

Senate Calendar

WEDNESDAY, MAY 09, 2018

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ACTION CALENDAR
CONSIDERATION POSTPONED UNTIL MAY 9, 2018

Third Reading

H. 636.

An act relating to miscellaneous fish and wildlife subjects.

PENDING QUESTION: Shall the Senate Proposal of Amendment be amended as moved by Senator Rodgers?

Text of proposal of amendment:

Senator Rodgers moves that the Senate propose to the House to amend the bill adding a new Sec. 17 to read as follows:

Sec. 17. 13 V.S.A. § 4021 is amended to read:

§ 4021. LARGE CAPACITY AMMUNITION FEEDING DEVICES

* * *

(e)(1) As used in this section, “large capacity ammunition feeding device” means a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept:

~~(A) more than 10 rounds of ammunition for a long gun; or~~

~~(B) more than 15 30 rounds of ammunition for a hand gun.~~

And by renumbering the remaining section to be numerically correct.

UNFINISHED BUSINESS OF THURSDAY, MAY 3, 2018

House Proposal of Amendment to Senate Proposal of Amendment

H. 608

An act relating to creating an Older Vermonters Act working group

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

By striking out Sec. 3, Older Vermonters Act working group; report, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. OLDER VERMONTERS ACT WORKING GROUP; REPORT

(a) Creation. There is created an Older Vermonters Act working group for the purpose of developing recommendations for an Older Vermonters Act that

aligns with the federal Older Americans Act, the Vermont State Plan on Aging, and the Choices for Care program.

(b) Membership. The working group shall be composed of the following 18 members:

(1) one current member of the House of Representatives appointed by the Speaker of the House;

(2) one current member of the Senate appointed by the Committee on Committees;

(3) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(4) the Director of Health Promotion and Disease Prevention at the Department of Health or designee;

(5) the Commissioner of Labor or designee;

(6) the Attorney General or designee;

(7) the Executive Director of the Vermont Association of Area Agencies on Aging or designee;

(8) the State Long-Term Care Ombudsman;

(9) the Director of Vermont Associates for Training and Development or designee;

(10) a representative of the Vermont Association of Adult Day Services, appointed by the Association;

(11) a representative of home health agencies, appointed jointly by the VNAs of Vermont and Bayada Home Health Care;

(12) a representative of long-term care facilities, appointed by the Vermont Health Care Association;

(13) the Director of the Center on Aging at the University of Vermont or designee;

(14) a representative of the Vermont Association of Senior Centers and Meal Providers, appointed by the Association;

(15) two older Vermonters from different regions of the State, appointed by the Advisory Board established by 33 V.S.A. § 505; and

(16) two family caregivers of older Vermonters, one of whom is a family member of an older Vermonter and one of whom is an informal provider of in-home and community care, appointed by the Advisory Board established by 33 V.S.A. § 505.

(c) Powers and duties. The working group, in consultation with elder care mental health clinicians, the Vermont Chamber of Commerce, the Community of Vermont Elders, the Alzheimer's Association, Support and Services at Home (SASH), AARP Vermont, the Elder Law Project at Vermont Legal Aid, the Vermont Public Transportation Association, and other interested stakeholders, shall develop recommendations on the following:

(1) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living as a State Unit on Aging;

(2) the authority and responsibilities of the Vermont Department of Disabilities, Aging, and Independent Living with respect to the management, approval, and oversight of services provided to eligible older Vermonters through the Choices for Care program;

(3) the roles and responsibilities of the Area Agencies on Aging as the designated regional planning organizations serving older Vermonters and family caregivers;

(4) the roles and responsibilities of the network of providers of services to older Vermonters and family caregivers;

(5) a description of a comprehensive and coordinated system of services and supports for older Vermonters and family caregivers as envisioned by the Older Americans Act and the Choices for Care program, including supportive services, nutrition services, health promotion and disease prevention services, family caregiver services, employment services, and protective services;

(6) a description of how such a system would be coordinated across State agencies, provider networks, and geographic regions;

(7) how to ensure that such a system would target those in greatest economic and social need;

(8) ways to encourage and educate older Vermonters to continue in the workforce and to become or remain involved in their communities through participation in volunteer activities and opportunities for civic engagement; and

(9) ways to educate employers about the value of the older Vermonters talent cohort and the benefits of maintaining a multigenerational workforce, as well as identification of models that may be replicated across sectors and industries.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Department of Disabilities, Aging, and Independent Living.

(e) Report. On or before December 1, 2019, the working group shall submit its recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Commissioner of Disabilities, Aging, and Independent Living or designee shall chair the working group and shall call the first meeting of the working group, which shall occur on or before September 15, 2018.

(2) The working group shall meet as often as reasonably necessary to develop its recommendations, but not less frequently than once every two months.

(3) The working group shall cease to exist upon submitting its report to the General Assembly on or before December 1, 2019.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the working group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for a total of not more than eight meetings.

(2) Other members of the working group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance at meetings of the working group shall be entitled to reimbursement of expenses pursuant to 32 V.S.A. § 1010.

(3) Payments to members of the working group authorized under subdivision (2) of this subsection shall be made from monies appropriated to the Department of Disabilities, Aging, and Independent Living.

UNFINISHED BUSINESS OF MONDAY, MAY 7, 2018

House Proposals of Amendment

S. 180

An act relating to the Vermont Fair Repair Act.

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

Sec. 1. FINDINGS

The General Assembly finds:

(1) The repair of modern electronic products, even for such minor repairs as replacing a battery or screen, often becomes difficult or impossible due to manufacturers' limitation of access to information or parts to effect those repairs.

(2) Manufacturers may limit access to only those customers who are under warranty; may refuse access for owners of older models; and may refuse to stock or sell parts at fair and reasonable prices. Consequently, consumers are often left with few options other than to buy new.

(3) Modern repairs involve electronics. Repairing those electronics requires information, parts, firmware access, and tooling specifications from the product designers.

(4) The knowledge and tools to repair and refurbish consumer electronic products should be distributed as widely and freely as the products themselves. In contrast to centralized manufacturing, reuse must be broadly distributed to achieve economies of scale.

(5) Many manufacturers have made commitments to sustainability, repair, and reuse, and the innovation economy of Vermont and the United States has had many positive economic and environmental impacts. Legislation that further promotes extending the lifespan of consumer electronic products can create jobs and benefit the environment.

(6) As demonstrated by Massachusetts's experience with a right to repair initiative concerning automobiles in 2014, which resulted in a compromise between manufacturers and independent repair providers to adopt a voluntary nationwide approach for providing diagnostic codes and repair data available in a common format by the 2018 model year, legislative action to secure a right to repair can achieve positive benefits for manufacturers, independent businesses, and consumers.

Sec. 2. RIGHT TO REPAIR TASK FORCE; REPORT

(a) Creation. There is created the Right to Repair Task Force.

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

(1) one current member of the House of Representatives, appointed by the Speaker of the House;

(2) one current member of the Senate, appointed by the Committee on Committees;

(3) the Attorney General or designee;

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

(5) the Secretary of Digital Services or designee.

(c) Stakeholder engagement. The Task Force shall solicit testimony and participation in its work from representatives of relevant stakeholders,

including authorized and independent repair providers, and business and consumer groups with an interest in consumer electronic products.

(d) Powers and duties. The Task Force shall review and consider the following issues relating to potential legislation designed to secure the right to repair consumer electronic products, including personal electronic devices such as cell phones, tablets, and computers:

(1) the scope of products to include;

(2) economic costs and benefits, including economic development and workforce opportunities;

(3) effects on the cost and availability to consumers of new and used consumer electronic products in the marketplace, including diminished availability of refurbished products for secondary users;

(4) environmental and economic costs of electronic waste;

(5) legal issues, including intellectual property and trade secrets, potential for alignment or conflict with federal law, and litigation risks;

(6) privacy and security features in electronic products; and

(7) any other issues the Task Force considers relevant and necessary to accomplish its work.

(e) Assistance. The Task Force shall have the administrative, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office. Relevant agencies and departments within State government shall provide their technical and other expertise upon request of the Task Force.

(f) Report. On or before January 15, 2019, the Task Force shall submit a written report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development with its findings and any recommendations for legislative action, including specific findings and recommendations concerning personal electronic devices such as cell phones, tablets, and computers.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Task Force to occur on or before August 15, 2018.

(2) The legislative members of the Task Force shall serve as co-chairs.

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

(4) The Task Force shall cease to exist on January 15, 2019.

(h) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force

serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

S. 206

An act relating to business consumer protection for point-of-sale equipment leases.

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

Sec. 1. 9 V.S.A. chapter 63, subchapter 9 is added to read:

Subchapter 9. Credit Card Terminal Finance Leases

§ 2482h. SOLICITATION; MATERIAL MISREPRESENTATION

(a) As used in this subchapter, “credit card terminal” means physical equipment used at the point of sale to accept payment by a payment card, including a credit card, debit card, EBT card, prepaid card, or gift card.

(b) A person who solicits a finance lease for the use of a credit card terminal shall accurately disclose:

(1) the nature and scope of his or her relationship to the person or persons who own, lease, service, and finance the credit card terminal and, if known, provide related services, including whether he or she is an employee, independent contractor, or agent of one or more of those persons;

(2) the terms of a finance lease and whether oral statements or commitments he or she makes to the prospective lessee while soliciting a finance lease are included in the terms of the finance lease and enforceable against a party to a finance lease; and

(3) whether the consumer has an option to purchase the credit card terminal that is the subject of the finance lease.

§ 2482i. CREDIT CARD TERMINAL; FINANCE LEASE PROVISIONS

The following provisions apply to a finance lease for the use of a credit card terminal:

(1) Plain language. The party primarily responsible for drafting the finance lease shall use plain language designed to be understood by ordinary consumers, presented in a reasonable format, typeface, and font.

(2) Finance lease; costs; disclosure. The finance lease shall specify:

(A) the terms of the finance lease;

(B) the total price of the finance lease;

(C) the total monthly payment due, including any recurring monthly fees or charges; and

(D) any other penalties, charges, or fees and the conditions under which they may be incurred.

(3) Relationship to processing services and fees. If a lessee who enters into a finance lease for a credit card terminal also agrees to receive bundled services for the terminal, such as credit card processing services, from the lessor or a business affiliated with the lessor, either the finance lease or a separate agreement for the bundled services shall include an itemized statement of the terms, costs, fees, and potential penalties for each service, as specified in subdivision (2) of this section.

(4) Contact information. The finance lease shall clearly and conspicuously identify the lessor of the credit card terminal and the name, mailing address, telephone number, email address or website, and relationship to the lessor of:

(A) the person to whom the lessee is required to make payments for the credit card terminal;

(B) the person whom the lessee should contact with questions or problems concerning the credit card terminal;

(C) the person to whom the lessee should deliver the credit card terminal for return or repair; and

(D) the sales representative or other person acting with actual or apparent authority on behalf of the lessor to solicit the finance lease.

(5) Prohibited provisions.

(A) A provision of a finance lease that permits or requires a dispute to be resolved in a judicial forum that would not otherwise have jurisdiction over the lessee is against public policy and unenforceable.

(B) A lessor shall not collect any charge or fee for business personal property tax on the credit card terminal unless the tax is actually imposed.

(6) Duty to retain and provide finance lease; right to cancel.

(A) A lessor shall provide a copy of the executed finance lease to the lessee and shall retain a written or electronic copy of the finance lease for not less than four years after the lease terminates.

(B) A lessee shall have the right to cancel a finance lease not later than 45 days after the lessor provides a copy of the executed finance lease to the lessee.

(C) If the lessee exercises his or her right to cancel:

(i) the lessor may retain any payments made by the lessee after the lessor delivered a copy of the executed finance lease;

(ii) the lessor may impose a reasonable cancellation fee, not to exceed the total monthly payment amount specified in subdivision (2)(C) of this section.

§ 2482j. VIOLATIONS

A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

S. 222

An act relating to miscellaneous judiciary procedures.

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

Sec. 1. 10 V.S.A. § 8007(c) is amended to read:

(c) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. The assurance of discontinuance shall be simultaneously filed with the Attorney General and the Environmental Division. The Secretary or the Natural Resources Board shall post a final draft assurance of discontinuance to its website and shall provide a final draft assurance of discontinuance to a person upon request. When signed by the Environmental Division, the assurance shall become a judicial order. Upon motion by the Attorney General made within ~~10~~ 14 days ~~of~~ after the date the assurance is signed by the Division and upon a finding that the order is insufficient to carry out the purposes of this chapter, the Division shall vacate the order.

Sec. 2. 12 V.S.A. § 1 is amended to read:

§ 1. RULES OF PLEADING, PRACTICE, AND PROCEDURE; FORMS

The Supreme Court is empowered to prescribe and amend from time to time general rules with respect to pleadings, practice, evidence, procedure, and forms for all actions and proceedings in all courts of this State. The rules thus prescribed or amended shall not abridge, enlarge, or modify any substantive

rights of any person provided by law. The rules when initially prescribed or any amendments thereto, including any repeal, modification, or addition, shall take effect on the date provided by the Supreme Court in its order of promulgation, unless objected to by the ~~Joint~~ Legislative Committee on Judicial Rules as provided by this chapter. If objection is made by the ~~Joint~~ Legislative Committee on Judicial Rules, the initially prescribed rules in question shall not take effect until they have been reported to the General Assembly by the Chief Justice of the Supreme Court at any regular, adjourned, or special session thereof, and until after the expiration of 45 legislative days of that session, including the date of the filing of the report. The General Assembly may repeal, revise, or modify any rule or amendment thereto, and its action shall not be abridged, enlarged, or modified by subsequent rule.

Sec. 3. 12 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in sections 3 and 4 of this chapter:

(1) “Adopting authority” means the Chief Justice of the Supreme Court or the ~~administrative judge~~ Chief Superior Judge, where appropriate;.

(2) “Court” means the Supreme Court, except in those instances where the statutes permit rules to be adopted by the ~~administrative judge~~ Chief Superior Judge, in which case, the word “court” means the ~~administrative judge;~~ Chief Superior Judge.

* * *

Sec. 4. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a State’s Attorney may summon a person who commits an offense to appear before Superior Court by a summons in such form as prescribed by the Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or State’s Attorney and delivered to the person.

* * *

~~(d) A person who does not so appear in response to a summons for a traffic offense as defined in 23 V.S.A. § 2201 shall be fined not more than \$100.00. [Repealed.]~~

Sec. 5. 12 V.S.A. § 3125 is amended to read:

§ 3125. PAYMENT OF TRUSTEE’S CLAIM BY CREDITOR

When it appears that personal property in the hands of a person summoned as a trustee is mortgaged, pledged, or liable for the payment of a debt due to him or her, the court may allow the attaching creditor to pay or tender the amount due to the trustee, and he or she shall thereupon deliver such property, as ~~hereinbefore~~ provided in this subchapter, to the officer holding the execution.

Sec. 6. 12 V.S.A. § 3351 is amended to read:

§ 3351. ATTACHMENT, TAKING IN EXECUTION, AND SALE

Personal property not exempt from attachment, subject to a mortgage, pledge, or lien, may be attached, taken in execution, and sold as the property of the mortgagor, pledgor, or general owner, in the same manner as other personal property, except as ~~hereinafter~~ otherwise provided in this subchapter.

Sec. 7. 18 V.S.A. § 4245 is amended to read:

§ 4245. REMISSION OR MITIGATION OF FORFEITURE

(a) On petition filed within 90 days ~~of~~ after completion of a forfeiture proceeding, ~~the claims commission established in 32 V.S.A. § 931~~ a court that issued a forfeiture order pursuant to section 4244 of this title may order that the forfeiture be remitted or mitigated. The petition shall be sworn, and shall include all information necessary for its resolution or shall describe where such information can be obtained. Upon receiving a petition, the ~~claims commission court~~ shall investigate and may conduct a hearing if in its judgment it would be helpful to resolution of the petition. The ~~claims commission court~~ shall either grant or deny the petition within 90 days.

(b) The ~~claims commission court~~ may remit or mitigate a forfeiture upon finding that relief should be granted to avoid extreme hardship or upon finding that the petitioner has a valid, good faith interest in the property which is not held through a straw purchase, trust, or otherwise for the benefit of another and that the petitioner did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law.

Sec. 8. 18 V.S.A. § 4474g(b) is amended to read:

(b) Prior to acting on an application for a Registry identification card, the Department shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary owner, principal, and financier.

Sec. 9. REPEAL

2017 Acts and Resolves No. 11, Sec. 60 (amending 32 V.S.A. § 5412) is repealed.

Sec. 10. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer a juvenile court diversion project for the purpose of assisting juveniles charged with delinquent acts. ~~Rules which were adopted by the Vermont Commission on the Administration of Justice to implement the juvenile court diversion project shall be adapted by the Attorney General to the programs and projects established under this section.~~ In consultation with the diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.

(b) The diversion ~~project program~~ program administered by the Attorney General shall ~~encourage the development support the operation~~ of diversion ~~projects programs~~ in local communities through grants of financial assistance to, or by contracting for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of project grants funding.

* * *

(i) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 11. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion program in all counties. ~~The program shall be operated through the juvenile diversion project.~~ In consultation with diversion programs, the Attorney General shall adopt only such rules as are necessary to establish an adult court diversion program for adults a policies and procedures manual, in compliance with this section.

* * *

(c) The program shall ~~encourage the development~~ support the operation of diversion programs in local communities through grants of financial assistance to, or contracts for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of program ~~grants~~ funding.

* * *

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The matter shall become confidential when notice is provided to the court. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

(A) the ~~Board~~ diversion program declines to accept the case;

(B) the person declines to participate in diversion;

(C) the ~~Board~~ diversion program accepts the case, but the person does not successfully complete diversion; or

(D) the prosecuting attorney recalls the referral to diversion.

* * *

(5) All information gathered in the course of the adult diversion process shall be held strictly confidential and shall not be released without the participant's prior consent (except that research and reports that do not ~~require~~ or establish the identity of individual participants are allowed).

* * *

(7)(A) ~~The Irrespective of whether a record was expunged,~~ the adult court diversion program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

- (i) name and date of birth;
- (ii) offense charged and date of offense;
- (iii) place of residence;
- (iv) county where diversion process took place; and
- (v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General, and directors of adult court diversion programs.

(C) Notwithstanding subdivision (B) of this subdivision (e)(7), the Attorney General shall, upon request, provide to a participant or his or her attorney sufficient documentation to show that the participant successfully completed diversion.

* * *

(g)(1) Within 30 days of after the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of record of the court's intention to order the sealing expungement of all court files and records, law enforcement records other than entries in the adult court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the sealing expungement of the records. The court shall seal expunge the records if it finds:

(1)(A) two years have elapsed since the successful completion of the adult diversion program by the participant and the dismissal of the case by the State's Attorney;

(2)(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; ~~and~~

(3)(C) rehabilitation of the participant has been attained to the satisfaction of the court; ~~and~~

(D) the participant does not owe restitution related to the case under a contract executed with the Restitution Unit.

(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing this subsection (g).

(h) ~~Upon~~ Except as otherwise provided in this section, upon the entry of an order sealing ~~such~~ expunging files and records under this section, the proceedings in the matter ~~under this section~~ shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

(i) ~~Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein. [Repealed.]~~

(j) The process of automatically sealing expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records sealed expunged. Sealing Expungement shall occur if the requirements of subsection (g) of this section are met.

* * *

(k) ~~Subject to the approval of the~~ The Attorney General, in consultation with the Vermont Association of Court Diversion Programs, may develop and administer programs to assist persons under this section charged with delinquent, criminal, and civil offenses.

(l) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance Abuse Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance Abuse Safety Program.

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. USE OF VIDEO

(a) Except as provided by subsection (b) of this section, proceedings governed by Rules 5 and 10 of the Vermont Rules of Criminal Procedure and chapter 229 of this title shall be in person and on the record, and shall not be performed by video conferencing or other electronic means until the Defender General and the Executive Director of the Department of Sheriffs and State's Attorneys execute a joint certification that the video conferencing program in use by the court at the site where the proceeding occurs adequately ensures attorney-client confidentiality and the client's meaningful participation in the proceeding.

(b) A proceeding at which subsection (a) of this section applies may be performed by video conferencing if counsel for the defendant or a defendant not represented by counsel consents.

Sec. 13. 13 V.S.A. § 2301 is amended to read:

§ 2301. MURDER-DEGREES DEFINED

Murder committed by means of poison, or by lying in wait, or by ~~wilful~~ willful, deliberate, and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, sexual assault, aggravated sexual assault, kidnapping, robbery, or burglary, shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

Sec. 14. 15 V.S.A. § 554 is amended to read:

§ 554. DECREES NISI

(a) A decree of divorce from the bonds of matrimony in the first instance, shall be a decree nisi and shall become absolute at the expiration of ~~three months~~ 90 days from the entry thereof but, in its discretion, the court which that grants the divorce may fix an earlier date upon which the decree shall

become absolute. If one of the parties dies prior to the expiration of the nisi period, the decree shall be deemed absolute immediately prior to death.

(b) Either party may file any post-trial motions under the Vermont Rules of Civil Procedure. The time within which any such motion shall be filed shall run from the date of entry of the decree of divorce and not from the date the nisi period expires. The court shall retain jurisdiction to hear and decide the motion after expiration of the nisi period. A decree of divorce shall constitute a civil judgment under the Vermont Rules of Civil Procedure.

(c) If the stated term at which the decree nisi was entered has adjourned when a motion is filed, the presiding judge of the stated term shall have power to hear and determine the matter and make new decree therein as fully as the court might have done in term time; but, in the judge's discretion, the judge may strike off the decree and continue the cause to the next stated term.

Sec. 15. 18 V.S.A. § 4230f(f) is amended to read:

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver or to a registered caregiver who provides marijuana to a registered patient pursuant to chapter 86 of this title.

Sec. 16. 20 V.S.A. § 3903 is amended to read:

§ 3903. ANIMAL SHELTERS AND RESCUE ORGANIZATIONS

(a) [Repealed.]

(b) Animal intake. An animal shelter or rescue organization ~~under this chapter shall not accept an animal unless the person transferring the animal to the shelter provides~~ as defined by section 3901 of this title shall make every effort to collect the following information about an animal it accepts: the name and address of the person transferring the animal and, if known, the name of the animal, its vaccination history, and other information concerning the background, temperament, and health of the animal.

(c) Nonprofit status. A rescue organization under this chapter shall be recognized and approved as a nonprofit organization under 26 U.S.C. § 501(c)(3).

(d) Immunity from liability. Notwithstanding section 3901a of this title, any animal shelter or rescue organization assisting law enforcement in an animal cruelty investigation or seizure that, in good faith, provides care and treatment to an animal involved in the investigation or seizure shall not be held liable for civil damages by the owner of the animal unless the actions of the shelter or organization constitute gross negligence.

Sec. 17. EARNED GOOD TIME; REPORT

On or before November 15, 2018, the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State's Attorneys, and the Defender General, shall report to the Senate and House Committees on Judiciary, the Senate Committee on Institutions, and the House Committee on Corrections and Institutions on the advisability and feasibility of reinstating a system of earned good time for persons under the supervision of the Department of Corrections.

Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 15 shall take effect on July 2, 2018.

House Proposal of Amendment to Senate Proposal of Amendment

H. 908

An act relating to the Administrative Procedure Act

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

In Sec. 2, 3 V.S.A. chapter 25, in § 838 (filing of proposed rules), in subsection (b) (economic impact analysis; rules affecting small businesses and school districts), in subdivision (2) (small businesses), in the first sentence, by striking out “,when appropriate,”

Proposal of amendment H. 908 to be offered by Senators White, Ayer, Clarkson, Collamore and Pearson

Senators White, Ayer, Clarkson, Collamore and Pearson move that the Senate concur in the House proposal of amendment with a further proposal of amendment as follows:

In Sec. 2, 3 V.S.A. chapter 25, in § 838 (filing of proposed rules), in subsection (b) (economic impact analysis; rules affecting small businesses and school districts), in subdivision (2) (small businesses), in the first sentence, after “the agency shall include” by inserting , when appropriate,

UNFINISHED BUSINESS OF TUESDAY, MAY 8, 2018

Third Reading

H. 907.

An act relating to improving rental housing safety.

**Proposal of amendment to H. 907 to be offered by Senator Sirotkin before
Third Reading**

Senator Sirotkin moves to amend the Senate proposal of amendment in Sec. 5, in 18 V.S.A. § 603(a) by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read:

(2) A written inspection report shall:

(i) contain findings of fact that serve as the basis of one or more violations;

(ii) specify the requirements and timelines necessary to correct a violation;

(iii) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(iv) provide notice in plain language that the landlord and agents of the landlord must have access to the rental unit to make repairs as ordered by the health officer consistent with the access provisions in 9 V.S.A. § 4460.

NEW BUSINESS

Third Reading

H. 196.

An act relating to paid family leave.

**Proposal of amendment H. 196 to be offered by Senator Sirotkin before
Third Reading**

Senator Sirotkin moves that the Senate concur in the House proposal of amendment with a further proposal of amendment as follows:

In Sec. 3, 21 V.S.A. chapter 5, subchapter 13, in § 572(c)(1)(C), by striking out the words “Annually on January 1” and inserting in lieu thereof Beginning on January 1, 2020, and on each subsequent January 1

H. 410.

An act relating to adding products to Vermont’s energy efficiency standards for appliances and equipment.

H. 554.

An act relating to the regulation of dams.

H. 639.

An act relating to banning cost-sharing for all breast imaging services.

H. 675.

An act relating to conditions of release prior to trial.

H. 684.

An act relating to professions and occupations regulated by the Office of Professional Regulation.

H. 727.

An act relating to the admissibility of a child's hearsay statements in a proceeding before the Human Services Board.

H. 901.

An act relating to health information technology and health information exchange.

**Proposal of amendment to H. 901 to be offered by Senator White before
Third Reading**

Senator White moves to amend the Senate proposal of amendment by adding Sec. 8a to read:

Sec. 8a. 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY
OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT
COMMITTEE

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

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

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

(2) three members of the Senate, not all of whom shall be from the same political party, who shall be appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall oversee, evaluate, and make

recommendations on the following:

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

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

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

(4) cybersecurity.

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

(e) Meetings.

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

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

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

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

H. 919.

An act relating to workforce development.

Second Reading
Favorable with Proposal of Amendment

H. 739.

An act relating to energy productivity investments under the self-managed energy efficiency program.

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

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

Sec. 1. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(j) Self-managed energy efficiency programs.

(1) There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The Commission, by order, shall enact this class of programs.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section that support energy efficiency programs performed by or on behalf of Vermont electric utilities. If an electric ratepayer approved to participate in this program class also is a customer of a natural gas utility, the ratepayer shall be exempt from all charges under subdivision (d)(3) of this section or contained within the rates charged by the natural gas utility to the ratepayer that support energy efficiency programs performed by or on behalf of that utility, provided that the ratepayer complies with this subsection.

(4) All of the following shall apply to a class of programs under this subsection:

(A) A member of the transmission or industrial electric rate classes shall be eligible to apply to participate in the self-managed energy efficiency program class if the charges to the applicant, or to its predecessor in interest at the served property, under subdivision (d)(3) of this section were a minimum of:

(i) \$1.5 million during calendar year 2008; or

(ii) \$1.5 million during calendar year 2017.

(B) A cost-based fee to be determined by the Commission shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Commission and Department. The Commission shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section and, when determined to be cost-effective under subdivision (L) of this subdivision (4), with the requirements of ISO-New England for the forward capacity market (FCM) program.

(C) An applicant shall demonstrate to the Commission that it has a comprehensive energy management program with annual objectives. Achievement of certification of ISO standard 14001 shall be eligible to satisfy the requirements of having a comprehensive program.

(D) An applicant eligible pursuant to subdivision (A)(i) of this subdivision (j)(4) shall commit to an annual average ~~energy efficiency~~ investment in energy efficiency and energy productivity programs and measures during each three-year period that the applicant participates in the program of ~~not less than \$1 million.~~ An applicant eligible pursuant to subdivision (A)(ii) of this subdivision (j)(4) shall commit to an annual average investment in energy efficiency and energy productivity programs and measures during each three-year period that the applicant participates in the program of not less than \$500,000.00. To achieve the exemption from energy efficiency charges related to natural gas under subdivision (3) of this subsection (j), ~~the~~ an applicant shall make an additional annual energy efficiency investment in an amount not less than \$55,000.00. As used in this subsection (j), “energy productivity programs and measures” means investments that reduce the amount of energy required to produce a unit of product below baseline energy use. Baseline energy use shall be calculated as the average amount of energy required to make one unit of the same product in the two years preceding implementation of the program or measure.

(E) Participation in the self-managed program includes efficiency and productivity programs and measures applicable to electric and other forms of energy. A participant may balance efficiency investments in such programs and measures across all types of energy or fuels without limitations.

(F) A participant shall provide to the Commission and Department annually an accounting of ~~energy~~ investments in energy efficiency and energy productivity programs and measures and the resultant energy savings in the form prescribed by the Commission, which may conduct reasonable audits to ensure the accuracy of the data provided.

(G) The Commission shall report to the General Assembly annually ~~by on or before~~ April 30 concerning the prior calendar year's class of self-managed energy efficiency programs. The report shall include identification of participants, their annual investments, and resulting savings, and any actions taken to exclude entities from the program.

(H) Upon approval of an application by the Commission, the applicant shall be able to participate in the class of self-managed energy efficiency programs.

(I) On a determination that, for a given three-year period, a participant in the self-managed efficiency program class did not meet or has not met the commitment required by subdivision ~~(4)(D)~~ of this subsection subdivision (j)(4), the Commission shall terminate the participant's eligibility for the self-managed program class.

(i) On such termination, the former participant will be subject fully to the then existing charges applicable to its rate class without exemption under subdivision (3) of this subsection (j), and within 90 days of after such termination shall pay:

(I) the difference between the investment it made pursuant to the self-managed energy efficiency program during the three-year period of noncompliance and the full amount of the charges and rates related to energy efficiency it would have incurred during that period absent exemption under subdivision (3) of this subsection (j); and

(II) the difference between the investment it made pursuant to the program within the current three-year period, if different from the period of noncompliance, and the full amount of the charges and rates related to energy efficiency it would have incurred during the current period absent exemption under subdivision (3) of this subsection (j).

(ii) Payments under subdivision ~~(4)(I)(i)~~ of this subsection ~~(j)~~ subdivision (4)(I) shall be made to the entities to which the full amount of charges and rates would have been paid absent exemption under subdivision (3) of this subsection (j).

(iii) A former participant may not reapply for membership in the self-managed program after termination under this subdivision ~~(4)(I)~~.

(J) A participant in the self-managed program class may request confidentiality of data it reports to the Commission if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is requested, the Commission shall disclose the data only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court orders otherwise.

(K) Any data not subject to a confidentiality request under subdivision (4)(J) of this subsection subdivision (4) will be a public record.

(L) A participant in the self-managed program class ~~may~~ shall work with the Department of Public Service to determine whether it is cost-effective to submit projects to the independent system operator of ISO-New England, including through recognized independent aggregators, for payments under that operator's forward capacity market the FCM program, and shall invest such payments in electric or fuel efficiency.

(i) As used in this subdivision (L), "cost-effective" requires that the estimated payments from the FCM program exceed the incremental cost of savings verification necessary for submission to that program.

(ii) If the Department determines the submission to be cost-effective, then an entity appointed to deliver electric energy efficiency services under subdivision (d)(2) of this section shall submit the project to the FCM program for payment and any resulting payments shall be remitted to the Electric Efficiency Fund for use in accordance with subdivision (e)(1)(A) of this section.

(M) A participant in the self-managed program class may receive funding from an energy program administered by a government or other entity ~~which~~ that is not the participant but and may not count such funds received as part of the annual commitment to its self-managed energy efficiency program.

* * *

Sec. 2. ENERGY SAVINGS ACCOUNT PARTNERSHIP PILOT

(a) Definitions. As used in this section:

(1) "ACCD" means the Agency of Commerce and Community Development under 3 V.S.A. chapter 47.

(2) "Commission" means the Public Utility Commission under 30 V.S.A. § 3.

(3) "Customer" means a commercial or industrial electric customer that is located in a service territory in which Efficiency Vermont delivers energy efficiency programs and measures and that does not qualify for SMEEP.

(4) "Customer EEC Funds" means a customer's EEC payments during the period of the ESA partnership project.

(5) "Department" means the Department of Public Service under 3 V.S.A. § 212 and 30 V.S.A. § 1.

(6) "EEC" means an energy efficiency charge on a customer's retail electric bill under 30 V.S.A. § 209(d).

(7) “Efficiency Vermont” or “EVT” means the EEU whose appointment under 30 V.S.A. § 209(d)(2) includes the delivery of programs and measures to customers of multiple electric distribution utilities.

(8) “Energy efficiency utility” or “EEU” means an entity appointed to deliver energy efficiency and conservation programs and measures under 30 V.S.A. § 209(d)(2).

(9) “Energy productivity measures” means investments that reduce the amount of energy required to produce a unit of product below baseline energy use. Baseline energy use shall be calculated as the average amount of energy required to make one unit of the same product in the two years preceding implementation of the program or measure.

(10) “ESA” means an energy savings account under 30 V.S.A. § 209(d)(3)(B).

(11) “ESA Partnership Pilot” means the three-year pilot program established by this section.

(12) “Regulated fuel” shall have the same meaning as in 30 V.S.A. § 209(e).

(13) “SMEEP” means the self-managed energy efficiency program established under 30 V.S.A. § 209(j).

(14) “Standing committees of jurisdiction” means the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(15) “Unregulated fuel” shall have the same meaning as in 30 V.S.A. § 209(e).

(b) ESA Partnership Pilot; establishment. On or before July 1, 2019, the Commission by rule or order shall establish a three-year pilot program for customers to self-direct the use of their Customer EEC Funds, working with EVT. The total amount of Customer EEC Funds available in the pilot program each year shall not exceed \$2 million. The pilot program established under this section shall be an expansion of the ESA option under which:

(1) Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B), the customer shall continue to pay its EEC and be able to receive an amount equal to 100 percent of its ESA account balance to pay for the full cost of projects that are eligible under subdivision (3) of this subsection; for technical assistance and other services from Efficiency Vermont; and for evaluation, measurement, and verification activity conducted by the Department or EVT.

(2) The customer may receive payments in advance of project completion from EVT based on the energy management plan submitted under subsection (d) of this section, estimated project costs, and projected energy savings. However, a customer shall not receive advance payments from EVT that exceed the amount of Customer EEC Funds the customer has already paid.

(3) Notwithstanding any contrary provision of 30 V.S.A. § 209, the Customer EEC Funds may be used for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility. In addition, for a customer who is a manufacturer and whose purchases of regulated fuel exceeded 600,000 thousand cubic feet (MCF) in 2017, the Funds may be used for thermal energy and process-fuel efficiency for regulated fuels, and any regulated fuel savings attributable to investment of Customer EEC Funds through the pilot program shall be counted towards EVT's performance indicators. EVT may allocate the cost of the pilot across regulated and unregulated fuel funding sources in a manner that avoids or reduces the need to adjust savings goals approved by the Commission.

(c) Methodology for evaluation, measurement, and verification. In its rule or order under subsection (b) of this section, the Commission shall establish a methodology for evaluation, measurement, and verification of projects implemented under the pilot that is consistent with the requirements of 30 V.S.A. § 218c and that includes cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development. As used in this subsection, "economic development" includes job creation, job retention, and capital investment.

(1) This methodology may be considered for future establishment of EEU performance criteria under 30 V.S.A. § 209(d).

(2) EVT and the Department shall evaluate and verify the electricity savings of each project funded under the ESA Partnership Pilot with no less rigor than is required by ISO-New England for its Forward Capacity Market (FCM) program.

(c) Competitive solicitation. A customer shall apply to participate in the ESA Partnership Pilot through a competitive solicitation process conducted jointly by EVT, the Department, and ACCD.

(1) Promptly after the Commission's rule or order under subsection (b) of this section becomes effective, EVT, the Department, and ACCD shall establish criteria for customer selection that are consistent with that rule or order and that take into account energy efficiency and economic development.

(2) On establishment of the selection criteria, EVT, the Department, and ACCD jointly shall issue a request for proposals (RFP) from customers seeking to participate in the ESA Partnership Pilot.

(3) EVT, the Department, and ACCD jointly shall select customers to participate in the ESA Partnership Pilot from among the customers that timely submit proposals in response to the RFP and shall notify the Commission of the selected customers.

(4) If EVT, the Department, and ACCD are unable to resolve an issue arising under this subsection, they shall bring the issue to the Commission for resolution.

(5) Customer selection under this subsection shall be completed before July 1, 2019.

(d) Energy management plans. Working with EVT, each customer selected for the ESA Partnership Pilot shall develop an energy management plan for the three-year period of the pilot with projects to be implemented, energy savings targets, and a timeline for projects and investments. A copy of each plan shall be submitted to the Commission, the Department, and ACCD.

(e) Other EEU services. A customer that participates in the ESA Partnership Pilot shall not be eligible for other EEU services, except for an EEU appointed to deliver natural gas efficiency programs and measures.

(f) Other funding. A customer that participates in the ESA Partnership Pilot may receive funding from an energy program administered by a government or other person that is not the participant, including an EEU appointed to deliver natural gas efficiency services, but shall not count such funds as part of the investment commitment of the ESA Partnership Pilot.

(g) Unused funds. At the end of the ESA Partnership Pilot, any Customer EEC Funds that have not been expended or committed under the pilot shall revert to use for systemwide energy efficiency programs and measures.

(h) Annual reports. On or before each November 1 from 2020 through 2022, the EVT and the selected customers jointly shall submit written progress reports to the Commission, the Department, and the standing committees of jurisdiction that include projects under the ESA Partnership Pilot and their associated energy and cost savings. A customer's projects under the pilot and the associated data and results shall be made public through this report. However, a customer may request that the Commission order customer-specific data to be used in preparing a report under this subsection be kept confidential if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the order shall be disclosed only in accordance with a protective agreement

approved by the Commission and signed by the recipient of the data, unless a court directs otherwise.

(i) Evaluation; recommendation. On completion of the ESA Partnership Pilot, the Commission shall conduct or shall have a third party conduct an independent evaluation of the ESA Partnership Pilot.

(1) The evaluation shall analyze and compare, among pilot participants and companies of similar size outside the pilot: job creation and retention, energy savings, total energy cost reductions, energy productivity measures, amount of capital applied and leveraged, greenhouse gas reductions, and other criteria as defined by the Commission. The evaluation shall also study the effects of the pilot on other ratepayers.

(2) The evaluation shall provide electric system results for the ESA Pilot Program and compare them to the electric system results that would have been obtained had the Customer EEC Funds been expended pursuant to the electric energy efficiency programs otherwise authorized under 30 V.S.A. § 209(d). In this subdivision (2), “electric system results” means: total electric energy savings, total avoided cost of purchasing power, total avoided costs of transmission and distribution improvements, and resulting FCM program revenues.

(3) After considering the results of that evaluation, the Commission shall submit a written recommendation to the standing committees of jurisdiction on whether to continue the program conducted under this section and, if so, under what recommended conditions and revisions, if any. The Commission shall submit this recommendation to the General Assembly on or before January 15, 2023.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-1-1)

(For House amendments, see House Journal for March 13, 2018, page 597)

Reported favorably by Senator Ashe for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

(Committee vote: 6-0-1)

House Proposal of Amendment

S. 197

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

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

Sec. 1. 12 V.S.A. chapter 219 is added to read:

CHAPTER 219. MEDICAL MONITORING DAMAGES

§ 7201. DEFINITIONS

As used in this chapter:

(1) “Disease” means any disease, ailment, or adverse physiological or chemical change linked with exposure to a toxic substance.

(2) “Exposure” means ingestion, inhalation, contact with the skin or eyes, or any other physical contact.

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

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

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

(6) “Medical monitoring damages” means the cost of medical tests or procedures and related expenses incurred for the purpose of detecting latent disease resulting from exposure.

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

(8) “Release” means any intentional or unintentional, permitted or unpermitted, act or omission that allows a toxic substance to enter the air, land, surface water, or groundwater.

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

(10)(A) “Toxic substance” means any substance, mixture, or compound

that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

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

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

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

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

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159; or

(vi) the substance, when released, can be shown by expert testimony to pose a potential threat to human health or the environment.

(B) “Toxic substance” shall not mean:

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

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

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

§ 7202. MEDICAL MONITORING DAMAGES FOR EXPOSURE TO TOXIC SUBSTANCES

(a) A person with or without a present injury or disease shall have a cause of action for medical monitoring damages against a large user of toxic substances who released a substance, mixture, or compound that meets the definition of toxic substance under section 7201 of this title and all of the

following are demonstrated by a preponderance of the evidence:

(1) The person was exposed to the toxic substance at greater than normal background concentration levels;

(2) The exposure was the result of tortious conduct by the large user of toxic substances who released the toxic substance, including conduct that constitutes negligence, battery, strict liability, trespass, or nuisance;

(3) As a proximate result of the exposure, the person has a greater risk than the general public of contracting a latent disease. A person does not need to prove that the latent disease is certain or likely to develop as a result of the exposure.

(4) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if a physician would prescribe testing for the purpose of detecting or monitoring the latent disease.

(5) Medical tests or procedures exist to detect the latent disease.

(b) A court shall place the award of medical monitoring damages into a court-supervised program administered by a medical professional.

(c) If a court places an award of medical monitoring damages into a court-supervised program pursuant to subsection (b) of this section, the court shall also award to the plaintiff reasonable attorney's fees and other litigation costs reasonably incurred.

(d) Nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy available under statute or common law, including the right of any person to recover for damages related to the manifestation of a latent disease. The remedies in this chapter are in addition to those provided by existing statutory or common law.

(e) This section does not preclude a court from certifying a class action for medical monitoring damages.

Sec. 2. WEBSITE; LINKS TO LIST OF TOXIC SUBSTANCES

The Commissioner of Health shall maintain on the Department of Health website a link to each of the lists of substances, mixtures, or compounds referenced in the definition of "toxic substance" under 12 V.S.A. § 7201.

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 576.

An act relating to stormwater management.

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

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

* * * Three-Acre Stormwater Permit * * *

Sec. 1. FINDINGS

For the purposes of Secs. 1–3 of this act, the General Assembly finds that:

(1) As part of the total maximum daily load (TMDL) plan for Lake Champlain and the implementation plan for the TMDL, the Agency of Natural Resources (ANR) and the U.S. Environmental Protection Agency (EPA) agreed to obtain most of the required pollutant reduction for Lake Champlain from developed lands and nonpoint sources of phosphorus.

(2) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64 (Act 64) to provide ANR with the statutory authority needed to implement the point source and nonpoint source controls of phosphorus agreed to by ANR and EPA.

(3) After enactment of Act 64, EPA finalized the TMDL for Lake Champlain and listed within the accountability framework for the plan all of the point source and nonpoint source control measures that would be implemented in order to provide reasonable assurances, as required by EPA guidance, that the plan will achieve the load reductions necessary to clean up Lake Champlain.

(4) One provision of Act 64 included in the accountability framework for the Lake Champlain TMDL is the requirement that ANR issue by January 1, 2018 a general permit for discharges of stormwater from impervious surface of three or more acres in size when the discharge previously was not permitted or was permitted under standards in place prior to 2002.

(5) ANR did not issue the three-acre permit by January 1, 2018.

(6) As a result, private property owners who would be subject to the

three-acre permit lack certainty as to when their property will be required to be permitted and what the permit will require.

(7) ANR's failure to adopt the three-acre permit and its failure to comply with statutory requirements are not accepted by the General Assembly and the citizens of Vermont.

Sec. 2. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

* * *

(b) Definitions. As used in this section:

* * *

(8) “Offset” means a State-permitted or ~~approved~~ State-approved action or project ~~within a stormwater-impaired water, Lake Champlain, or a water that contributes to the impairment of Lake Champlain that a discharger or a third person may complete to mitigate~~ that mitigates the impacts that a discharge of regulated stormwater runoff has on ~~the stormwater-impaired water, or the impacts of phosphorus on Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ receiving waters.

* * *

(11) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff ~~to a stormwater-impaired water or for the discharge of phosphorus to Lake Champlain, or a water that contributes to the impairment of Lake Champlain~~ in order to mitigate ~~a sediment load level, hydrologic impact, or other impact~~ impacts that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

* * *

(f) Rulemaking. On or before December 31, 2017, the Secretary shall adopt rules to manage stormwater runoff. At a minimum, the rules shall:

* * *

(g) General permits.

(1) The Secretary may issue general permits for classes of stormwater runoff that shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title.

* * *

(3) On or before January 1, 2018, Within 120 days after the adoption by the Secretary of the rules required under subsection (f) of this section, the

Secretary shall issue a general permit under this section for discharges of stormwater from impervious surface of three or more acres in size, when the stormwater discharge previously was not permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual. Under the general permit, the Secretary shall:

(A) Establish a schedule for implementation of the general permit by geographic area of the State. The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under this subdivision (3) of this section. The schedule established by the Secretary shall require an owner of impervious surface subject to permitting under this subdivision to obtain coverage by the following dates:

(i) for impervious surface located within the Lake Champlain watershed, the Lake Memphremagog watershed, ~~no later than~~ or the watershed of a stormwater impaired water on or before October 1, 2023; and

(ii) for impervious surface located within all other watersheds of the State, no later than October 1, ~~2028~~ 2033.

(B) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface subject to permitting under this subdivision (3).

(C) Require that a discharge of stormwater from impervious surface subject to the requirements of this section comply with the standards of subsection (h) of this section for redevelopment of or renewal of a permit for existing impervious surface.

(D) Allow the use of stormwater impact fees, offsets, and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

* * *

(h) Permit requirements. An individual or general stormwater permit shall:

(1) Be valid for a period of time not to exceed five years.

(2) For discharges of regulated stormwater to a ~~stormwater-impaired~~ stormwater-impaired water, for discharges of phosphorus to Lake Champlain or Lake Memphremagog, or for discharges of phosphorus to a water that contributes to the impairment of Lake Champlain or Lake Memphremagog:

(A) In which no TMDL, watershed improvement permit, or water quality remediation plan has been approved, require that the discharge shall comply with the following discharge standards:

(i) A new discharge or the expanded portion of an existing discharge shall satisfy the requirements of the Stormwater Management Manual and shall not increase the pollutant load in the receiving water for stormwater.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the discharge shall satisfy on-site the water quality, recharge, and channel protection criteria set forth in the Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency, and the discharge shall not increase the pollutant load in the receiving water for stormwater.

(B) In which a TMDL or water quality remediation plan has been adopted, require that the discharge shall comply with the following discharge standards:

(i) For a new discharge or the expanded portion of an existing discharge, the discharge shall satisfy the requirements of the Stormwater Management Manual, and the Secretary shall determine that there are sufficient pollutant load allocations for the discharge.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the Secretary shall determine that there are sufficient pollutant load allocations for the discharge, and the Secretary shall include any requirements that the Secretary deems necessary to implement the TMDL or water quality remediation plan.

(3) Contain requirements necessary to comply with the minimum requirements of the rules adopted under this section, the Vermont water quality standards, and any applicable provision of the Clean Water Act.

* * *

(k) Report on treatment practices. As part of the report required under section 1389a of this title, the Secretary annually shall report the following:

(1) whether the phosphorus load from new development permitted under this section by the Secretary in the Lake Champlain watershed in the previous calendar year is achieving at least a 70 percent average phosphorus load reduction;

(2) the estimated total phosphorus load reduction from new development, redevelopment, and retrofit of impervious surface permitted under this section in the previous calendar year; and

(3) the number of projects and the percentage of projects as a whole that implemented Tier 1 stormwater treatment practices, Tier 2 stormwater treatment practices, or Tier 3 stormwater treatment practices in the previous calendar year.

Sec. 3. STORMWATER MANAGEMENT RULE; SUBMISSION TO
GENERAL ASSEMBLY

The Secretary of Natural Resources shall not file under 3 V.S.A. § 841 the final proposal of the stormwater management rule required by 10 V.S.A. § 1264(f) (stormwater management rule) until on or after February 1, 2019. On or before January 15, 2019, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife a draft of the stormwater management rule that the Secretary intends to file under 3 V.S.A. § 841.

* * * Half-Acre Permitting Threshold for Stormwater Discharges * * *

Sec. 4. 10 V.S.A. § 1264(c) is amended to read:

(c) Prohibitions.

(1) A person shall not commence the construction or redevelopment of ~~one~~ one-half of an acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring coverage for its municipal separate storm sewer system ~~may~~ shall not discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or of less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), “municipality” means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3) of this section, a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

Sec. 5. APPLICABILITY OF AGENCY RULES

All Agency of Natural Resources rules applicable to the construction of one acre or more of impervious surface shall be applicable to the construction or redevelopment of one-half of an acre or more of impervious surface.

Sec. 6. TRANSITION

The construction or redevelopment of less than one acre of impervious surface shall not require a permit under 10 V.S.A. § 1264(c)(1)(A) provided that:

(1) except for applications for permits issued pursuant to 10 V.S.A. § 1264(c)(4), complete applications for all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been submitted as of July 1, 2022, the applicant does not subsequently file an application for a permit amendment that would have an adverse impact on water quality, and substantial construction of the project commences within two years from July 1, 2022;

(2) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), all local, State, and federal permits related to the regulation of land use or a discharge to waters of the State have been obtained as of July 1, 2022, and substantial construction of the project commences within two years from July 1, 2022;

(3) except for permits issued pursuant to 10 V.S.A. § 1264(c)(4), no local, State, or federal permits related to the regulation of land use or a discharge to waters of the State are required, and substantial construction of the project commences within two years from July 1, 2022; or

(4) the construction, redevelopment, or expansion is a public transportation project, and as of July 1, 2022, the Agency of Transportation or the municipality principally responsible for the project has initiated right-of-way valuation activities or determined that right-of-way acquisition is not necessary, and substantial construction of the project commences within five years from July 1, 2022.

* * * Stormwater Permit Fees * * *

Sec. 7. 3 V.S.A. 2822(j)(2)(B)(iv)(X) is added to read:

(X) Individual or general operating permits authorizing discharges of stormwater runoff from new development or redevelopment of less than one acre of impervious surface permitted after July 1, 2022 pursuant to 10 V.S.A. § 1264(c)(1) shall be exempt from the fees imposed by subdivisions (I) and (II) of this subdivision.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) This section and Secs. 1–3 (three-acre stormwater permit; rule) and 7 (permit fees) shall take effect on passage.

(b) Secs. 4–6 (half-acre operational threshold) shall take effect on July 1, 2022.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for February 20, 2018, pages 408-414)

Reported favorably by Senator Campion for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

(Committee vote: 6-0-1)

H. 922.

An act relating to making numerous revenue changes.

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

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

First: After Sec. 2, by inserting a reader assistance heading and four new sections to be Secs. 2a, 2b, 2c, and 2d to read as follows:

* * * Assessment on Manufacturers of Prescription Opioids
Dispensed in Vermont * * *

Sec. 2a. 18 V.S.A. § 4754 is added to read:

§ 4754. SUBSTANCE USE DISORDER PREVENTION, TREATMENT,
AND RECOVERY FUND

(a) The Substance Use Disorder Prevention, Treatment, and Recovery Fund is established as a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5. Into the Fund shall be deposited all revenue from the ratable shares assessed to manufacturers of prescription opioids dispensed in Vermont pursuant to 32 V.S.A. chapter 221.

(b) The Fund shall be administered by the Agency of Human Services and shall be used for the following purposes:

(1) preventing opioid addiction and other substance use disorders;

(2) providing substance use disorder treatment to individuals with a dependency on or addiction to opioids, other controlled substances, prescription drugs, or a combination thereof; and

(3) providing individuals with opportunities to recover safely from substance use disorder.

(c) The Commissioner of Finance and Management may anticipate receipts to the Fund and issue warrants based thereon.

Sec. 2b. 32 V.S.A. chapter 221 is added to read:

CHAPTER 221. ASSESSMENT ON MANUFACTURERS OF OPIOIDS
DISPENSED IN VERMONT

§ 9001. DEFINITIONS

As used in this chapter:

(1) “Manufacturer” means any entity that is engaged in the production, preparation, propagation, compounding, conversion, or processing of prescription opioids, or a combination thereof, whether directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or any entity engaged in the packaging, repackaging, labeling, relabeling, or distribution of prescription opioids. The term does not include a wholesale distributor of prescription opioids, a retailer, or a pharmacist licensed under 26 V.S.A. chapter 36.

(2) “Morphine milligram equivalent” or “MME” means the conversion factor used to calculate the strength of an opioid using morphine dosage as the comparative unit of measure.

(3) “Opiate” means a drug derived from the dried, condensed juice of a poppy, *Papaver somniferum*, that has a narcotic, soporific, analgesic, or astringent effect, or a combination thereof.

(4) “Opioid” means an opiate or any synthetic or semisynthetic narcotic that has opiate-like activities but is not derived from opium and has effects similar to natural opium alkaloids, and any derivatives thereof.

(5) “Prescription opioid” means an opiate or opioid that is a controlled substance under 21 C.F.R. Part 1308.

(6) “Ratable share” means the proportional amount of the total amount to be assessed across all manufacturers of prescription opioids that shall be paid by each manufacturer whose prescription opioids were dispensed in Vermont.

(7) “Vermont Prescription Monitoring System” means the program established pursuant to 18 V.S.A. chapter 84A.

§ 9002. ASSESSMENT ON OPIOID MANUFACTURERS

(a)(1) There is hereby imposed an assessment upon manufacturers of prescription opioids dispensed in this State as set forth in this section.

(2) The annualized amount of revenue to be generated by the assessment each fiscal year shall be \$3,100,000.00, provided that that amount may be modified at any time by the General Assembly based on the State’s estimated funding needs for substance use disorder prevention, treatment, and recovery programs and activities.

(b)(1) The ratable share of the total assessment amount for each manufacturer of prescription opioids shall be determined by the Department of Taxes, in consultation with the Department of Health, based on the proportional share of MMEs for each manufacturer’s prescription opioids dispensed in Vermont during the previous calendar quarter, using information from the Vermont Prescription Monitoring System, to the total amount of MMEs for all prescription opioids dispensed in Vermont over the same period.

(2) The Department of Taxes shall send an invoice to each manufacturer for the assessment amount due pursuant to this section quarterly. Manufacturers of prescription opioids shall pay the assessment amount within 30 days following the date of the invoice.

(3) Manufacturers of prescription opioids dispensed in this State shall not increase the wholesale or retail price of any prescription opioid to recover or offset the cost of the assessment.

(c) The following shall be exempt from the assessment imposed under this chapter:

(1) opioids used in medication-assisted treatment for substance use disorder; and

(2) any assessment that the State is prohibited from imposing by federal law, the U.S. Constitution, or the Vermont Constitution.

(d) All revenue from the assessment imposed under this chapter, including penalties and interest, shall be deposited in the Substance Use Disorder Prevention, Treatment, and Recovery Fund established by 18 V.S.A. § 4754.

§ 9003. ADMINISTRATION OF ASSESSMENT

(a) The Commissioner of Taxes shall administer and enforce this chapter and the assessment. The Commissioner may adopt rules under 3 V.S.A. chapter 25 to carry out such administration and enforcement.

(b) Except as otherwise provided in section 9004 of this title, all of the administrative provisions of chapter 151 of this title shall apply to the assessment imposed by this chapter as if it were a tax. In addition, the provisions of chapter 103 of this title, including those relating to the imposition of interest and penalty for failure to pay the assessment, shall apply to the assessment imposed by this chapter as if it were a tax.

§ 9004. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR INTEREST

(a) Within 60 days after the mailing of a notice of deficiency, denial, or reduction of a refund claim, or assessment of penalty or interest, a manufacturer may petition the Commissioner in writing for a determination of that deficiency, refund, or assessment. The Commissioner shall thereafter grant a hearing upon the matter and notify the manufacturer in writing of his or her determination concerning the deficiency, penalty, or interest. This is the exclusive remedy of a manufacturer with respect to these matters.

(b) Any hearing granted by the Commissioner under this section shall be subject to and governed by 3 V.S.A. chapter 25.

(c) Any aggrieved manufacturer may, within 30 days after a determination by the Commissioner concerning a notice of deficiency, an assessment of penalty or interest, or a claim to refund, appeal that determination to the Washington Superior Court or to the Superior Court for any county in this State in which the manufacturer has a place of business.

§ 9005. MME DATA TO BE PROVIDED TO COMMISSIONER OF TAXES

(a) The Department of Health shall provide to the Commissioner of Taxes or designee reports of data available to the Department of Health through the Vermont Prescription Monitoring System that are necessary to determine the total amount of morphine milligram equivalents dispensed in this State during any specified time period, the amount of the dispensed morphine milligram equivalents attributable to each manufacturer of prescription opioids, and the

ratable share of the total assessment amount owed by each manufacturer of prescription opioids pursuant to this chapter.

(b) The Department of Health and the Department of Taxes shall enter into a memorandum of understanding regarding the terms by which the Department of Health shall provide the information described in subsection (a) of this section, including the timing and frequency of the data sharing, the format in which the data will be provided, and the measures to be established to ensure the confidentiality of the information provided to the Department of Taxes.

Sec. 2c. 18 V.S.A. § 4284(b)(2) is amended to read:

(2) The Department shall provide reports of data available to the Department through the VPMS only to the following persons:

* * *

(H) The Commissioner of Taxes or designee, for the purpose of determining the total amount of morphine milligram equivalents dispensed in this State during any specified time period, the amount of the dispensed morphine milligram equivalents attributable to each manufacturer of prescription opioids, and the ratable share of the total assessment amount owed by each manufacturer of prescription opioids pursuant to 32 V.S.A. chapter 221.

Sec. 2d. FISCAL YEAR 2019 APPROPRIATIONS; LEGISLATIVE
INTENT FOR FUTURE FUNDING

(a) The following sums are appropriated from the Substance Use Disorder Prevention, Treatment, and Recovery Fund in fiscal year 2019:

(1) \$188,000.00 to the Department for Children and Families to support and maintain mentoring and afterschool programs for children. It is the intent of the General Assembly to increase the funding for this purpose to \$376,000.00 in fiscal year 2020.

(2) \$215,000.00 to the Department of Health to support needle exchange programs and the distribution of naloxone. It is the intent of the General Assembly to increase the funding for this purpose to \$430,000.00 in fiscal year 2020.

(3) \$137,500.00 to the Agency of Human Services to fund two positions and the operating costs of the Governor's Opioid Coordination Council to support its efforts to reduce the demand for opioids, provide adequate and effective treatment and recovery opportunities, and reduce the supply of opioids through prevention of opioid abuse and diversion. In fiscal year 2019, the sum of \$137,500.00 in federal matching funds is also appropriated to the Agency of Human Services, providing a total funding level of \$275,000.00 for the Governor's Opioid Coordination Council.

(4) \$400,000.00 to the Department of Corrections for expansion of medication-assisted treatment in correctional facilities. It is the intent of the General Assembly to increase the funding for this purpose to \$800,000.00 in fiscal year 2020.

(b) In addition to the amounts identified for funding in fiscal year 2020 in subsection (a) of this section, it is also the intent of the General Assembly that, to the extent additional funds are available after fully funding the priorities specified in subdivisions (a)(1)–(4) of this section, those additional funds should be appropriated to the Agency of Human Services to increase the availability of substance use treatment services in underserved regions of the State.

(c) In order to implement any system changes needed to administer the assessment established in Sec. 2 (32 V.S.A. chapter 221), the Department of Taxes shall allocate one-time systems implementation funds as needed from the special funds appropriated in 2018 Acts and Resolves No. 87, Sec. 49 and shall allocate any additional resources needed from the funds appropriated to the Department of Taxes in the fiscal year 2019 budget. The Department of Taxes shall identify any ongoing funding required to administer the assessment in its fiscal year 2020 budget request.

Second: In Sec. 7, after the section heading “REPORT ON NONPOSTSECONDARY USE OF HIGHER EDUCATION INVESTMENT PLAN FUNDS” by striking out the word “The” and inserting in lieu thereof the following: As far as practicable, the

Third: After Sec. 7, by inserting a reader assistance heading and two new sections to be Secs. 7a and 7b to read as follows:

* * * Federal Income Tax Link and Report on Federal Tax Reform * * *

Sec. 7a. 32 V.S.A. § 5824 is amended to read:

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

The statutes of the United States relating to the federal income tax, as in effect for ~~taxable year 2016~~ on December 31, 2017, but without regard to federal income tax rates under 26 U.S.C. § 1, are hereby adopted for the purpose of computing the tax liability under this chapter.

Sec. 7b. FEDERAL TAX REFORM

On or before November, 15, 2018, the Office of Legislative Council, with the assistance of the Joint Fiscal Office and the Department of Taxes, shall report to the Joint Fiscal Committee, the Senate Committee on Finance, and the House Committee on Ways and Means on the federal and State implementation of changes necessitated by the Tax Cut and Jobs Act and shall

identify potential areas for legislative or administrative reactions.

Fourth: In Sec. 11, amending 32 V.S.A. § 9202(10)(D), after ““Taxable meal” shall not include:”, by striking out the following:

“* * *

(ii) Food or beverage, including that described in subdivision (10)(C) of this section:

(I) served or furnished on the premises of a nonprofit corporation or association organized and operated exclusively for religious or charitable purposes, in furtherance of any of the purposes for which it was organized; with the net proceeds of the food or beverage to be used exclusively for the purposes of the corporation or association; provided, however, if the organization or association is a fire department, as defined in 24 V.S.A. § 1951, or provides emergency medical services or first responder services, as defined under 24 V.S.A. § 2651, it is not necessary that the meal be served on the premises of the organization to qualify as an exclusion from “taxable meal” under this subdivision;”

Fifth: After Sec. 13, by inserting a reader assistance heading and two new sections to be Secs. 13a and 13b to read as follows:

* * * Publicly Traded Partnerships Income Tax Withholding Exemption * * *

Sec. 13a. 32 V.S.A. § 5920(h) is amended to read:

(h)(1) Notwithstanding any provisions in this section, a publicly traded partnership as defined in 26 U.S.C. § 7704(b), that is treated as a partnership for the purposes of the Internal Revenue Code, is exempt from any income tax liability and any compliance and payment obligations under subsections (b) and (c) of this section, if information required by the Commissioner under subdivision (2) of this subsection is provided by the due date of the partnership’s return. This information includes the name, address, taxpayer identification number, and annual Vermont source of income greater than \$500.00 for each partner who had an interest in the partnership during the tax year. This information shall be provided to the Commissioner in an electronic format, according to rules or procedures adopted by the Commissioner.

(2) Publicly traded partnerships shall provide to the Commissioner in an electronic format, according to rules or procedures adopted by the Commissioner, an annual return that includes the name, address, taxpayer identification number, and other information requested by the Commissioner for each partner with Vermont source income in excess of \$500.00.

(3) A lower-tier pass-through entity of a publicly traded partnership may request from the Commissioner an exemption from the compliance and payment obligations specified in subsections (b) and (c) of this section. The request for the exemption must be in writing and contain:

(A) the name, the address, and the account number or federal identification number of each of the lower-tier pass-through entity's partners, shareholders, members, or other owners; and

(B) information that establishes the ownership structure of the lower-tier pass-through entity and the amount of Vermont source income.

(4) The Commissioner may request additional documentation before granting an exemption to a lower-tier pass-through entity. As used in this subsection, a "lower-tier pass-through entity" means a pass-through entity for purposes of the Internal Revenue Code, which can include a partnership, S-Corp, disregarded entity, or limited liability company and which allocates income, directly or indirectly, to a publicly traded partnership. The exemption under subdivision (3) of this subsection shall only apply to income allocated, directly or indirectly, to a publicly traded partnership.

(5) If granted, the exemption for the lower-tier pass-through entity shall be effective for three years following the date the exemption is granted. At the end of the three-year period, the lower-tier pass-through entity of a publicly traded partnership shall submit a new exemption request to continue the exemption. The Commissioner may revoke the exemption for the lower-tier pass-through entity if the Commissioner determines that the lower-tier pass-through entity is not satisfying its tax payment and reporting obligations to the State with respect to income allocated, directly or indirectly, to nonresident partners or members that are not publicly traded partnerships.

Sec. 13b. 32 V.S.A. § 3102(e)(20) is added to read:

(20) To a publicly traded partnership as defined in subdivision 5920(h)(1) of this title and to lower-tier pass-through entities of a publicly traded partnership as defined in subdivision 5920(h)(4) of this title for the purpose of reviewing, granting, or denying exemption requests from the requirements of section 5920 of this title.

Sixth: By striking out Sec. 19, 32 V.S.A. § 5402, in its entirety and inserting in lieu thereof the following:

[Deleted.]

Seventh: By striking out Sec. 21, 32 V.S.A. § 5405, in its entirety and inserting in lieu thereof the following:

[Deleted.]

Eighth: By striking out Sec. 31, Effective Dates, in its entirety and inserting in lieu thereof a new Sec. 31 to read as follows:

Sec. 31. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 27 (short-term rental platform reporting) shall take effect retroactively on July 1, 2017.

(2) Notwithstanding 1 V.S.A. § 214, Sec. 7a (income tax link to the federal tax statutes) shall take effect retroactively on January 1, 2018 and apply to taxable years beginning on January 1, 2017 and after.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 3–6 (Vermont higher education investment plan credit), 12 (solar energy investment tax credit), 13 (minimum corporate income tax), and 30(2) (repeal of business solar energy tax credit) shall take effect retroactively on January 1, 2018 and apply to taxable years beginning on January 1, 2018 and thereafter.

(4) Secs. 1 (municipal stormwater fees), 2 (Green Mountain Care Board billback formula), 2a (18 V.S.A. § 4754), 2c (18 V.S.A. § 4284), 2d (Substance Use Disorder Prevention, Treatment, and Recovery Fund appropriations), 7b (tax reform report), 8 (first time homebuyer program), 9 (downtown and village center tax credit), 10–10a (tax on e-cigarettes), and 11 (taxable meal exclusion) shall take effect on July 1, 2018.

(5) Secs. 14–21 (property tax sections) shall take effect on July 1, 2018 and apply to grand lists lodged after that date.

(6) Sec. 30(1) (repeal of land use change tax lien subordination) shall take effect on July 1, 2019.

(7) Sec. 2b (32 V.S.A. chapter 221) shall take effect on January 1, 2019, provided that the Department of Taxes may begin the rulemaking process prior to that date to ensure that on January 1, 2019 it is prepared to administer the assessment established in Sec. 2b.

(Committee vote: 6-1-0)

(For House amendments, see House Journal for March 22, 2018, page 814)

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

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

First: In Sec. 2b, in 32 V.S.A. § 9002(b)(1), following “dispensed in Vermont during the”, by striking out “previous calendar quarter” and inserting in lieu thereof same calendar quarter of the previous year

Second: In Sec. 2b, in 32 V.S.A. § 9003(a), by striking out the second sentence in its entirety

Third: In Sec. 2d, fiscal year 2019 appropriations; legislative intent for future funding, in subsection (a), by adding a subdivision (5) to read as follows:

(5) \$75,000.00 to the Criminal Justice Training Council to provide law enforcement officers with specialized training related to opioid investigation and enforcement. It is the intent of the General Assembly to increase the funding for this purpose to \$100,000.00 in fiscal year 2020.

Fourth: In Sec. 31, effective dates, by striking out subdivision (7) in its entirety and inserting in lieu thereof a new subdivision (7) to read as follows:

(7) Sec. 2b (32 V.S.A. chapter 221) shall take effect on October 1, 2018, with the Department of Taxes sending its first quarterly ratable share invoice to manufacturers on or before January 15, 2019 based on each manufacturer's prescription opioids dispensed in Vermont during the period from October 1, 2017 through December 31, 2017.

(Committee vote: 7-0-0)

House Proposals of Amendment

S. 94

An act relating to promoting remote work.

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

* * * ThinkVermont Innovation Initiative * * *

Sec. 1. THINKVERMONT INNOVATION INITIATIVE

(a) Purpose.

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

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

(b) Process; grant distribution.

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

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

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

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

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

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

(c) Funding; matching requirements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

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

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

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

Sec. 4. BROADBAND AVAILABILITY FOR REMOTE WORKERS

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

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

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

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

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

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

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

* * *

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

§ 2793a. DESIGNATION OF VILLAGE CENTERS BY STATE BOARD

* * *

(d) The State Board shall review a village center designation every ~~five~~ eight years and may review compliance with the designation requirements at

more frequent intervals. ~~On and after July 1, 2014, any~~ Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the designated district. If at any time the State Board determines that the village center no longer meets the standards for designation established in subsection (a) of this section, it may take any of the following actions:

* * *

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

§ 2793b. DESIGNATION OF NEW TOWN CENTER DEVELOPMENT DISTRICTS

* * *

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

* * *

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

§ 4345b. INTERMUNICIPAL SERVICE AGREEMENTS

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

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

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

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

* * *

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

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

* * *

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

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

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

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

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

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

* * *

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

* * *

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

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE;
ENHANCED ENERGY PLANNING

* * *

(e) Process for issuing determinations of energy compliance. Review of whether to issue a determination of energy compliance under this section shall include a public hearing noticed at least 15 days in advance by direct mail or electronically with proof of receipt to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the determination is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall issue the determination in writing within two months of after the receipt of a request for a determination. If the determination is negative, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for a new determination that follow a negative determination shall receive a new determination within 45 days.

* * *

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

§ 4384. PREPARATION OF PLAN; HEARINGS BY PLANNING COMMISSION

* * *

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

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

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

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

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

* * *

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

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

* * *

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

* * *

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

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

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

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

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

* * *

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

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

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

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

* * *

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

§ 4441. PREPARATION OF BYLAWS AND REGULATORY TOOLS;
AMENDMENT OR REPEAL

* * *

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

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

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

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

* * *

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

§ 4445. AVAILABILITY AND DISTRIBUTION OF DOCUMENTS

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

* * *

* * * Wastewater and Potable Water Lending * * *

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

§ 4752. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

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

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

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

* * *

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

to ensure a minimum balance of available funds of \$275,000.00 exists for each fiscal year.

* * *

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

§ 4763b. LOANS TO INDIVIDUALS FOR FAILED WASTEWATER SYSTEMS AND FAILED POTABLE WATER SUPPLIES

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

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

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

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

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

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

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

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

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

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

* * * Rural Economic Development Districts * * *

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

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

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

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

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. ~~Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted.~~ The board shall elect from among its members a chair, vice chair, clerk, and treasurer. The board shall establish the fiscal year of the district and shall adopt rules of parliamentary procedure. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

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

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

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

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

§ 5705. OFFICERS

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

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

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

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

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

* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

S. 224

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

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

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

§ 4088a. CHIROPRACTIC SERVICES

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

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

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

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

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

* * *

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

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

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

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

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

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

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

(a) The Department of Vermont Health Access shall convene a working group to develop recommendations related to insurance coverage for non-opioid approaches, including nonpharmacological approaches, to treating and managing pain. The working group shall be composed of the following members:

- (1) the Commissioner of Financial Regulation or designee;

(2) one representative of each health insurance carrier offering qualified health benefit plans on the Vermont Health Benefit Exchange;

(3) the Chief Health Care Advocate or designee; and

(4) a pain management clinician selected by the Vermont Medical Society.

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

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

Sec. 5. EFFECTIVE DATES

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

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

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

An act relating to co-payment limits for chiropractic care and physical therapy.

S. 234

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

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

* * * Findings * * *

Sec. 1. 33 V.S.A. § 5101a is added to read:

§ 5101a. JUVENILE JUSTICE LEGISLATIVE FINDINGS

(a) The General Assembly finds and declares as public policy that an effective juvenile justice system: protects public safety; connects youths and young adults to age-appropriate services that reduce the risk of reoffense; and, when appropriate, shields youths from the adverse impact of a criminal record.

(b) In order to accomplish these goals, the system should be based on the implementation of data-driven evidence-based practices that offer a broad range of alternatives, such that the degree of intervention is commensurate with the risk of reoffense.

(c) High-intensity interventions with low-risk offenders not only decrease program effectiveness, but are contrary to the goal of public safety in that they increase the risk of recidivism. An effective youth justice system includes pre-charge options that keep low-risk offenders out of the criminal justice system altogether.

* * * Expungement * * *

Sec. 2. 13 V.S.A. § 7609 is added to read:

§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN INDIVIDUAL 18-21 YEARS OF AGE

(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18-21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution has been paid in full.

(b) Exceptions.

(1) A criminal record that includes both qualifying and nonqualifying offenses shall not be eligible for expungement pursuant to this section.

(2) The Vermont Crime Information Center shall retain a special index of sentences for sex offenses that require registration pursuant to chapter 167, subchapter 3 of this title. This index shall only list the name and date of birth

of the subject of the expunged files and records, the offense for which the subject was convicted, and the docket number of the proceeding that was the subject of the expungement. The special index shall be confidential and shall be accessed only by the Director of the Vermont Crime Information Center and an individual designated for the purpose of providing information to the Department of Corrections in the preparation of a presentence investigation in accordance with 28 V.S.A. §§ 204 and 204a.

(c) Petitions. An individual who was 18-21 years of age at the time the individual committed a qualifying crime may file a petition with the court requesting expungement of the criminal history record related to the qualifying crime after 30 days have elapsed since the individual completed the terms and conditions for the sentence for the qualifying crime. The court shall grant the petition and issue an order sealing or expunging the record if it finds that sealing or expunging the record serves the interest of justice.

Sec. 3. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

* * *

(d)(1) The court ~~may~~ shall keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to ~~section 7602 or 7603 of this title~~ this chapter. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case ~~or by the court if the court finds that inspection of the documents is necessary to serve the interest of justice.~~ The Administrative Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) All other court documents in a case that are subject to an expungement order shall be destroyed.

(5) The Court Administrator shall establish policies for implementing this subsection.

(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that “NO RECORD EXISTS.”

Sec. 4. 33 V.S.A. § 3309 is added to read:

§ 3309. COMPLIANCE WITH THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

The Department for Children and Families, within the Agency of Human Services, is the State agency designated for supervising the preparation and administration of the Juvenile Justice and Delinquency Prevention Act State Plan and is also designated as the State agency responsible for monitoring and data collection for purposes of compliance with the Juvenile Justice and Delinquency Prevention Act.

Sec. 5. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The Family Division of the Superior Court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

* * *

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child’s 18th birthday.

(2)(A) Jurisdiction over a child ~~who has been adjudicated delinquent with a pending delinquency~~ may be extended until six months beyond the child’s 19th birthday if the child was 16 or 17 years of age when he or she committed the offense.

(B) In no case shall custody of a child 18 years of age or older be retained by or transferred to the Commissioner for Children and Families.

(C) Jurisdiction over a child in need of care or supervision shall not be extended beyond the child’s 18th birthday.

(D) [Repealed.]

* * *

* * * Juvenile Delinquency Proceedings * * *

Sec. 6. 33 V.S.A. § 5225 is amended to read:

§ 5225. PRELIMINARY HEARING; RISK ASSESSMENT

(a) Preliminary hearing. A preliminary hearing shall be held at the time and date specified on the citation or as otherwise ordered by the court. If a child is taken into custody prior to the preliminary hearing, the preliminary hearing shall be at the time of the temporary care hearing. Counsel for the child shall be assigned prior to the preliminary hearing.

(b) Risk and needs screening.

(1) Prior to the preliminary hearing, the child shall be afforded an opportunity to undergo a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and need screenings for children alleged to have committed delinquent acts.

(2) If the child participates in such a screening, the Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney. The State's Attorney shall consider the results of the risk and needs screening in determining whether to file a charge. In lieu of filing a charge, the State's Attorney may refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subsection shall not require the State's Attorney to file a charge. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(3) If a charge is brought in the Family Division, the risk level result shall be provided to the child's attorney. ~~Except on agreement of the parties, the results shall not be provided to the court until after a merits finding has been made.~~

~~(c) Counsel for the child shall be assigned prior to the preliminary hearing.~~ Referral to diversion. Based on the results of the risk and needs screening, if a child presents a low to moderate risk to reoffend, the State's Attorney shall refer the child directly to court diversion unless the State's Attorney states on the record why a referral to court diversion would not serve the ends of justice. If the court diversion program does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child's case shall return to the State's Attorney for charging consideration.

(d) Guardian ad litem. At the preliminary hearing, the court shall appoint a guardian ad litem for the child. The guardian ad litem may be the child's

parent, guardian, or custodian. On its own motion or motion by the child's attorney, the court may appoint a guardian ad litem other than a parent, guardian, or custodian.

(e) Admission; denial. At the preliminary hearing, a denial shall be entered to the allegations of the petition, unless the juvenile, after adequate consultation with the guardian ad litem and counsel, enters an admission. If the juvenile enters an admission, the disposition case plan required by section 5230 of this title may be waived and the court may proceed directly to disposition, provided that the juvenile, the custodial parent, the State's Attorney, the guardian ad litem, and the Department agree.

(f) Conditions. The court may order the child to abide by conditions of release pending a merits or disposition hearing.

Sec. 7. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) ~~If it appears to a Criminal Division of the Superior Court that the defendant was under 18 years of age at the time the offense charged was alleged to have been committed and the offense charged is a misdemeanor, that court shall forthwith transfer the case to the Family Division of the Superior Court under the authority of this chapter~~ an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) ~~If it appears to a Criminal Division of the Superior Court that the defendant was under 18 years of age at the time a felony offense not specified in subsection 5204(a) of this title was alleged to have been committed, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall thereupon be considered to be subject to this chapter as a child charged with a delinquent act~~ had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

* * *

* * * Youthful Offender Proceedings * * *

Sec. 8. 33 V.S.A. § 5280 is amended to read:

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER
PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 16 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

(d) Within 15 days after the commencement of a youthful offender proceeding pursuant to subsection (a) of this section, the youth shall be offered a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and needs screenings. The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the Family Division shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days.

(1) The Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney.

(2) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk and needs screening may be used in subsequent proceedings.

(e) If a youth presents a low to moderate risk to reoffend based on the results of the risk and needs screening, the State's Attorney shall refer a youth directly to court diversion unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice. If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed

satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.

Sec. 9. 33 V.S.A. § 5282 is amended to read:

§ 5282. REPORT FROM THE DEPARTMENT

(a) ~~Within 30 days after the case is transferred to the Family Division or a youthful offender petition is filed in the Family Division, youth has completed the risk and needs screening pursuant to section 5280 of this title, unless the court extends the period for good cause shown, the Department for Children and Families shall file a report with the Family Division of the Superior Court.~~

* * *

Sec. 10. 33 V.S.A. § 5285(d) is amended to read:

(d) If a youth's status as a youthful offender is revoked and the case is transferred to the Criminal Division pursuant to subdivision (c)(2) of this section, the court shall hold a sentencing hearing and impose sentence. Unless it serves the interest of justice, the case shall not be transferred back to the Family Division pursuant to section 5203 of this title. When determining an appropriate sentence, the court may take into consideration the youth's degree of progress toward or regression from rehabilitation while on youthful offender status. The Criminal Division shall have access to all Family Division records of the proceeding.

Sec. 11. 33 V.S.A. § 5801 is amended to read:

§ 5801. WOODSIDE JUVENILE REHABILITATION CENTER

(a) The Woodside Juvenile Rehabilitation Center in the town of Essex shall be operated by the Department for Children and Families as a residential treatment facility that provides in-patient psychiatric, mental health, and substance abuse services in a secure setting for adolescents who have been adjudicated or charged with a delinquency or criminal act.

(b) The total capacity of the facility shall not exceed 30 beds.

(c) The purpose or capacity of the Woodside Juvenile Rehabilitation Center shall not be altered except by act of the General Assembly following a study recommending any change of use by the Agency of Human Services.

(d) No person who has reached his or her 18th birthday may be placed at Woodside. Notwithstanding any other provision of law, a person ~~under the age of 18 years of age~~ may be placed at Woodside, provided that he or she meets the admissions criteria for treatment as established by the Department for Children and Families. Any person already placed at Woodside may voluntarily continue receiving treatment at Woodside beyond his or her 18th

birthday, provided that he or she continues to meet the criteria established by the Department for continued treatment. The Commissioner shall ensure that a child placed at Woodside has the same or equivalent due process rights as a child placed at Woodside in its previous role as a detention facility prior to the enactment of this act.

Sec. 12. DEPARTMENT FOR CHILDREN AND FAMILIES; EXPANDING JUVENILE JURISDICTION; REPORT

(a) The Department for Children and Families, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Court Administrator, and the Commissioner of Corrections, shall:

(1) consider the implications, including necessary funding, of expanding juvenile jurisdiction under 33 V.S.A. chapter 52 to encompass persons 18 and 19 years of age beginning in fiscal year 2021;

(2) on or before November 1, 2018, report to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Oversight Committee on the status and plan for the expansion, including necessary funding, measures necessary to avoid a negative impact on the State's child protection response, and specific milestones related to operations and policy, including:

(A) identification of and a timeline for structural and systemic changes within the juvenile justice system for the Family Division, the Department for Children and Families, the Department of Corrections, the Department of State's Attorneys and Sheriffs, and the Office of the Defender General;

(B) an operations and business plan that defines benchmarks, including possible changes to resource allocations; and

(C) a clearly defined path for geographic consistency and court alternatives and training needs; and

(3) provide status update reports to the Joint Legislative Justice Oversight Committee and the Joint Legislative Child Protection Oversight Committee on or before November 1, 2019, November 1, 2020, and November 1, 2021.

(b) The Joint Legislative Justice Oversight Committee and Joint Legislative Child Protection Oversight Committee shall review the November 1, 2018 report, the plan for expansion, the necessary funding, and the subsequent status reports as required by subsection (a) of this section to determine whether adequate funding and supports are in place to implement the expansion of juvenile jurisdiction to encompass persons 18 and 19 years of age in accordance with the effective dates of this act, and shall:

(1) on or before December 1, 2019, December 1, 2020, and December 1, 2021, issue findings as to whether the milestones identified in subdivision (a)(2) of this section related to operations and policy have been met and whether an appropriate funding plan has been developed; and

(2) on or before December 1, 2018, December 1, 2019, December 1, 2020, and December 1, 2021, recommend legislation to amend the timeline for the rollout of the expansion unless adequate funding and supports for the expansion are available and milestones related to policy and operations have been met.

* * * Effective July 1, 2020 * * *

Sec. 13. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in section 5203 of this title; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed a ~~misdemeanor~~ any offense other than those specified in subsection 5204(a) of this title before attaining ~~18~~ 19 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

~~(e) Any proceeding concerning a child who is alleged to have committed a felony offense other than those specified in subsection 5204(a) of this title before attaining 18 years of age shall originate in the Family Division of the Superior Court provided that jurisdiction may be transferred in accordance with this chapter. [Repealed.]~~

(f) If the State requests that custody of the child be transferred to the Department, a temporary care hearing shall be held as provided in subchapter 3 of this chapter.

(g) A petition may be withdrawn by the State's Attorney at any time prior to the hearing thereon, in which event the child shall be returned to the custodial parent, guardian, or custodian, the proceedings under this chapter terminated, and all files and documents relating thereto sealed under section 5119 of this title.

Sec. 14. 33 V.S.A. § 5202 is amended as follows:

§ 5202. ORDER OF ADJUDICATION; NONCRIMINAL

(a)(1) An order of the Family Division of the Superior Court in proceedings under this chapter shall not:

(A) be deemed a conviction of crime;

(B) impose any civil disabilities sanctions ordinarily resulting from a conviction; or

(C) operate to disqualify the child in any civil service application or appointment.

(2) Notwithstanding subdivision (1) of this subsection, an order of delinquency in proceedings ~~transferred under subsection 5203(b) of this title, where the offense charged in the initial criminal proceedings was concerning a child who is alleged to have committed~~ a violation of those sections of ~~Title 23~~ specified in ~~subdivision 23 V.S.A. § 801(a)(1)~~, shall be an event in addition to those specified therein, enabling the Commissioner of Motor Vehicles to require proof of financial responsibility under 23 V.S.A. chapter 11.

(b) The disposition of a child and evidence given in a hearing in a juvenile proceeding shall not be admissible as evidence against the child in any case or proceeding in any other court except after a subsequent conviction of a felony in proceedings to determine the sentence.

Sec. 15. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~18~~ 19 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been

committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~18~~ 19 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 16. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~18~~ 19 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

(1) arson causing death as defined in 13 V.S.A. § 501;

(2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);

- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

* * *

* * * Effective July 1, 2022 * * *

Sec. 17. 33 V.S.A. § 5201 is amended as follows:

§ 5201. COMMENCEMENT OF DELINQUENCY PROCEEDINGS

(a) Proceedings under this chapter shall be commenced by:

(1) transfer to the court of a proceeding from another court as provided in subsection (c) of this section; or

(2) the filing of a delinquency petition by a State's Attorney.

(b) If the proceeding is commenced by transfer from another court, no petition need be filed; however, the State's Attorney shall provide to the court the name and address of the child's custodial parent, guardian, or custodian and the name and address of any noncustodial parent if known.

(c) Any proceeding concerning a child who is alleged to have committed an act specified in subsection 5204(a) of this title after attaining 14 years of age, but not 18 years of age, shall originate in the Criminal Division of the

Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

(d) Any proceeding concerning a child who is alleged to have committed any offense other than those specified in subsection 5204(a) of this title before attaining ~~19~~ 20 years of age shall originate in the Family Division of the Superior Court, provided that jurisdiction may be transferred in accordance with this chapter.

* * *

Sec. 18. 33 V.S.A. § 5203 is amended to read:

§ 5203. TRANSFER FROM OTHER COURTS

(a) If it appears to a Criminal Division of the Superior Court that the defendant was under ~~19~~ 20 years of age at the time the offense charged was alleged to have been committed and the offense charged is an offense not specified in subsection 5204(a) of this title, that court shall forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(b) If it appears to a Criminal Division of the Superior Court that the defendant had attained 14 years of age but not 18 years of age at the time an offense specified in subsection 5204(a) of this title was alleged to have been committed, that court may forthwith transfer the proceeding to the Family Division of the Superior Court under the authority of this chapter, and the minor shall then be considered to be subject to this chapter as a child charged with a delinquent act.

(c) If it appears to the State's Attorney that the defendant was under ~~19~~ 20 years of age at the time the felony offense charged was alleged to have been committed and the felony charged is not an offense specified in subsection 5204(a) of this title, the State's Attorney shall file charges in the Family Division of the Superior Court, pursuant to section 5201 of this title. The Family Division may transfer the proceeding to the Criminal Division pursuant to section 5204 of this title.

(d) A transfer under this section shall include a transfer and delivery of a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. Upon any such transfer, that court shall order that the defendant be taken forthwith to a place of detention designated by the Family Division of the Superior Court or to that court itself, or shall release the child to the custody of his or her parent or guardian or other person legally responsible for the child, to be brought before the Family Division of the Superior Court at a time designated by that court. The Family Division of the

Superior Court shall then proceed as provided in this chapter as if a petition alleging delinquency had been filed with the court under section 5223 of this title on the effective date of such transfer.

(e) Motions to transfer a case to the Family Division of the Superior Court for youthful offender treatment shall be made under section 5281 of this title.

Sec. 19. 33 V.S.A. § 5204 is amended as follows:

§ 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR COURT

(a) After a petition has been filed alleging delinquency, upon motion of the State's Attorney and after hearing, the Family Division of the Superior Court may transfer jurisdiction of the proceeding to the Criminal Division of the Superior Court, if the child had attained 16 years of age but not ~~19~~ 20 years of age at the time the act was alleged to have occurred and the delinquent act set forth in the petition is a felony not specified in subdivisions (1)-(12) of this subsection or if the child had attained 12 years of age but not 14 years of age at the time the act was alleged to have occurred, and if the delinquent act set forth in the petition was any of the following:

- (1) arson causing death as defined in 13 V.S.A. § 501;
- (2) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);
- (3) assault and robbery causing bodily injury as defined in 13 V.S.A. § 608(c);
- (4) aggravated assault as defined in 13 V.S.A. § 1024;
- (5) murder as defined in 13 V.S.A. § 2301;
- (6) manslaughter as defined in 13 V.S.A. § 2304;
- (7) kidnapping as defined in 13 V.S.A. § 2405;
- (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;
- (9) maiming as defined in 13 V.S.A. § 2701;
- (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);
- (11) aggravated sexual assault as defined in 13 V.S.A. § 3253; or
- (12) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c).

(b) The State's Attorney of the county where the juvenile petition is pending may move in the Family Division of the Superior Court for an order transferring jurisdiction under subsection (a) of this section at any time prior to

adjudication on the merits. The filing of the motion to transfer jurisdiction shall automatically stay the time for the hearing provided for in section 5225 of this title, which stay shall remain in effect until such time as the Family Division of the Superior Court may deny the motion to transfer jurisdiction.

* * *

* * * Appropriation * * *

Sec. 20. FUNDING

To the extent the sum of \$200,000.00 is appropriated in fiscal year 2019 from the General Fund to the Department for Children and Families, the Department shall prepare for the expansion of services to juvenile offenders 18 and 19 years of age pursuant to 33 V.S.A. chapters 52 and 52A beginning in fiscal year 2021, and shall carry forward any unexpended funds.

* * * Effective Dates * * *

Sec. 21. EFFECTIVE DATES

(a) This section and Secs. 4 (compliance with the juvenile justice and delinquency prevention act), 5 (jurisdiction), 7 (transfer from other courts), and 20 (funding) shall take effect on passage.

(b) Secs. 1–3, 6, and 8–12 shall take effect on July 1, 2018.

(c) Secs. 13–16 shall take effect on July 1, 2020.

(d) Secs. 17–19 shall take effect on July 1, 2022.

S. 260

An act relating to funding the cleanup of State waters.

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

* * * Clean Water Funding * * *

Sec. 1. FINDINGS

The General Assembly finds that:

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

(2) Currently, over 350 waters or water segments in the State do not meet water quality standards, are at risk of not meeting water quality standards, or are altered due to the presence of aquatic nuisances.

(3) In 2015, the General Assembly enacted 2015 Acts and Resolves No. 64, an act relating to improving the quality of State waters (Act 64), for

the purpose, among others, of providing mechanisms, staffing, and financing necessary for the State to achieve and maintain compliance with the Vermont Water Quality Standards for all State waters.

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

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

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

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

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

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

(6) After determining that a method to achieve equitable and effective long-term funding methods to support clean water efforts in Vermont was necessary, the General Assembly established in 2017 Acts and Resolves No. 73, Sec. 26 the Working Group on Water Quality Funding to develop draft legislation to accomplish this purpose.

(7) The Act 73 Working Group did not recommend a long-term funding method to support clean water efforts in Vermont and instead recommended that the General Assembly maintain a Capital Bill clean water investment of \$15 million a year through fiscal years 2020 and 2021.

(8) In the years beyond fiscal year 2021, the Act 73 Working Group acknowledged that capital funds would need to be reduced to \$10 to \$12 million a year and that additional revenues would need to be raised.

(9) The U.S. Environmental Protection Agency (EPA) in a letter to the General Assembly stated that it is important for the State of Vermont to establish a long-term revenue source to support water quality improvement in order to comply with the accountability framework of the Lake Champlain Total Maximum Daily Load plan.

(10) The General Assembly should in this act establish the necessary long-term revenue sources to support water quality improvement and should encourage the Executive Branch and other interested parties to propose additional or alternative revenue sources sufficient to achieve the State goals for water quality improvement.

Sec. 1a. INTENT OF THE GENERAL ASSEMBLY ON WATER QUALITY

(a) It is the intent of the General Assembly to provide long-term funding for the clean water initiatives through the following mechanisms and approaches:

(1) Develop and impose excise taxes on all materials that contribute to water pollution directly or indirectly through land use and activities in order to reduce their use, with the tax percentage of sufficient magnitude to raise needed revenue as that figure becomes more certain, with the resulting revenue to be deposited in the Clean Water Fund.

(2) Examine the Vermont tax code in order to:

(A) identify all provisions that function to subsidize or reduce the after-tax cost of any material or activity that contributes to water pollution; and

(B) eliminate or modify all such provisions to remove such inappropriate cost reductions, allocating any resulting revenue increases to the Clean Water Fund.

(3) Facilitate the formation of local storm water utility districts to finance storm water treatment through assessments on impervious surfaces in municipalities with sufficient density of development and impervious surfaces to warrant such an approach.

(b) No later than November 15, 2018, the Joint Fiscal Office, with the assistance of the Department of Taxes, shall report to the General Assembly with recommendations on how to implement the intent of the General Assembly, as outlined in subsection (a) of this section.

* * * Rooms and Meals Tax * * *

Sec. 2. 32 V.S.A. § 9241 is amended to read:

§ 9241. IMPOSITION OF TAX

(a) An operator shall collect a tax of nine and one quarter percent of the rent of each occupancy.

(b) An operator shall collect a tax on the sale of each taxable meal at the rate of nine and one quarter percent of each full dollar of the total charge and on each sale for less than one dollar and on each part of a dollar in excess of a full dollar in accordance with the following formula:

\$0.01-0.11	\$0.01
0.12-0.22	0.02
0.23-0.33	0.03
0.34-0.44	0.04
0.45-0.55	0.05
0.56-0.66	0.06
0.67-0.77	0.07
0.78-0.88	0.08
0.89-1.00	0.09
<u>0.01-0.11</u>	<u>0.01</u>
<u>0.12-0.22</u>	<u>0.02</u>
<u>0.23-0.32</u>	<u>0.03</u>
<u>0.33-0.43</u>	<u>0.04</u>
<u>0.44-0.54</u>	<u>0.05</u>
<u>0.55-0.65</u>	<u>0.06</u>
<u>0.66-0.76</u>	<u>0.07</u>
<u>0.77-0.86</u>	<u>0.08</u>
<u>0.87-1.00</u>	<u>0.09</u>

* * *

Sec. 3. 32 V.S.A. § 9242(c) is amended to read:

(c) A tax of nine and one-quarter percent of the gross receipts from meals and occupancies and 10 percent of the gross receipts from alcoholic beverages, exclusive of taxes collected pursuant to section 9241 of this title, received from occupancy rentals, taxable meals, and alcoholic beverages by an operator, is hereby levied and imposed and shall be paid to the State by the operator as herein provided. Every person required to file a return under this chapter shall, at the time of filing the return, pay the Commissioner the taxes imposed by this chapter as well as all other monies collected by him or her under this chapter; provided, however, that every person who collects the taxes on taxable meals and alcoholic beverages according to the tax bracket schedules of section 9241 of this title shall be allowed to retain any amount lawfully collected by the person in excess of the tax imposed by this chapter as compensation for the keeping of prescribed records and the proper account and remitting of taxes.

* * * Unclaimed Beverage Container Deposits * * *

Sec. 4. 10 V.S.A. § 1530 is added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; ESCHEATS

(a) As used in this section, “deposit initiator” means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

(b) A deposit initiator shall open a separate interest-bearing account in a Vermont branch of a financial institution to be known as the deposit transaction account. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(c) Beginning on October 1, 2019, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.

(d) Beginning on January 1, 2020, and quarterly thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator’s deposit transaction account in the preceding quarter. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

- (1) the balance of the account at the beginning of the preceding quarter;
- (2) the number of beverage containers sold in the preceding quarter and the number of beverage containers returned in the preceding quarter;
- (3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;
- (4) the amount of refund payments made from the deposit transaction account in the preceding quarter;
- (5) any income earned on the deposit transaction account in the preceding quarter;
- (6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding quarter; and

(7) any additional information required by the Commissioner of Taxes.

(e)(1) On or before January 1, 2020, and quarterly thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding quarter. The amount of abandoned beverage container deposits for a quarter is the amount equal to the amount of deposits that should be in the deposit transaction account less the sum of:

(A) income earned on amounts on the account during that quarter; and

(B) the total amount of refund value paid out by the deposit initiator for beverage containers during that quarter.

(2) In any calendar quarter, the deposit initiator may submit to the Commissioner of Taxes a request for reimbursement of refunds paid under this chapter that exceed the funds that are or should be in the deposit initiator's deposit transaction account. The Commissioner of Taxes shall pay a request for reimbursement under this subdivision from the funds remitted to the Commissioner under subdivision (1) of this subsection, provided that:

(A) the Commissioner determines that the funds in the deposit initiator's deposit transaction action are insufficient to pay the refunds on returned beverage containers; and

(B) a reimbursement paid by the Commissioner to the deposit initiator shall not exceed the amount paid by the deposit initiator under subdivision (1) of this subsection (e) in the preceding 12 months less amounts paid to the initiator pursuant to this subdivision (2) during that same 12-month period.

(f) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

* * * Clean Water Fund; General Fund; * * *

Sec. 4a. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the "Clean Water Fund" to be administered by the Secretary of Administration. The Fund shall consist of:

(1) ~~revenues dedicated for deposit into the Fund by the General Assembly, including from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a; and~~

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the amount equal to the increase from nine percent to nine and one-quarter percent of the rooms tax imposed by 32 V.S.A. § 9241(a) and the revenue from the increase from nine percent to nine and one-quarter percent of the meals tax imposed by 32 V.S.A. § 9241(b);

(4) the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title; and

(5) other revenues dedicated for deposit into the Fund by the General Assembly.

* * *

Sec. 4b. 32 V.S.A. § 435 is amended to read:

§ 435. GENERAL FUND

(a) There is established the General Fund which shall be the basic operating fund of the State. The General Fund shall be used to finance all expenditures for which no special revenues have otherwise been provided by law.

(b) The General Fund shall be composed of revenues from the following sources:

(1) Alcoholic beverage tax levied pursuant to 7 V.S.A. chapter 15;

* * *

(7) Meals and rooms taxes levied pursuant to chapter 225 of this title less the amount deposited in the Clean Water Fund under 10 V.S.A. § 1388;

* * *

* * * Clean Water Fund Board * * *

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

§ 1389. CLEAN WATER FUND BOARD

(a) Creation.

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

(A) appropriations from the Clean Water Fund; and

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

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

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

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

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

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

(5) the Secretary of Transportation or designee; and

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

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

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

(c) Officers; committees; rules.

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

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

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

(1) The Clean Water Fund Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the

General Assembly under 32 V.S.A. § 306. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment. The recommendations of the Clean Water Fund Board shall be open to inspection and copying under the Public Records Act, and the Clean Water Fund Board shall submit to the Senate Committees on Appropriations, on Finance, on Agriculture, and on Natural Resources and Energy and the House Committees on Appropriations, on Ways and Means, on Agriculture and Forestry, and on Natural Resources, Fish, and Wildlife a copy of any recommendations provided to the Governor.

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

(3) The Clean Water Fund Board shall:

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

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

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

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

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

(F) establish a process under which a watershed organization, State agency, or other interested party may propose that a water quality project or program identified in a watershed basin plan receive funding from the Clean Water Fund.

(e) Priorities.

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

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

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

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

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

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

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

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

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

(I) investment in watershed basin planning, water quality project identification screening, water quality project evaluation, and conceptual plan development of water quality projects.

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

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

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

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

* * * Coordinated Water Quality Grants; Performance Grants * * *

Sec. 6. COORDINATED WATER QUALITY GRANTS

The Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall coordinate prior to awarding water quality grants or funding in order to maximize the water quality benefit or impact of funded projects in a watershed planning basin. When grants are issued, the Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall, when allowed by law, authorize funds or identify other funding opportunities that may be used to support capacity to implement projects in the watershed basin.

Sec. 7. 10 V.S.A. § 1253(d) is amended to read:

(d)(1) Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and the Natural Resources Conservation Council, shall revise all 15 basin plans and update the basin plans on a five-year rotating basis. On or before January 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forestry, on Natural Resources and ~~Energy, and on Fish, Wildlife and Water Resources,~~ Fish, and Wildlife, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties

encountered in revising basin plans. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

(E) assure regional and local input in State water quality policy development and planning processes;

(F) provide education to municipal officials and citizens regarding the basin planning process;

(G) develop, in consultation with the regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

(H) provide for public notice of a draft basin plan; and

(I) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, ~~contract with a regional planning commission or~~ negotiate and issue performance grants to the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection in a manner consistent with the authority of regional planning commissions under 24 V.S.A. chapter 117 and the authority of the natural resources conservation districts under chapter 31 of this title. ~~When contracting negotiating a scope of work with a regional planning commission or the Vermont Association of Planning and Development Agencies or its designee and the Natural Resources Conservation Council or its designee~~ to assist in or produce a basin plan, the Secretary may

require the ~~regional planning commission~~ Vermont Association of Planning and Development Agencies or the Natural Resources Conservation Council to:

(A) conduct any of the activities required under subdivision (2) of this subsection (d);

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations ~~to~~ better to meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to assure ~~cost effective~~ cost-effective use of State and federal funds.

* * * Lakes in Crisis * * *

Sec. 8. 10 V.S.A. chapter 47, subchapter 2A is added to read:

Subchapter 2A. Lake in Crisis

§ 1310. DESIGNATION OF LAKE IN CRISIS

(a) The Secretary of Natural Resources (Secretary) shall review whether a lake in the State should be designated as a lake in crisis upon the Secretary's own motion or upon petition of 15 or more persons or a selectboard of a municipality in which the lake or a portion of the lake is located.

(b) The Secretary shall designate a lake as a lake in crisis if, after review under subsection (a) of this section, the Secretary determines that:

(1) the lake or segments of the lake have been listed as impaired;

(2) the condition of the lake will cause:

(A) a potential harm to the public health; and

(B) a risk of damage to the environment or natural resources; and

(3) a municipality in which the lake or a portion of the lake is located has reduced the valuation of real property due to the condition of the lake.

§ 1311. STATE RESPONSE TO A LAKE IN CRISIS

(a) Adoption of crisis response plan. When a lake is declared in crisis, the Secretary shall within 90 days after the designation of the lake in crisis issue a comprehensive crisis response plan for the management of the lake in crisis in order to improve water quality in the lake or to mitigate or eliminate the potential harm to public health or the risk of damages to the environment or

natural resources. The Secretary shall coordinate with the Secretary of Agriculture, Food and Markets and the Secretary of Transportation in the development of the crisis response plan. The crisis response plan may require implementation of one or both of the following in the watershed of the lake in crisis:

(1) water quality requirements necessary to address specific harms to public health or risks to the environment or natural resources; or

(2) implementation of or compliance with existing water quality requirements under one or more of the following:

(A) water quality requirements under chapter 47 of this title, including requiring a property owner to obtain a permit or implement best management practices for the discharge of stormwater runoff from any size of impervious surfaces if the Secretary determines that the treatment of the discharge of stormwater runoff is necessary to reduce the adverse impacts to water quality of the discharge or stormwater on the lake in crisis;

(B) agricultural water quality requirements under 6 V.S.A. chapter 215, including best management practices under 6 V.S.A. § 4810 to reduce runoff from the farm; or

(C) water quality requirements adopted under section 1264 of this section for stormwater runoff from municipal or State roads.

(b) Public hearing. The Secretary shall hold at least one public hearing in the watershed of the lake in crisis and shall provide an opportunity for public notice and comment for a proposed lake in crisis response plan.

(c) Term of designation. A lake shall remain designated as in crisis under this section until the Secretary determines that the lake no longer satisfies the criteria for designation under subsection (b) of this section.

(d) Agency cooperation and services. All other State agencies shall cooperate with the Secretary in responding to the lake in crisis, and the Secretary shall be entitled to seek technical and scientific input or services from the Agency of Agriculture, Food and Markets, the Agency of Transportation, or other necessary State agencies.

§ 1312. LAKE IN CRISIS ORDER

The Secretary, after consultation with the Secretary of Agriculture, Food and Markets, may issue a lake in crisis order as an administrative order under chapter 201 of this title to require a person to:

(1) take an action identified in the lake in crisis response plan;

(2) cease or remediate any acts, discharges, site conditions, or processes

contributing to the impairment of the lake in crisis;

(3) mitigate a significant contributor of a pollutant to the lake in crisis; or

(4) conduct testing, sampling, monitoring, surveying, or other analytical operations required to determine the nature, extent, duration, or severity of the potential harm to the public health or a risk of damage to the environment or natural resources.

§ 1313. ASSISTANCE

(a) A person subject to a lake in crisis order shall be eligible for technical and financial assistance from the Secretary to be paid from the Lake in Crisis Response Program Fund. The Secretary shall adopt by procedure the process for application for assistance under this section.

(b) State financial assistance awarded under this section shall be in the form of a grant. An applicant for a State grant shall pay at least 35 percent of the total eligible project cost. The dollar amount of a State grant shall be equal to the total eligible project cost, less 35 percent of the total as paid by the applicant, and less the amount of any federal assistance awarded.

(c) A grant awarded under this section shall comply with all terms and conditions for the issuance of State grants.

§ 1314. FUNDING OF STATE RESPONSE TO A LAKE IN CRISIS

(a) Initial response. Upon designation of a lake in crisis, the Secretary may, for the purposes of the initial response to the lake in crisis, expend up to \$50,000.00 appropriated to the Agency of Natural Resources from the Clean Water Fund for authorized contingency spending.

(b) Long-term funding. Annually, the Secretary of Natural Resources shall present to the House and Senate Committees on Appropriations a multi-year plan for the funding of all lakes designated in crisis under this subchapter. Based on the multi-year plan, the Secretary of Administration annually shall recommend to the House and Senate Committees on Appropriations recommended appropriations to the Lake in Crisis Response Program Fund for the subsequent fiscal year.

§ 1315. LAKE IN CRISIS RESPONSE PROGRAM FUND

(a) There is created a special fund known as the Lake in Crisis Response Program Fund to be administered by the Secretary of Natural Resources. The Fund shall consist of:

(1) funds that may be appropriated by the General Assembly; and

(2) other gifts, donations, or funds received from any source, public or

private, dedicated for deposit into the Fund.

(b) The Secretary shall use monies deposited in the Fund for the Secretary's implementation of a crisis response plan for a lake in crisis and for financial assistance under section 1313 of this title to persons subject to a lake in crisis order.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3) and (4), interest earned by the Fund and the balance of the Fund at the end of the fiscal year shall be carried forward in the Fund and shall not revert to the General Fund.

Sec. 9. LAKE CARMI; LAKE IN CRISIS

The General Assembly declares Lake Carmi as a lake in crisis under 10 V.S.A. chapter 47, subchapter 2A. The crisis response plan for Lake Carmi shall include implementation of runoff controls.

Sec. 10. 10 V.S.A. § 8003(a) is amended to read:

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

- (1) 10 V.S.A. chapter 23, relating to air quality;
- (2) 10 V.S.A. chapter 32, relating to flood hazard areas;
- (3) 10 V.S.A. chapters 47 and 56, relating to water pollution control, water quality standards, and public water supply, and lakes in crisis;

* * *

Sec. 11. 10 V.S.A. § 8503(a) is amended to read:

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

- (1) The following provisions of this title:
 - (A) chapter 23 (air pollution control);
 - (B) chapter 50 (aquatic nuisance control);
 - (C) chapter 41 (regulation of stream flow);
 - (D) chapter 43 (dams);
 - (E) chapter 47 (water pollution control; lakes in crisis);

* * *

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

Sec. 12. AGENCY OF AGRICULTURE, FOOD AND MARKETS
REPORT ON FARMING PRACTICES IN VERMONT

(a) The Nutrient Management Commission convened by the Secretary of Agriculture, Food and Markets as a requirement of the U.S. Environmental Protection Agency's approved implementation plan for the Lake Champlain total maximum daily load plan shall review whether and how to revise farming practices in Vermont in a manner that mitigates existing environmental impacts while maintaining economic viability. In conducting its review, the Commission shall consider whether and how to:

(1) revise farming practice to improve or build healthy soils;

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

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

(4) provide financial and technical support to facilitate the transition by farms to less-polluting practices through one or more of the following:

(A) cover cropping;

(B) reduced tillage or no tillage;

(C) accelerated implementation of best management practices (BMPs);

(D) evaluation of the effectiveness of using riparian buffers in excess of 25 feet;

(E) increased use of direct manure injection;

(F) crop rotations to build soil health, including limits on the planting of continuous corn;

(G) elimination or reduction of the use of herbicides in the termination of cover crops; and

(H) diversification of dairy farming.

(b) On or before January 15, 2019, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry any recommendation of the Nutrient Management Commission regarding any of

the farming practices or subject areas listed under subdivisions (a)(1)–(4) of this section.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 2–3 (rooms and meals tax), 4a (Clean Water Fund), and 4b (General Fund) shall take effect on January 1, 2020.

S. 280

An act relating to the Advisory Council for Strengthening Families.

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

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

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

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

(i) lead to families living in poverty; and

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

(B) advance policies that:

(i) promote financial stability and asset building;

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

(iii) mitigate the effects of childhood poverty.

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

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

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

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

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

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

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

(E) a member appointed by Vermont Legal Aid;

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

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

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

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

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

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

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

(A) the Secretary of Education;

(B) the Secretary of Human Services;

(C) the Commissioner for Children and Families;

(D) the Commissioner of Health; and

(E) the Commissioner of Labor.

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

(d) Work products.

(1) Compilation of minutes. On or before January 1 of each year, the Advisory Council shall submit to the General Assembly a compilation of its meeting minutes from the previous calendar year that summarizes the Advisory Council's activities and decisions.

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

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

(e) Meetings.

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

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

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

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

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

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

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

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

(C) On or before January 1, 2019, the Advisory Council shall identify any additional benchmarks it plans to measure during its 2023 midterm review.

(f) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Advisory Council serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings.

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

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

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

Sec. 23. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT
COMMITTEE

* * *

(c) Powers and duties.

(1) The Committee shall:

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

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

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

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

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

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

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

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

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

* * *

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

Sec. 3. EFFECTIVE DATES

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

S. 285

An act relating to universal recycling requirements.

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

* * * Solid Waste Management Facility Requirements * * *

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

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage

treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

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

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

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

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

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

* * *

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

(A)(i) if the waste is being delivered from a municipality that has an approved implementation plan, hazardous materials and recyclables shall be removed from the waste according to the terms of that implementation plan;

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

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

* * *

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

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

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

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

* * *

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

* * *

* * * Commercial Hauler Requirements * * *

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

§ 6607a. WASTE TRANSPORTATION

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

compliance with State law.

(b) As used in this section:

(1) "Commercial hauler" means:

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

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

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

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

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

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

* * *

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste ~~shall~~:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 3. UNIVERSAL RECYCLING STAKEHOLDER GROUP;
COMMERCIAL HAULER SERVICES; FOOD RESIDUAL
COLLECTION SERVICES

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

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

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

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

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

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

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

* * * Food Residual Management * * *

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

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

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

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

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

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

S. 287

An act relating to aquatic nuisance control.

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

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

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

On or before January 15, 2019, the Secretary of Natural Resources shall submit to the House Committee on Natural Resources, Fish, and Wildlife and

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

* * * Act 250 Corrective Actions * * *

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

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

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

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

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

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

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

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

(F) the management of “development soils,” as that term is defined in subdivision 6602(39) of this title, under a plan approved by the Secretary of Natural Resources under section 6604c of this title.

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

* * * Beverage Container Redemption * * *

Sec. 3. WAIVER OF BEVERAGE CONTAINER REDEMPTION
REQUIREMENTS

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

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

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

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

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

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

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

An act relating to aquatic nuisance control, Act 250 corrective actions, and beverage container redemption.

House Proposals of Amendment to Senate Proposals of Amendment

H. 132

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

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

By striking out Secs. 2, 3, and 4 in their entirety and inserting in lieu thereof the following:

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

H. 526

An act relating to regulating notaries public

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 5364. PERSONAL APPEARANCE REQUIRED

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

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

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

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

H. 912

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

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

First: By striking out Sec. 18, 18 V.S.A. § 9374, and its reader assistance heading in their entireties and inserting in lieu thereof the following:

Sec. 18. [Deleted.]

Second: In Sec. 20, effective dates, by striking out subsection (b) in its entirety and redesignating subsection (c) to be subsection (b)

H. 913

An act relating to boards and commissions

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

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

Sec. 9. [Deleted.]

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

H. 917

An act relating to the Transportation Program and miscellaneous changes to transportation-related law

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

First: In Sec. 1, by striking out subdivision (b)(3) in its entirety and renumbering the remaining subdivision to be numerically correct

Second: By striking out Secs. 5–6 and the reader assistance headings thereto in their entireties and inserting in lieu thereof the following:

Sec. 5. [Deleted.]

* * * Program Development—Roadway Program * * *

Sec. 6. PROGRAM DEVELOPMENT—ROADWAY PROGRAM

(a) The following project is added to the development and evaluation (D&E) list of the fiscal year 2019 Program Development—Roadway Program: construction of a roundabout at the intersection of VT 67A, Matteson Road, Silk Road, and College Drive in the town of Bennington.

(b) The Agency shall expend up to \$50,000.00 of federal funds on development and evaluation of the project added under subsection (a) of this section, to the extent such funds become available as a result of the unanticipated delay of projects approved in the fiscal year 2019 Program Development Program or cost savings on such projects, or both.

Third: In Sec. 19, 19 V.S.A. § 306, by striking out subdivision (a)(1) in its entirety and inserting in lieu thereof the following:

(1) An annual appropriation to class 1, 2, and 3 town highways shall be made. This appropriation shall increase or decrease over the previous fiscal year's appropriation by the same percentage as any increase or decrease in the following, whichever is less:

(A) ~~the Transportation year-over-year increase in the Agency's total appropriations in the previous fiscal year funded by Transportation Fund revenues, excluding the town highway appropriations appropriation for town highways under this subsection (a) for that year; or~~

(B) ~~the percentage increase in the Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U) during the previous State fiscal year.~~

Fourth: By striking out Sec. 32 and the reader assistance heading thereto in their entireties and inserting in lieu thereof the following:

* * * Seatbelt Law for Adults; Primary Enforcement * * *

Sec. 32. 23 V.S.A. § 1259 is amended to read:

§ 1259. SAFETY BELTS; PERSONS AGE 18 YEARS OF AGE AND OVER

* * *

~~(e) This section may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for another suspected traffic violation. An operator shall not be subject to the penalty established in this section unless the operator is required to pay a penalty for the primary violation. [Repealed.]~~

* * *

Sec. 32a. PRIMARY ENFORCEMENT OF SEATBELT LAW; PUBLIC EDUCATION CAMPAIGN

(a) To inform highway users of the requirements of Sec. 32 of this act (primary enforcement of the seatbelt law for adults) and the October 1, 2018 effective date of Sec. 32, the Secretary of Transportation shall conduct a public education campaign to commence on or before July 1, 2018.

(b) At a minimum, the Secretary shall:

(1) notify media outlets throughout the State of the change in the law to primary enforcement of the adult seatbelt law and the October 1, 2018 effective date of the change in the law;

(2) update the website of the Agency of Transportation and the website of the Department of Motor Vehicles to provide notice of the change in the law and its effective date; and

(3) consistent with the Manual on Uniform Traffic Control Devices and any other applicable federal law, post messages on changeable message signs of the Agency that inform highway users of the change in the law and its effective date.

Fifth: By striking out Sec. 43 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 43. EFFECTIVE DATES

(a) This section and Secs. 2 (federal infrastructure funding), 16 (penalties for furnishing alcoholic beverages to minors), 20 (transportation public-private partnerships), 23–24 (Green Mountain Transit Authority name update), 25 (PUC report; electric vehicle charging), and 32a (education campaign; primary enforcement) shall take effect on passage.

(b) Secs. 41–42 (motor vehicle inspections) shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, in Sec. 42, subsection (d) shall take effect retroactively on January 1, 2017.

(c) Sec. 32 (primary enforcement of adult seatbelt law) shall take effect on October 1, 2018.

(d) Secs. 30–31 (town highway weight limits) and 33–37 (aircraft fuel taxes) shall take effect on January 1, 2019.

(e) Sec. 29, 23 V.S.A. § 3513(a) (sunset of change to ATV fee and penalty allocation) shall take effect on July 1, 2023.

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

H. 923

An act relating to capital construction and State bonding budget adjustment

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

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

Appropriation – FY 2018	\$27,857,525.00	<u>\$25,038,619.00</u>
Appropriation – FY 2019	\$27,853,933.00	<u>\$28,131,610.00</u>
Total Appropriation – Section 2	\$55,711,458.00	<u>\$53,170,229.00</u>

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

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

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

(2) Chittenden County Regional Correctional Facility and Northwest State Correctional Facility, renovations, beds for therapeutic placement: \$600,000.00

(3) Essex, Woodside Juvenile Rehabilitation Center, design and construction documents: \$500,000.00

(4) Brattleboro, Brattleboro Retreat, renovation and fit-up: \$4,500,000.00

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

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

(1) it is the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and in the Northwest State Correctional Facility for persons in the custody of the Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten or more beds in the Alpha Unit at the Northwest State Correctional Facility.

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

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

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

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

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

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

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

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

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

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

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

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

(3) The Department of Buildings and General Services shall not expend funds until the Commissioner of Buildings and General Services and the Secretary of Human Services have notified the Commissioner of Finance and Management and the Chairs of the House Committees on Corrections and Institutions and on Health Care, and of the Senate Committees on Health and Welfare and on Institutions that the agreement described in subdivision (2)(A) of this subsection (e) has been executed.

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

(5)(A) On or before October 15, 2018, the Secretary of Human Services shall notify the Chairs of the House Committees on Corrections and Institutions and on Health Care, and of the Senate Committees on Health and Welfare and on Institutions if an agreement between the Brattleboro Retreat and the State of Vermont cannot be reached and shall submit to them an alternative proposal for the 12 beds. With approval of the Speaker of the

House and the President Pro Tempore of the Senate, as appropriate, the House Committees on Corrections and Institutions and on Health Care and the Senate Committees on Health and Welfare and on Institutions may meet up to two times when the General Assembly is not in session to evaluate, approve, or recommend alterations to the proposal. Members of the House Committees on Corrections and Institutions and on Health Care, and the Senate Committees on Health and Welfare and on Institutions shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

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

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

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

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

(1) Lake Champlain Maritime Museum:

(A) Underwater preserves: \$30,000.00

(B) Schooner Lois McClure project, repairs and upgrades:

\$25,000.00

(2) Placement and replacement of roadside historic markers:

~~\$15,000.00~~ \$29,000.00

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

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

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

(f) It is the intent of the General Assembly that any requests for capital funds be submitted to the Agency of Commerce and Community Development for inclusion in the Governor’s annual consolidated capital budget request, pursuant to 32 V.S.A. § 309.

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

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

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

(c)(1) The sum of \$4,000,000.00 is appropriated in FY 2019 to the Department of Public Safety for the School Safety and Security Grant Program.

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

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

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

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

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

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

(a) Creation. There is created the School Safety and Security Capital Grant Program to be administered by the Department of Public Safety to enhance safety and security in Vermont schools, as defined in 16 V.S.A. § 3447. The amount appropriated in Sec. 10 of this act, adding 2017 Acts and Resolves No. 84, Sec. 13(c)(1), shall be used to fund this Program.

(b) Use of funds. Capital grants authorized in subsection (a) of this section shall be used for the planning, delivery, and installation of equipment for

upgrades to existing school security equipment and for new school security equipment identified through threat assessment planning and surveys designed to enhance building security.

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

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

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

(3) The Program is authorized to award capital grants of up to \$25,000.00 per school. Each school shall be required to provide a 25 percent match to the grant amount. The required match shall be met through dollars raised and not in-kind services.

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

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

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

Sec. 36b. REPEAL OF SCHOOL SECURITY GRANT PROGRAM

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

* * * School Safety Advisory Group * * *

Sec. 36c. SCHOOL SAFETY ADVISORY GROUP; REPORT

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

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

(1) the Secretary of Administration or designee;

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

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

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

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

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

(f) Meetings.

- (1) The Secretary of Education shall call the first meeting of the Advisory Group.
- (2) The Commissioner of Public Safety or designee shall be the Chair.
- (3) A majority of the membership shall constitute a quorum.
- (4) The Advisory Group shall cease to exist on July 1, 2019.

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

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

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

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

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

* * * Corrections * * *

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

§ 1354. ARTICLE IV; THE STATE COUNCIL

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

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

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

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

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

(5) ~~one individual who in addition to serving as a member of the council~~ Council shall serve as the compact administrator for this ~~state~~ State, appointed

by the ~~governor~~ Governor after consultation with the ~~general assembly~~ General Assembly and the ~~supreme court~~ Supreme Court.

* * *

* * * Effective Date * * *

Sec. 29. EFFECTIVE DATE

This act shall take effect on passage.

Report of Committee of Conference

S. 29.

An act relating to decedents' estates.

To the Senate and House of Representatives:

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

S. 29. An act relating to decedents' estates.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and concur with the House proposal of amendment with further amendment as follows:

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

*MARGARET K FLORY
ALICE W. NITKA
JOSEPH C. BENNING*

*Committee on the part of the
Senate*

*EILEEN G. DICKINSON
MAXINE JO GRAD
JANSSEN D. WILLHOIT*

Committee on the part of the House

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.

Alicia Sacerio Humbert of Northfield – Family Division Magistrate – By Senator Benning for the Committee on Judiciary. (5/3/18)

Megan J. Shafritz of South Burlington – Superior Judge – By Senator Nitka for the Committee on Judiciary. (5/3/18)

Andrew Hathaway of Waterbury – Member, Children and Family Council for Prevention Programs – By Senator Cummings for the Committee on Health and Welfare. (4/19/18)