15, 2018, the Secretary of Commerce and Community Development, after consultation with the Secretary of Natural Resources, the Chair of the Natural Resources Board, Regional Development Corporations, Regional Planning Commissions, the Vermont Natural Resources Council, and the Commission on Act 250, shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and to the House Committee on Commerce and Economic Development recommendations for establishing an economic development program under which defined parcels in rural areas of the State are designated as industrial parks for the purposes of providing regulatory and permitting incentives to businesses sited within the industrial park. The report shall include:

(1) recommended criteria for establishing an industrial park in a rural area;

(2) eligibility criteria, if any, for a business to site within a designated industrial park in a rural area;

(3) recommended incentives for businesses sited within a designated industrial park in a rural area, including permitting incentives, permit fee reductions, reduced electric rates, net metering incentives, and other regulatory incentives;

(4) recommended technical or financial assistance that a business would be eligible to receive for locating within a designated industrial park in a rural area; and

(5) draft legislation necessary to implement any recommendation.

(b) As used in this section, "rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

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

Sec. 18. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

**Reported favorably with recommendation of amendment by Senator Cummings for the Committee on Finance.**

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: In Sec. 4, 32 V.S.A. § 8911, in subdivision (23), after “screening systems,” and before “and firewood processors” by striking out portable sawmills,

Second: By striking out Secs. 5-9 (advanced wood boiler sales tax exemption; income tax credit) in their entirety and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

Sec. 7. [Deleted.]

Sec. 8. [Deleted.]

Sec. 9. [Deleted.]

Third: By striking out Sec. 16 (fire prevention fees) in its entirety and inserting in lieu thereof the following:

Sec. 16. [Deleted.]

(Committee vote: 7-0-0)

**Reported favorably with recommendation of amendment by Senator Starr for the Committee on Appropriations.**

The Committee recommends that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

In Sec. 2 (outdoor recreation friendly community program), in subsection (a), after “Establishment.” and before “Outdoor Recreation Friendly Community Program” by striking out the word “The” and inserting in lieu thereof the words Upon receipt of funding, the and in subsection (e), after “Pilot project and appropriation.”, by striking out the first full sentence in its entirety and inserting in lieu thereof the following:

Upon receipt of funding to create the Outdoor Recreation Friendly Community Program, the Agency of Commerce and Community Development, in association with the Department of Forests, Parks and Recreation shall approve pilot communities to serve as prototypes for the Program.

(Committee vote: 6-0-1)

## Joint Resolution For Action

### J.R.H. 14.

Joint resolution authorizing the Green Mountain Boys State educational program to use the State House.

**PENDING QUESTION:** Shall the resolution be adopted in concurrence?

(For text of resolution, see Senate Journal of March 20, 2018, page 450.)

### ORDERED TO LIE

#### S. 285.

An act relating to universal recycling requirements.

#### **Pending Question:**

Shall the recommendation of the Committee on Natural Resources and Energy be amended as recommended by Sen. Pollina?

(For text of amendment, see Senate Journal of March 20, 2018, page 452.)

### 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 Utility Commission shall be fully and separately acted upon.

Thomas S. Leavitt of Waterbury Center - Commissioner of the Vermont Housing Finance Agency - By Senator Pollina for the Committee on Finance. (3/22/18)

Jeanne A. Morrissey of Richmond - Commissioner of the Vermont Housing Finance Agency - By Senator Lyons for the Committee on Finance. (3/22/18)

Al Flory of Barre - Member of the State Infrastructure Bank Board - By Senator Pollina for the Committee on Finance. (3/22/18)

Peter Hood of Middlesex - Member of the State Infrastructure Bank Board - By Senator Pollina for the Committee on Finance. (3/22/18)

David Kimel of St. Albans - Director, Vermont Municipal Bond Bank - By Senator Brock for the Committee on Finance. (3/22/18)

Dana Kittell of East Fairfield - Member of the Vermont Economic Development Authority - By Senator Brock for the Committee on Finance. (3/22/18)

Deborah Winters of Swanton - Director, Vermont Municipal Bond Bank - By Senator Brock for the Committee on Finance. (3/22/18)

### **FOR INFORMATION ONLY**

#### **CROSS OVER DATES**

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 2, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

**Note:** The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

**Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Fee Bill).**