

Journal of the House

Tuesday, March 20, 2018

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rabbi Tobie Weisman, Yearning for Learning Center, Montpelier, VT.

Pledge of Allegiance

Page Lilly Charkey-Buren of Brattleboro led the House in the Pledge of Allegiance.

Message from the Senate No. 36

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 168. An act relating to employment protection for volunteer emergency responders.

S. 180. An act relating to the Vermont Fair Repair Act.

S. 222. An act relating to miscellaneous judiciary procedures.

S. 225. An act relating to pilot programs for coverage by commercial health insurers of costs associated with medication-assisted treatment.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted Senate concurrent resolution of the following title:

S.C.R. 21. Senate concurrent resolution congratulating the Woodstock Stoners on winning the 2017 Maine-iac 'Spiel curling championship.

The Senate has on its part adopted concurrent resolutions originating in the House of the following titles:

H.C.R. 272. House concurrent resolution honoring Manchester Fire Chief Philip Bourn for his laudable public service.

H.C.R. 273. House concurrent resolution honoring Brendan J. Whittaker

of Brunswick for his years of insightful leadership in the State, municipal, and religious sectors.

H.C.R. 274. House concurrent resolution in memory of Gordon E. Tallman of Hyde Park.

H.C.R. 275. House concurrent resolution congratulating William Busier of Essex on his 100th birthday.

H.C.R. 276. House concurrent resolution commemorating the 100th anniversary of the Wayside Restaurant in Berlin.

H.C.R. 277. House concurrent resolution congratulating the 2018 Milton High School Yellowjackets Division II boys' championship indoor track and field team.

H.C.R. 278. House concurrent resolution honoring those who care for, educate, and advocate for young Vermonters and designating March 14, 2018 as Early Childhood Day at the State House.

House Bills Introduced

House bills of the following titles were severally introduced, read the first time and referred to committee or placed on the Calendar as follows:

H. 923

By the committee on Corrections and Institutions,
An act relating to capital construction and State bonding budget adjustment;
Pursuant to House rule 48, bill placed on the Calendar for notice.

H. 924

By the committee on Appropriations,
An act relating to making appropriations for the support of government;
Pursuant to House rule 48, bill placed on the Calendar for notice.

Senate Bills Referred

Senate bills of the following titles were severally taken up, read the first time and referred as follows:

S. 168

Senate bill, entitled

An act relating to employment protection for volunteer emergency responders;

To the committee on General, Housing, and Military Affairs.

S. 180

Senate bill, entitled

An act relating to the Vermont Fair Repair Act;

To the committee on Commerce and Economic Development.

S. 222

Senate bill, entitled

An act relating to miscellaneous judiciary procedures;

To the committee on Judiciary.

S. 225

Senate bill, entitled

An act relating to pilot programs for coverage by commercial health insurers of costs associated with medication-assisted treatment;

To the committee on Human Services.

House Resolution Referred to Committee**H.R. 17**

House resolution, entitled

House resolution requesting that Congress repeal Section 702 of the Foreign Intelligence Surveillance Act and prohibit warrantless surveillance and that the President grant clemency to Edward J. Snowden

Offered by: Representatives Cina of Burlington, Buckholz of Hartford, Burditt of West Rutland, Colburn of Burlington, Lefebvre of Newark, and McCullough of Williston

Whereas, the Fourth Amendment to the U.S. Constitution provides “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause...”, and

Whereas, this constitutional principle is as vital in a 21st-century digital era as in the 18th century, and

Whereas, in 2008, Section 702 of the Foreign Intelligence Surveillance Act, 50 U.S.C. § 1881a, was enacted to provide statutory authority for certain warrantless surveillance activities, and

Whereas, in accordance with 50 U.S.C. § 1881a(a) “the Attorney General and the Director of National Intelligence may authorize jointly, for a period of

up to 1 year from the effective date of the authorization, the targeting of persons reasonably believed to be located outside the United States to acquire foreign intelligence information,” and

Whereas, although 50 U.S.C. § 1881a(b) provides supposed safeguards against applying the statute domestically or against American citizens or green card holders, these restrictions are not ironclad, and

Whereas, although the statute provides for the U.S. Attorney General and the Director of National Intelligence to develop minimalization procedures and limitations guidelines and to seek certification from the Foreign Intelligence Surveillance Court of an authorized targeting, the procedures lack the basic safeguards associated with a judicially issued warrant, and

Whereas, the U.S. Attorney General and the Director of National Intelligence are allowed to proceed with a surveillance operation before certification is received if they believe circumstances require immediate initiation, and

Whereas, Section 702 was recently reauthorized without adding vital privacy protections to the law, and

Whereas, responding to the reauthorization of Section 702, Democratic U.S. Senator Patrick Leahy and Republican U.S. Senator Mike Lee jointly issued a statement that said it “falls short in providing critical protections for Americans,” and

Whereas, in 2013, Edward Snowden, a National Security Agency (NSA) contractor, clandestinely provided media organizations with classified information regarding NSA surveillance activities, and

Whereas, shortly after his identity became known, the federal government charged Edward Snowden with violating the Espionage Act, stealing government property, and disclosing classified information, and

Whereas, he is now residing in Russia under a grant of asylum, and

Whereas, in October 2015, the European Parliament voted 285 to 281 to call on the European Union nations “to drop any criminal charges against Edward Snowden, grant him protection and consequently prevent extradition or rendition by third parties,” and

Whereas, in September 2016, U.S. Senator Bernie Sanders told *The Guardian* newspaper that Edward Snowden “played an important role in educating the American people” and that Senator Sanders supported clemency, and

Whereas, in 2016, the American Civil Liberties Union, Human Rights

Watch, and Amnesty International organized a campaign supporting a presidential pardon of Edward Snowden, coinciding with the release of a supportive film called *Snowden*, now therefore be it

Resolved by the House of Representatives:

That this legislative body requests that Congress reverse its recent decision to extend Section 702 of the Foreign Intelligence Surveillance Act and enact legislation prohibiting warrantless surveillance, and be it further

Resolved: That this legislative body requests that the President grant clemency to Edward J. Snowden and allow him to return to the United States free of the threat of any legal action being taken against him, and be it further

Resolved: That the Clerk of the House be directed to send a copy of this resolution to Governor Philip Scott, President Donald Trump, U.S. Attorney General Jeff Sessions, and the Vermont Congressional Delegation.

Which was read and referred to the committee on Government Operations.

**Committee Bill; Second Reading;
Bill Amended; Third Reading Ordered**

H. 921

Rep. Gamache of Swanton spoke for the committee on Human Services.

House bill entitled

An act relating to nursing home oversight

Having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Donahue of Northfield** moved to amend the bill as follows:

By striking out Sec. 3, effective dates, in its entirety and inserting in lieu thereof Secs. 3 and 4 to read as follows:

**Sec. 3. TRANSFER OF OWNERSHIP; EXPEDITED CERTIFICATE OF
NEED PROCESS**

(a) Notwithstanding any provision of 18 V.S.A. chapter 221, subchapter 5 to the contrary, for the period from the effective date of this act through July 1, 2019, the Green Mountain Care Board shall review new applications for a certificate of need for transfer of ownership of a nursing home using the expedited process set forth in 18 V.S.A. § 9440(c)(5).

(b) For certificate of need applications for transfer of nursing home ownership that are pending on the effective date of this act, the Board may

permit an applicant to elect whether to complete the certificate of need process on a standard or expedited basis.

Sec. 4. EFFECTIVE DATES

(a) Sec. 1 (Nursing Home Oversight Working Group), Sec. 3 (transfer of ownership; expedited certificate of need process), and this section shall take effect on passage.

(b) Sec. 2 (18 V.S.A. § 9434) shall take effect on July 1, 2019 and shall apply to all transfers of ownership initiated on or after that date.

Which was agreed to and third reading ordered.

Third Reading; Bill Passed

H. 676

House bill, entitled

An act relating to miscellaneous energy subjects

Was taken up, read the third time and passed.

Third Reading; Bill Passed

H. 736

House bill, entitled

An act relating to lead poisoning prevention

Was taken up, read the third time and passed.

Bill Amended; Read Third Time; Bill Passed

H. 919

House bill, entitled

An act relating to workforce development

Was taken up and pending third reading of the bill, **Reps. Pugh of South Burlington and O'Sullivan of Burlington** moved to amend the bill as follows:

First: In Sec. 2, in subsection (f), by striking out subdivisions (4) and (5) in their entirety and inserting in lieu thereof the following:

(4) scaling or expanding pilot projects that link experts who have career and industry knowledge directly with middle schools or high schools, or both, to foster career readiness and exploration;

(5) ways to share data and information collected from employers among parties who implement workforce development programs; and

(6) what knowledge and education employers may require better to respond to their employees as workers and as members of a family.

Second: In Sec. 2, in subsection (h), by striking out subdivisions (4) and (5) in their entirety and inserting in lieu thereof the following:

(4) access to federal resources that enable more innovative programs and initiatives in Vermont;

(5) equitable access to employment and training opportunities for women and underrepresented populations in Vermont; and

(6) best practices aligned with a two-generation approach to eliminating poverty, as identified by the Vermont Work Group on Whole Family Approach to Jobs.

Third: In Sec. 5, in subsection (b), by striking out subdivisions (3) and (4) in their entirety and inserting in lieu thereof the following:

(3) leverage resources available in current State and federal programs to support more workers from within and outside Vermont entering and staying in the Vermont workforce;

(4) create metrics for tracking the success of outreach efforts and economic impact; and

(5) develop policies and identify tools that support a two-generation approach to successful employment, addressing the needs of children in the lives of working adults.

Fourth: In Sec. 5, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read:

(c) The Board may identify incentives to enable and encourage targeted populations to participate in the labor force, including unemployment insurance waivers, income tax reductions, exemption of State tax on Social Security, housing and transportation vouchers, greater access to mental health and addiction treatment, and tuition and training reimbursements. The Board shall notify the House Committees on Commerce and Economic Development and on Human Services of any findings or recommendations, as appropriate.

Which was agreed to. Thereupon, the bill was read the third time and passed.

Second Reading; Bill Amended; Third Reading Ordered

H. 429

Rep. Sibilia of Dover, for the committee on Energy and Technology, to which had been referred House bill entitled,

An act relating to establishment of a communication facilitator program

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 30 V.S.A. § 218a(d) is amended to read:

(d) The Department of Public Service shall establish the Vermont Telecommunications Relay Service Advisory Council composed of the following members: one representative of the Department of Public Service, ~~who shall act as chair and who shall be~~ designated by the Commissioner of Public Service; one representative of the Department of Disabilities, Aging, and Independent Living, ~~who shall act as vice chair~~; two representatives of the deaf community; one member of the community of people who are hard of hearing or have a speech limitation; one representative of a company providing local exchange service within the State; and one representative of an organization currently providing telecommunications relay services. The Council shall elect from among its members a chair and vice chair. Meetings shall be convened at the call of the Chair or a majority of the members of the Council. The Council shall meet not more than six times a year. The members of the Council who are not officers or employees of the State shall receive per diem compensation and expense reimbursement in amounts authorized by 32 V.S.A. § 1010(b). The costs of ~~such~~ the compensation and reimbursement, and any other necessary administrative costs shall be included within the contract entered into under subsection (c) of this section. The Council shall advise the Department of Public Service and the contractor for telecommunications relay services on all matters concerning the implementation and administration of the State's telecommunications relay service.

Sec. 2. COMMUNICATION FACILITATOR PROGRAM; STUDY

The Commissioner of Public Service, in consultation with the Commissioner of Disabilities, Aging, and Independent Living, shall make findings and recommendations regarding the establishment a communication facilitator program in Vermont that would enable members of the DeafBlind community to make telephone calls. The Commissioner shall solicit input from representatives or members of the DeafBlind community in Vermont and shall take into consideration similar programs offered in other jurisdictions. The Commissioner's findings shall include the administrative and implementation costs of the program; the number of individuals in the DeafBlind community in Vermont; expected participation in the program; and an assessment of whether there are grant opportunities to help defray program costs. The Commissioner's recommendations shall include a funding source for the program. The Commissioner shall report his or her findings and

recommendations on or before December 15, 2018 to the House Committees on Energy and Technology and on Human Services and the Senate Committees on Finance and on Health and Welfare.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Keenan of St. Albans City, for the committee on Appropriations, recommended the bill ought to pass when amended by the committee on Energy and Technology.

The bill, having appeared on the Calendar one day for notice, was taken up, read second time, the report of the committees on Energy and Technology and Appropriations agreed to and third reading was ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 777

Rep. Shaw of Pittsford, for the committee on Corrections and Institutions, to which had been referred House bill entitled,

An act relating to the Clean Water State Revolving Loan Fund

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 4751 is amended to read:

§ 4751. DECLARATION OF POLICY

It is hereby declared to be in the public interest to foster and promote timely expenditures by municipalities for water systems, ~~water pollution abatement and control facilities~~ clean water projects, and solid waste management, each of which is declared to be an essential governmental function when undertaken and implemented by a municipality. It is also declared to be in the public interest to promote expenditures for certain existing privately owned public water systems and certain privately owned ~~wastewater and public and~~ potable water supply systems to bring those systems into compliance with federal and State standards and to protect public health and the environment. Additionally, it is declared to be in the public interest to promote public-private partnerships and expenditures by private entities for clean water projects to protect and improve the quality of waters of the State.

Sec. 2. 24 V.S.A. § 4752 is amended to read:

§ 4752. DEFINITIONS

As used in this chapter:

* * *

(10) ~~“Privately owned wastewater system” means a privately owned wastewater system, that receives primarily domestic type wastes. [Repealed.]~~

(11) ~~“Water pollution abatement and control facilities”~~ “Clean water project” means “water pollution abatement and control facilities,” as defined in 10 V.S.A. § 1571, and such equipment, conveyances, and structural or nonstructural facilities owned or operated by a municipality, and natural resources projects that are needed for and appurtenant to the prevention, management, treatment, storage, or disposal of stormwater, sewage, or waste, or that provide water quality benefits, including a wastewater treatment facility, combined sewer separation facilities, an indirect discharge system, a wastewater system, flood resiliency work related to a structural facility, or a groundwater protection project.

* * *

(17) “Natural resources project” means a project to protect, conserve, or restore natural resources, including the acquisition of easements and land, for the purpose of providing water quality benefits.

(18) “Sponsorship program” means an arrangement in which natural resources projects are paired with water pollution abatement and control facilities projects, as defined in 10 V.S.A. § 1571, for the purposes of water quality improvement. Under the sponsorship program, a municipality may obtain a loan for both a natural resources project and a water pollution abatement and control facilities project. The loan rate and terms shall be adjusted to forgive all or a portion of the natural resources project over the life of the loan. Only municipalities and non-profit organizations may receive funds under a sponsorship program.

Sec. 3. 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:

(1) The Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund, which shall be used, consistent with federal law, to provide loans to ~~municipalities and State agencies~~ for planning and construction of ~~water pollution abatement and control facilities~~ clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way, and for implementing related management programs.

(2) The Vermont Pollution Control Revolving Fund, which shall be used to provide loans to municipalities and State agencies for planning and

construction of ~~water pollution abatement and control facilities~~ clean water projects, including acquisitions of project-related easements, land, options to purchase land, and temporary or permanent rights-of-way.

* * *

Sec. 4. 24 V.S.A. § 4754 is amended to read:

§ 4754. LOAN APPLICATION

A municipality may apply for a loan, the proceeds of which shall be used to acquire, design, plan, construct, enlarge, repair, or improve ~~a publicly owned water pollution abatement and pollution control facility~~ a clean water project, public water supply systems as defined in subdivision 4752(9) of this title, or a solid waste handling and disposal facility, or certain privately owned ~~wastewater systems~~ clean water projects as described in section 4763 of this title, or to implement a related management program. In addition, the loan proceeds shall be used to pay the outstanding balance of any engineering planning advances made to the municipal applicant under this chapter and determined by the Secretary to be due and payable following construction of the improvements to be financed by the proceeds of the loan. The Bond Bank may prescribe any form of application or procedure required of a municipality for a loan hereunder. ~~Such~~ The application shall include such information as the Bond Bank shall deem necessary for the purpose of implementing this chapter.

Sec. 5. 24 V.S.A. § 4755(a) is amended to read:

(a) Except as provided by subsection (c) of this section, the Bond Bank may make loans to a municipality on behalf of the State for one or more of the purposes set forth in section 4754 of this chapter. Each of ~~such~~ the loans shall be made subject to the following conditions and limitations:

* * *

(4) Notwithstanding any other provisions of law, municipal legislative bodies may execute notes and incur debt on behalf of municipalities:

(A) with voter approval at a duly warned meeting, for amounts less than \$75,000.00; ~~or~~

(B) by increasing previously approved bond authorizations by up to \$75,000.00 to cover unanticipated project costs or the cost of directly and functionally related enhancements; or

(C) without voter approval, in an amount which does not exceed an amount to be forgiven or cancelled upon the completion of a natural resources project under the sponsorship program.

* * *

Sec. 6. 24 V.S.A. § 4758(a) is amended to read:

(a) Periodically, and at least annually, the Secretary shall prepare and certify to the Bond Bank a project priority list of those municipalities whose ~~publicly owned projects, or privately owned wastewater systems,~~ clean water projects are eligible for financing or assistance under this chapter. In determining financing availability for ~~water pollution abatement and control facilities~~ clean water projects under this ~~chapter~~ subchapter, the Secretary shall apply the criteria adopted pursuant to 10 V.S.A. § 1628.

Sec. 7. 24 V.S.A. § 4763 is amended to read:

§ 4763. ~~LOANS FOR PRIVATELY-OWNED WASTEWATER SYSTEMS~~
TO MUNICIPALITIES FOR PRIVATELY OWNED CLEAN
WATER PROJECTS

(a) Where the ~~secretary~~ Secretary has determined that ~~the construction, repair, or replacement of a privately-owned wastewater system~~ a privately owned clean water project is the preferred alternative to abate or control a pollution problem or to provide water quality benefits, a loan may be made to a municipality from the Vermont ~~environmental protection agency (EPA)~~ pollution control revolving fund Environmental Protection Agency Pollution Control Revolving Fund established in section 4753 of this title. In such cases, the following conditions shall apply:

(1) Guaranteed repayment of the loan will be based on a municipal bond, but actual repayment may be made with funds from the owner, as set forth in an agreement between the owner and the municipality.

(2) In all cases, there shall be a binding agreement between the owner and the municipality that provides for the proper operation and maintenance of the ~~privately-owned wastewater system~~ privately owned clean water project for at least the term of the loan.

(3) All conditions and limitations of section 4755 of this title apply to loans made under this section.

(4) No construction loan shall be made to a municipality 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~~ Secretary certifies to the ~~bond bank~~ Bond Bank that all land use, subdivision, public building, and water supply and wastewater permits necessary to construct and operate ~~the~~ any improvements to be financed by the loan have been issued to the owner of the ~~privately-~~

~~owned wastewater system~~ privately owned clean water project.

(B) The applicant municipality certifies to the ~~bond bank~~ Bond Bank that the ~~private system~~ owner has secured all ~~state~~ State and federal permits, licenses, and approvals necessary to construct and operate the ~~improvements~~ clean water project to be financed by the loan.

(C) The ~~secretary~~ Secretary certifies to the ~~bond bank~~ Bond Bank that the loan eligibility priority established under section 4758 of this title entitles the applicant municipality to immediate financing or assistance under this chapter.

(D) The applicant municipality, in the case of applications by towns, cities, and incorporated villages, and with respect to all loans awarded after July 1, 1992, certifies to the ~~bond bank~~ Bond Bank that the project conforms to a duly adopted capital budget and program, consistent with chapter 117 of this title, for meeting the pollution control needs of the municipality.

(E) The applicant municipality, in the case of an application by a district, certifies to the ~~bond bank~~ Bond Bank that the project conforms to a capital budget and program duly adopted by the district in accordance with the provisions of its charter.

(b) The ~~bond bank~~ Bond Bank may make loans to a municipality for the preparation of final engineering plans and specifications for the construction of a ~~privately-owned wastewater system~~ privately owned clean water project or element of such a project in the same manner as set forth in subsection 4756(b) of this title.

Sec. 8. 24 V.S.A. § 4763a is redesignated to read:

§ 4763a. LOANS TO MUNICIPALITIES FOR PRIVATELY OWNED
POTABLE WATER SUPPLIES

Sec. 9. 24 V.S.A. § 4763c is redesignated to read:

§ 4763c. LOANS TO MUNICIPALITIES FOR MUNICIPAL PUBLIC
WATER SUPPLY SYSTEMS

Sec. 10. 24 V.S.A. chapter 120, subchapter 3 is redesignated to read:

Subchapter 3. Private Loans for Privately Owned Public Water Systems

Sec. 11. 24 V.S.A. chapter 120, subchapter 4 is added to read:

Subchapter 4. Private Loans for Clean Water Projects

§ 4780. ELIGIBILITY AND LOAN APPLICATION

(a) The Vermont Economic Development Authority (VEDA) is authorized

to make loans on behalf of the State to private entities for a clean water project; provided, however, that no State funds are used. Such loans shall be issued and administered by VEDA pursuant to this subchapter.

(b) A private entity may apply to VEDA for a loan from the Vermont Environmental Protection Agency Pollution Control Revolving Fund, established in section 4753 of this title, for a clean water project. The loan proceeds shall be used to acquire, design, plan, construct, enlarge, repair, improve, or implement a clean water project. Loan proceeds shall not be used for operation and maintenance expenses or laboratory fees for monitoring.

(c) The Secretary and VEDA may prescribe any form of application or procedure for a loan hereunder, request from an applicant any information deemed necessary to implement this subchapter, and impose an application fee and an administrative fee determined reasonable and necessary to cover administrative costs. Fee proceeds shall be deposited in the administrative fee account established in subsection 4755(a) of this chapter.

§ 4782. CONDITIONS OF LOAN AGREEMENT

(a) VEDA may make loans to applicants on behalf of the State for one or more of the purposes set forth in subsection 4781(b) of this title. Each loan shall be made subject to the following conditions:

(1) The loan shall be evidenced by a note payable over a term not to exceed 30 years. Repayment shall commence not later than one year after completion of the project for which loan funds have been issued.

(2) The loan shall be secured with assets as determined by VEDA. VEDA may also require that the applicant assign all or a portion of any revenues from the clean water project as security for the loan or may require the establishment of a reserve fund.

(3) The rate of interest charged for loans shall be set by the State Treasurer, taking into consideration prevailing borrowing rates available to similarly situated applicants from private lenders and the administrative fees to be charged to applicants. VEDA, in cooperation with the Secretary, shall periodically recommend interest rates to be set by the State Treasurer that are the lowest practicable rates consistent with maintaining the long-term integrity of the Fund. The interest rate set by the State Treasurer may be less than the prevailing borrowing rates available to similarly situated applicants from private lenders, but not less than zero percent.

(b) The loan agreement shall specify the terms and conditions of the loan and its repayment by the applicant, as well as other terms and conditions determined necessary by the Secretary and VEDA.

(c) Disbursement of loan proceeds shall be based on certification to the Secretary and VEDA by the loan recipient demonstrating that the costs for which reimbursement is requested have been incurred and paid by the recipient. The recipient shall provide supporting evidence of payment upon the request of VEDA. Partial disbursements of loan proceeds shall be made not more frequently than monthly.

(d) Interim financing charges or short-term interest costs may constitute an allowable cost of a project for which a loan is extended, provided VEDA approved in advance the terms, conditions, interest rate, and other related matters concerning the financing or interest cost. In the event short-term financing is unavailable to the applicant, VEDA may make interim loan disbursements not more frequently than monthly to the applicant and its general contractor as co-payees upon submission of a certified request for payment supported by actual invoices or other evidence satisfactory to VEDA of costs incurred.

(e) VEDA shall have the right prior to making any disbursement of the loan proceeds to require confirmation from an independent registered professional engineer that any work has been performed according to project plans and specifications approved by the Secretary.

(f) VEDA may require as part of the loan agreement that the applicant cause an audit of the project costs to be prepared and approved by VEDA prior to VEDA's making final payment of the loan amount.

(g) In the event of default, any amounts owed upon the loan shall be considered a debt for the purposes of 32 V.S.A. § 5932(4). VEDA may recover such debt pursuant to the setoff debt collection remedy established under 32 V.S.A. §§ 5933 and 5934.

§ 4783. QUALIFICATIONS FOR ELIGIBILITY; CERTIFICATION

No loan to an applicant shall be made under this subchapter until:

(1) The applicant has certified all of the following to VEDA:

(A) all State and federal permits and licenses necessary to undertake the project for which financing has been sought will be obtained prior to the expenditure of construction funds under the loan;

(B) the applicant has sufficient means to pay the principal and interest on the loans and to pay any anticipated costs of operating and maintaining the financed project;

(C) if the applicant is subject to the jurisdiction of the Public Utility Commission under 30 V.S.A §§ 102 and 203(6), the applicant has obtained the following approvals, if such approvals are necessary for the project, and has

provided VEDA with copies of those approvals:

(i) the certificate of public good issued by the Public Utility Commission pursuant to 30 V.S.A. § 231 (public good) and 30 V.S.A. § 108 (approving the loan); and

(ii) the decision and order of the Public Utility Commission approving rates that are to be charged by the applicant.

(D) the municipality or municipalities in which the clean water project is located have provided a letter of support for the project.

(2) The Secretary has certified to VEDA that the applicant and the project qualify for financing or assistance under section 4784 of this title and that the project has priority for receipt of financial assistance.

§ 4784. LOAN PRIORITIES

(a) The Secretary shall at least annually prepare and certify to VEDA a list of privately owned clean water projects, ranked in priority order, that are eligible for financial assistance under this subchapter.

(b) In determining financing ability for clean water projects under this subchapter, the Secretary shall apply the criteria adopted pursuant to 10 V.S.A. § 1628; provided, however:

(1) No privately owned clean water project authorized under this subchapter shall be prioritized above a municipal clean water project.

(2) No more than 20 percent of the funds identified in the annual State intended use plan (IUP) and allocated for clean water projects may be used for loans to privately owned clean water projects, unless there occurs a surplus of funds, in which case those funds may be used to fund additional privately owned clean water projects.

§ 4785. LIABILITY AGAINST DEFAULT

Under no circumstance shall the State become responsible for owning or operating a clean water project when the loan recipient defaults on a loan obligation or abandons the project.

§ 4786. ACTION FOR RECEIVERSHIP

Upon default of a loan, VEDA shall have the right to petition the Superior Court in the county in which the clean water project is located, or the Public Utility Commission for projects subject to the jurisdiction of the Commission, to appoint a receiver.

§ 4787. LOAN CONSOLIDATION

Loans, or the outstanding balance of loans, made for the purpose of

preparing engineering plans for a project may be consolidated with any subsequent loans for construction.

* * * Sunset of Loans to Private Entities* * *

Sec. 12. SUSPENSION OF PRIVATE LOANS FOR CLEAN WATER
PROJECTS

(a) Neither the Vermont Economic Development Authority (VEDA) nor the Secretary of Natural Resources shall accept, review, or act on any applications for loans to private entities under 24 V.S.A. chapter 120, subchapter 4 submitted after June 30, 2023. However, VEDA and the Secretary shall continue to review and act on initial applications submitted on or before June 30, 2023, as well as any amendments to timely initial applications.

(b) It is the intent of the General Assembly that the private loans under 24 V.S.A. chapter 120, subchapter 4, the expansion of 24 V.S.A. chapter 120 to provide funding for natural resources projects, and the sponsorship program defined at 24 V.S.A. § 4752(18) shall all be reviewed during the 2023 legislative session.

* * * Technical Corrections * * *

Sec. 13. 24 V.S.A. § 4764 is amended to read:

§ 4764. PLANNING

(a) Engineering planning advance. A municipality or a combination of two or more municipalities desiring an advance of funds for engineering planning for public water supply systems, as defined in subdivision 4752(9) of this title, or improvements, or for ~~water pollution abatement and control facilities~~ clean water projects or improvements, may apply to the Department for an advance under this chapter. As used in this subsection, “engineering planning” may include source exploration, surveys, reports, designs, plans, specifications, or other engineering services necessary in preparation for construction of the types of systems or facilities referred to in this section.

* * *

Sec. 14. 24 V.S.A. § 4766 is amended to read:

§ 4766. AWARD OF ADVANCE

(a) The Department may award an engineering planning advance, as defined in section 4764 of this title, in an amount determined by standards established by the Department, and pursuant to the following:

(1) for public water supply systems, as defined in subdivision 4752(9)

of this title, when it finds the same to be necessary in order to preserve or enhance the quality of water provided to the inhabitants of the municipality, or to alleviate an adverse public health condition, or to allow for orderly development and growth of the municipality, except that no funds may be awarded until the Department determines that the applicant has complied with the provisions of 10 V.S.A. § 1676a, unless such funds are solely for the purpose of determining the effect of the proposed project on agriculture; or

(2) for planning of ~~water pollution abatement and control facilities~~ clean water projects, in order to enable a municipality to comply with water quality standards established under 10 V.S.A. chapter 47.

* * *

Sec. 15. 10 V.S.A. § 1251(18) is amended to read:

§ 1251. DEFINITIONS

Whenever used or referred to in this chapter, unless a different meaning clearly appears from the context:

* * *

(18) ~~“Pollution abatement facilities” means municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State.~~
[Repealed.]

* * *

Sec. 16. 10 V.S.A. § 1259(j) is amended to read:

(j) No person shall discharge waste from hydraulic fracturing, as that term is defined in 29 V.S.A. § 503, into or from a pollution abatement facility, as that term is defined in section ~~1254~~ 1278 of this title.

Sec. 17. 10 V.S.A. § 1278 is amended to read:

§ 1278. OPERATION, MANAGEMENT, AND EMERGENCY RESPONSE

PLANS FOR POLLUTION ABATEMENT FACILITIES

(a) Findings. The General Assembly finds that the State shall protect Vermont’s lakes, rivers, and streams from pollution by implementing programs to prevent sewage spills to Vermont waters and by requiring emergency planning to limit the damage from spills which do occur. In addition, the General Assembly finds it to be cost-effective and generally beneficial to the environment to continue State efforts to ensure energy efficiency in the operation of treatment facilities.

(b) Planning requirement. Effective July 1, 2007, the Secretary of Natural

Resources shall as part of a permit issued under section 1263 of this title, require a pollution abatement facility, as that term is defined in ~~section 1251 of this title~~ section, to prepare and implement an operation, management, and emergency response plan for those portions of each pollution abatement facility that include the treatment facility, the sewage pumping stations, and the sewer line stream crossing. As used in this section, "pollution abatement facility" means municipal sewage treatment plants, pumping stations, interceptor and outfall sewers, and attendant facilities as prescribed by the Department to abate pollution of the waters of the State.

(c) Collection system planning. As of July 1, 2010, the Secretary of Natural Resources, as part of a permit issued under section 1263 of this title, shall require a pollution abatement facility, as that term is defined in ~~section 1251 of this title~~ subsection (b) of this section, to prepare and implement an operation, management, and emergency response plan for that portion of each pollution abatement facility that includes the sewage collection systems. The requirement to develop a plan under this subsection shall be included in a permit issued under section 1263 of this title, and a plan developed under this subsection shall be subject to public review and inspection.

* * *

Sec. 18. 10 V.S.A. § 1622 is amended to read:

§ 1622. ELIGIBLE PROJECTS

As used in this subchapter, eligible project costs for water pollution abatement and control facilities projects shall include equipment, conveyances, and structural or nonstructural facilities needed for and appurtenant to the prevention, management, treatment, storage, or disposal of sewage, waste, or stormwater, and the associated costs, including planning and design costs, necessary to construct the improvements, including costs to acquire land for the project.

Sec. 19. 24 V.S.A. § 4771(a) is amended to read:

(a) VEDA may make loans to applicants on behalf of the State for one or more of the purposes set forth in subsection 4770(b) of this title. Each such loan shall be made subject to the following conditions:

* * *

(4) The rate of interest charged for loans shall be set by the State Treasurer, taking into consideration prevailing borrowing rates available to similarly situated applicants from private lenders and administrative fees to be charged to applicants. VEDA, in cooperation with the Secretary, shall periodically recommend interest rates to be set by the State Treasurer which

are the lowest practicable rates consistent with maintaining the long-term integrity of the Fund. The interest rate set by the State Treasurer may be less than the prevailing borrowing rates available to similarly situated applicants from private lenders, but not less than zero percent.

(5)(A) Notwithstanding subdivision (4) of this subsection, a privately owned nonprofit community type system may qualify for a 30-year loan term at an interest rate, plus administrative fee, to be established by the Secretary of Natural Resources ~~which~~ that shall be no more than three percent or less than minus three percent, provided that the applicant system meets the income level and annual household user cost requirements of a disadvantaged municipality as defined in subdivision 10 V.S.A. § 1571(9)(A), and at least 80 percent of the residential units served by the water system is continuously occupied by local residents and at least 80 percent of the water produced is for residential use.

(B) [Repealed.]

(C) If the Secretary determines that a privately owned nonprofit community type system qualifies for a loan under this subdivision, the Secretary shall certify the loan term and interest rate to VEDA. In no instance shall the annual interest rate, plus an administrative fee, be less than is necessary to achieve an annual household user cost equal to one percent of the median household income of the applicant water system computed in the same manner as prescribed in subdivision 10 V.S.A. ~~§ 1624(b)(2)(B)~~ 4763c(b)(2) of this title.

Sec. 20. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Feltus of Lyndon, for the committee on Appropriations, recommended the bill ought to pass when amended by the committee on Corrections and Institutions.

The bill, having appeared on the Calendar one day for notice, was taken up, read second time, the report of the committees on Corrections and Institutions and Appropriations agreed to and third reading was ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 780

Rep. Lawrence of Lyndon for the committee on Ways and Means, to which had been referred House bill entitled,

An act relating to the inspection of amusement rides

Reported in favor of its passage when amended by striking all after the

enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds \$7 million a year. Vermont fairs generate over \$85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) “Amusement ride” means a portable mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for the purposes of this chapter, amusement ride shall also include bungee jumping.~~

(2) “Operator” or “owner” means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) “Certificate” or “certificate of operation” means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the ~~Secretary of State~~ Agency of Agriculture, Food and Markets has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Agency not fewer than 30 business days before an amusement ride is operated

in this State.

(c) The Secretary of State Agency shall issue a “certificate of operation” no not fewer later than 15 business days before the amusement ride is first operated in the State, if the owner or operator submits all the following:

* * *

(e)(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Agency. A certificate of operation shall identify the ride’s:

- (1) name and model;
- (2) serial number;
- (3) passenger capacity; and
- (4) recommended maximum speed.

(d)(e) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride kept at the office of the amusement ride operator.

(f) The Agency shall:

- (1) determine the manner and format of the certificate of operation and any forms to be used to apply for the certificate of operation;
- (2) make any forms available on the Agency website;
- (3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;
- (4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A portable amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector;

(ii) by the Amusement Industry Manufacturers and Suppliers

International at a level that is equivalent to the certification pursuant to subdivision (i) of this subsection (a); or

(iii) in a manner that the Agency of Agriculture, Food and Markets determines is equivalent to the certifications pursuant to subdivision (i) or (ii) of this subsection (a); and

(B) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the applicable standards determined by:

(A) the National Association of Amusement Ride Safety Officials;

(B) the Amusement Industry Manufacturers and Suppliers International; or

(C) another organization that the Agency determines is equivalent to the National Association of Amusement Ride Safety Officials or the Amusement Industry Manufacturers and Suppliers International.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Agency within 15 business days following the date of inspection.

(2) An adhesive sticker shall be affixed to the ride or the ride shall be stamped or otherwise marked in a manner that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(c) A ride shall be inspected by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Agency promptly upon

request; and

(3) keep a paper or electronic copy of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. OPERATIONS OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; and

(3) be in attendance at all times that the ride is operating; and

(4) exercise good judgement and act in a responsible and safe manner while operating an amusement ride.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgement and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all written and verbal warnings and directions from ride operators or owners.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

Rep. Young of Glover, for the committee on Ways and Means, recommended that the bill ought to pass when amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds \$7 million a year. Vermont fairs

generate over \$85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) “Amusement ride” means a portable mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for the purposes of this chapter, amusement ride shall also include bungee jumping.~~

(2) “Operator” or “owner” means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) “Certificate” or “certificate of operation” means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the Secretary of State has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Secretary of State not fewer than 30 business days before an amusement ride is operated in this State.

(c) The Secretary of State shall issue a “certificate of operation” no later than 15 business days before the amusement ride is first operated in the State, if the owner or operator submits all the following:

* * *

~~(e)~~(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Secretary of State. A certificate of operation shall identify the ride’s:

- (1) name and model;
- (2) serial number;
- (3) passenger capacity; and
- (4) recommended maximum speed.

~~(d)~~(e) A copy of the certificate of operation shall be ~~posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride~~ kept at the office of the amusement ride operator.

(f) The Secretary of State shall:

- (1) determine the manner and format of the certificate of operation and any forms to be used to apply for the certificate of operation;
- (2) make any forms available on the Secretary of State's website;
- (3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;
- (4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A portable amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector;

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subsection (a); or

(iii) in a manner that the Secretary of State determines is equivalent to the certifications pursuant to subdivision (i) or (ii) of this subsection (a); and

(B) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the American Society for Testing and Materials (ASTM) current standards for inspecting and auditing amusement

rides and devices.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Secretary of State within 15 business days following the date of inspection.

(2) An adhesive sticker shall be affixed to the ride or the ride shall be stamped or otherwise marked in a manner that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(c) A ride shall be inspected by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Secretary of State promptly upon request;

(3) keep a paper or electronic copy of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator; and

(4) operate, maintain, and inspect all rides in compliance with ASTM current standards for ownership, operation, maintenance, and inspection of amusement rides and devices.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. OPERATIONS OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; and

(3) be in attendance at all times that the ride is operating; and

(4) exercise good judgement and act in a responsible and safe manner while operating an amusement ride.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgement and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all written and verbal warnings and directions from ride operators or owners.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

and that after passage the title of the bill be amended to read: "An act relating to portable rides at agricultural fairs, field days, and other similar events"

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Agriculture and Forestry was agreed to. Thereupon, the report of the committee on Ways and Means was agreed to and third reading ordered.

Second Reading; Bill Amended; Third Reading Ordered

H. 785

Rep. Sheldon of Middlebury, for the committee on Commerce and Economic Development, to which had been referred House bill entitled,

An act relating to housing and affordability

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 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. 2. 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. 3. 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.

Sec. 4. EFFECTIVE DATE

This act shall take effect upon passage.

Rep. Masland of Thetford, for the committee on Ways and Means, recommended the bill ought to pass when amended by the committee on Commerce and Economic Development.

Rep. Keenan of St. Albans City, for the committee on Appropriations,

recommended the bill ought to pass when amended by the committee on Commerce and Economic Development.

The bill, having appeared on the Calendar one day for notice, was taken up, read second time, the report of the committees on Commerce and Economic Development, Ways and Means, and Appropriations were agreed to and third reading was ordered.

Action on Bill Postponed

H. 897

House bill, entitled

An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support

Was taken up and pending the reading of the report of the committee on Appropriations, on motion of **Rep. Sharpe of Bristol**, action on the bill was postponed until March 21, 2018.

Recess

At eleven o'clock and forty-eight minutes in the forenoon, the Speaker declared a recess until one o'clock in the afternoon.

At one o'clock and five minutes in the afternoon, the Speaker called the House to order.

Committee Bill; Second Reading; Bill Amended; Third Reading Ordered

H. 917

Rep. Brennan of Colchester spoke for the committee on Transportation.

House bill entitled

An act relating to the Transportation Program and miscellaneous changes to transportation-related law

Rep. Helm of Fair Haven for the committee on Appropriations recommended that the bill ought to pass when amended as follows:

By adding a new section after Sec. 5 to be Sec. 5a and a reader assistance thereto to read as follows:

* * * Maintenance Program and District Leveling * * *

Sec. 5a. MAINTENANCE PROGRAM AND DISTRICT LEVELING;
SPENDING AUTHORITY

(a) As used in this section, “TDI” refers to Champlain VT, LLC d/b/a TDI New England and “TDI Agreement” refers to the lease option agreement entered into between TDI and the State on July 17, 2015.

(b) Authorized spending in fiscal year 2019 for the Statewide District Leveling activity in the Program Development—Paving Program is reduced by \$2,400,000.00 in transportation funds and increased by \$2,400,00.00 in federal funds.

(c) Authorized spending in fiscal year 2019 for operating expenses in the Maintenance Program is reduced by \$1,600,000.00 in transportation funds.

(d) If TDI makes a payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or pursuant to a renegotiation of the TDI Agreement, the Secretary shall allocate the amount of the payment received to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(e) If TDI makes no payment to the State in fiscal year 2018 or 2019 pursuant to the TDI Agreement or a renegotiation thereof or if a payment made by TDI is insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary shall allocate any unreserved surplus in the Transportation Fund as of the end of fiscal year 2018 to the Statewide District Leveling activity or to the Maintenance Program, or to both, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the allocation made.

(f)(1) Subject to subdivision (2) of this subsection, and notwithstanding 32 V.S.A. § 706, if the contingent allocations directed in subsections (d) and (e) of this section do not occur or are insufficient to restore the reduction in spending authority made in subsections (b) and (c) of this section, the Secretary of Administration, after consulting with the Secretary of Transportation, is authorized to transfer balances of fiscal year 2019 Transportation Fund appropriations within the Agency to the extent required to restore the reduction in spending authority made in subsections (b) and (c) of this section, and authorized spending of transportation funds in fiscal year 2019 for the Statewide District Leveling activity and for the Maintenance Program is increased in accordance with the balances transferred.

(2) An appropriation may be transferred pursuant to subdivision (1) of this subsection only if the monies are not needed for a project:

(A) because the project has been delayed due to permitting, right-of-

way, or other unforeseen issues; or

(B) because of cost savings generated by the project.

(3) In making any appropriation transfer authorized under this section, the Secretary of Administration shall avoid, to the extent possible, any reductions in appropriations to the town programs described in 19 V.S.A. § 306. Any reductions to these town programs shall not affect the timing of reimbursements to towns for projects or delay any projects or grants and shall be replaced in the affected appropriations in fiscal year 2020.

Having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Appropriations was agreed to and third reading ordered.

**Second Reading;
Bill Amended; Third Reading Ordered**

H. 404

Rep. Christensen of Weathersfield for the committee on Health Care to which had been referred House bill, entitled

An act relating to Medicaid reimbursement for long-acting reversible contraceptives

Reported the bill ought to pass.

Rep. Toll of Danville, for the committee on Appropriations, recommended the bill ought to pass

Having appeared on the Calendar one day for notice, was taken up and read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Christensen of Weathersfield** moved to amend the bill as follows:

In Sec. 2 by striking "2017" and inserting in lieu thereof "2018".

Which was agreed to. Thereupon third reading was ordered.

Committee Bill; Second Reading; Third Reading Ordered

H. 913

Rep. Gannon of Wilmington spoke for the committee on Government Operations.

House bill entitled

An act relating to boards and commissions

Rep. Dakin of Colchester, for the committee on Appropriations,

recommended the bill ought to pass

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Committee Bill; Second Reading; Third Reading Ordered

H. 920

Rep. Carr of Brandon spoke for the committee on Energy and Technology.

House bill entitled

An act relating to the authority of the Agency of Digital Services

Rep. Dakin of Colchester, for the committee on Appropriations, recommended the bill ought to pass

Having appeared on the Calendar one day for notice, was taken up, read the second time and third reading ordered.

Second Reading;Third Reading Ordered

S. 169

Rep. Devereux of Mount Holly, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to nonresident clergy authorized to solemnize marriages

Reported in favor of its passage in concurrence

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, and third reading ordered.

Second Reading;Third Reading Ordered

S. 291

Rep. Devereux of Mount Holly, for the committee on Government Operations, to which had been referred Senate bill, entitled

An act relating to the annual town meeting of the unified towns and gores of Essex County and to the appraisers and supervisors of all unorganized towns and gores

Reported in favor of its passage in concurrence

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, and third reading ordered.

Recess

At two o'clock and twenty-nine minutes in the afternoon, the Speaker

declared a recess until the fall of the gavel.

At three o'clock and forty-seven minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 37

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has on its part passed Senate bills of the following titles:

S. 111. An act relating to privatization contracts.

S. 272. An act relating to miscellaneous changes to laws related to motor vehicles.

S. 287. An act relating to aquatic nuisance control.

In the passage of which the concurrence of the House is requested.

The Senate has on its part adopted joint resolution of the following title:

J.R.S. 52. Joint resolution relating to weekend adjournment.

In the adoption of which the concurrence of the House is requested.

Second Reading; Bill Amended; Third Reading Ordered

H. 560

Rep. Sullivan of Burlington, for the committee on Natural Resources, Fish, and Wildlife, to which had been referred House bill entitled,

An act relating to household products containing hazardous substances

Reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Thousands of household products sold in the State contain substances designated as hazardous under State or federal law.

(2) Vermont's hazardous waste regulations establish specific requirements for the management of hazardous waste, including a prohibition on disposal in landfills.

(3) Leftover household products, known as household hazardous waste

(HHW), are regulated through a requirement that municipal solid waste management entities (SWMEs) include provisions in solid waste implementation plans for the management and diversion of unregulated hazardous waste. The State solid waste management plan also will require the SWMEs to each hold four HHW collection events every year.

(4) Many SWMEs already offer more than four HHW collection events each year, and five of the SWMEs have established permanent facilities for the regular collection of HHW.

(5) HHW collection events or permanent facilities are expensive to operate, and SWMEs spend approximately \$1.6 million a year to manage HHW, costs that are subsequently passed on to the residents of Vermont through taxes or disposal charges.

(6) As a result of the failure to divert HHW, it is estimated that 640 tons or more per year of HHW are being disposed of in landfills.

(7) There is general agreement among the SWMEs and the Agency of Natural Resources that additional collection sites and educational and informational activities are necessary to capture more of the HHW being disposed of in landfills.

(8) Funding constraints are a current barrier to new collection sites and educational and informational activities.

(9) HHW released into the environment can contaminate air, groundwater, and surface waters, thereby posing a significant threat to the environment and public health.

(10) To improve diversion of HHW from landfills, reduce the financial burden on SWMEs, taxpayers, and the cost of the overall system of managing HHW, and lessen the environmental and public health risk posed by improperly disposed of HHW, the Secretary of Natural Resources shall convene the Working Group on Household Hazardous Waste to recommend how best to manage and fund HHW in the State.

(11) If the Working Group on Household Hazardous Waste fails to provide recommendations, the State shall implement a program to require the manufacturers of household products containing a hazardous substance to implement a stewardship organization to collect household products containing a hazardous substance free of charge to the public.

Sec. 2. AGENCY OF NATURAL RESOURCES WORKING GROUP ON HOUSEHOLD HAZARDOUS WASTE

(a) The Secretary of Natural Resources shall convene the Working Group

on Household Hazardous Waste to review alternatives for the management and funding of household hazardous waste collection in the State. It is the intent of the General Assembly that the Working Group will involve a representative group of stakeholders with interest in the management of household hazardous waste. 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 on agreement within the Working Group, or lack thereof, recommending how the State should manage and fund household hazardous waste. If agreement is reached, the report shall include:

(1) a review of the stewardship organization requirements of 10 V.S.A. chapter 164B, as enacted in Sec. 3 of this act, and make recommendations on how to efficiently and effectively implement the requirements in 10 V.S.A. chapter 164B including any changes necessary to implement or improve the chapter; and

(2) an evaluation of alternative methods for easing the financial burden to municipalities and providing convenient access for collection of household hazardous waste.

(b) As used in this section, “household hazardous waste” shall have the same meaning as set forth in 10 V.S.A. § 6602, and shall include waste from conditionally exempt generators.

Sec. 3. 10 V.S.A. chapter 164B is added to read:

CHAPTER 164B. COLLECTION AND MANAGEMENT OF
HOUSEHOLD HAZARDOUS PRODUCTS

§ 7181. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes.

(3)(A) “Covered household hazardous product” means a consumer product offered for retail sale that is contained in the receptacle in which the product is offered for retail sale, if the product has any of the following characteristics:

(i) The physical properties of the product meet the criteria for characteristic wastes under the federal Resource Conservation and Recovery Act of 1976, Pub. L. No. 94-580, as amended, including ignitability, corrosivity, reactivity, or toxicity as defined in 40 C.F.R. §§ 261.20-261.24.

(ii) The physical properties of the product meet the criteria for designation as a class 2, 3, 4, 5, 6, or 8 hazardous material, as defined in 49 C.F.R. part 173, by the U.S. Department of Transportation under the Hazardous Materials Transportation Act of 1975, 49 U.S.C. §§ 5101-5128, as amended.

(iii) The product is a marine pollutant as defined in 49 C.F.R. § 171.8.

(iv) The product is a hazardous waste under chapter 159 of this title or rules adopted under that chapter.

(B) “Covered product” does not mean:

(i) A primary battery or rechargeable battery.

(ii) A lamp that contains mercury.

(iii) A thermostat that contains mercury.

(iv) Architectural paint as that term is defined in section 6672 of this chapter.

(v) Covered electronic devices as that term is defined in section 7551 of this title.

(iv) A pharmaceutical drug.

(v) A pesticide regulated by the Secretary of Agriculture, Food and Markets.

(vi) Products that are intended to be rubbed, poured, sprinkled on, sprayed on, introduced into, or otherwise applied to the human body or any part of a human for cleansing, moisturizing, sun protection, beautifying, promoting attractiveness, or altering appearance, unless designated as a hazardous material or a hazardous waste by the Secretary of Natural Resources.

(4) “Covered entity” means any person who presents to a collection facility that is included in an approved plan any number of covered household hazardous products.

(5) “Manufacturer” means a person who:

(A) manufactures or manufactured a covered household hazardous product under its own brand or label for sale in the State;

(B) sells in the State under its own brand or label a covered household hazardous product produced by another supplier;

(C) owns a brand that it licenses or licensed to another person for use

on a covered household hazardous product sold in the State;

(D) imports into the United States for sale in the State a covered household hazardous product manufactured by a person without a presence in the United States;

(E) manufactures a covered household hazardous product for sale in the State without affixing a brand name; or

(F) assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (A) through (E) of this subdivision (5), provided that the Secretary may enforce the requirements of this chapter against a manufacturer defined under subdivisions (A) through (E) of this subdivision (5) if a person who assumes the manufacturer's responsibilities fails to comply with the requirements of this chapter.

(6) "Program year" means the period from January 1 through December 31.

(7) "Retailer" means a person who sells a covered household hazardous product in the State through any means, including a sales outlet, a catalogue, the telephone, the Internet, or any electronic means.

(8) "Secretary" means the Secretary of Natural Resources.

(9) "Sell" or "sale" means any transfer for consideration of title or of the right to use by lease or sales contract a covered household hazardous product to a person in the State of Vermont. "Sell" or "sale" does not include the sale, resale, lease, or transfer of a used covered household hazardous product or a manufacturer's wholesale transaction with a distributor or a retailer.

(10) "Stewardship organization" means an organization, association, or entity that has developed a system, method, or other mechanism that assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of covered household hazardous products.

§ 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCT;

STEWARDSHIP ORGANIZATION REGISTRATION

(a) Sale prohibited. Beginning on January 1, 2021, except as set forth under section 7188 of this title, a manufacturer of a covered household hazardous product shall not sell, offer for sale, or deliver to a retailer for subsequent sale a covered household hazardous product unless all the following have been met:

(1) The manufacturer is participating in a stewardship organization implementing an approved collection plan.

(2) The name of the manufacturer, the manufacturer's brand, and the name of the covered household hazardous product are submitted to the Agency of Natural Resources by a stewardship organization and listed on the stewardship organization's website as covered by an approved plan.

(3) The stewardship organization in which the manufacturer participates has submitted an annual report under section 7185 of this title.

(4) The stewardship organization in which the manufacturer participates has conducted a plan audit consistent with the requirements of subsection 7185(b) of this title.

(b) Stewardship organization registration requirements.

(1) Beginning on January 1, 2020 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary shall provide the registration form to a stewardship organization. The registration form shall include:

(A) a list of the manufacturers participating in the stewardship organization;

(B) a list of the brands of each manufacturer participating in the stewardship organization;

(C) a list of the covered household hazardous products of each manufacturer participating in the stewardship organization;

(D) the name, address, and contact information of a person responsible for ensuring the manufacturer's compliance with this chapter;

(E) a description of how the stewardship organization meets the requirements of subsection 7184(b) of this title, including any reasonable requirements for participation in the stewardship organization; and

(F) the name, address, and contact information of a person for a nonmember manufacturer to contact regarding how to participate in the stewardship organization to satisfy the requirements of this chapter.

(2) A renewal of a registration without changes may be accomplished through notifying the Agency of Natural Resources on a form provided by the Agency.

§ 7183. COLLECTION PLANS

(a) Collection plan required. Prior to July 1, 2020, a stewardship organization representing manufacturers of covered household hazardous products shall submit a collection plan to the Secretary for review.

(b) Collection plan; minimum requirements. Each stewardship plan shall

include, at a minimum, all of the following requirements:

(1) A list of the manufacturers, brands, and products participating in the plan and a methodology for adding and removing manufacturers and notifying the Agency of new participants.

(2) Free collection of covered household hazardous products. The collection program shall provide for free collection from covered entities of covered household hazardous products. A stewardship organization shall accept all covered household hazardous products collected from a covered entity and shall not refuse the collection of a covered household hazardous product based on the brand or manufacturer of the covered household hazardous product. The collection program shall also provide for the payment of collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and equipment costs, maintenance, and labor.

(3) Convenient collection location. The stewardship organization shall develop a collection program that:

(A) allows all municipal collection programs and facilities to opt to be part of a collection plan;

(B) at a minimum, has not less than one collection program in each county, provided that stewardship organizations shall have until July 1, 2023 to establish permanent collection programs in counties that currently lack a program. Prior to establishment of a permanent collection program in a county that currently lacks a program, the stewardship organization shall hold at least four collection events per year for the collection of covered household hazardous products; and.

(C) maintains the current level of convenience provided by programs in operation prior to July 1, 2020 that are identified as collection programs under the plan.

(4) Public education and outreach. The collection plan shall include an education and outreach program that may include media advertising, retail displays, articles in trade and other journals and publications, and other public educational efforts. The education and outreach program shall include a website to notify the public of the following:

(A) that there is a free collection program for covered household hazardous products;

(B) the location and hours of operation of collection points and how a covered entity can access this collection program;

(C) the special handling considerations associated with covered

household hazardous products; and

(D) source reduction information for consumers to reduce leftover covered household products.

(5) Compliance with appropriate environmental standards. In implementing a collection plan, a stewardship organization shall comply with all applicable laws related to the collection, transportation, and disposal of hazardous waste. A stewardship organization shall comply with any special handling or disposal standards established by the Secretary for covered household hazardous products or for the collection plan of the manufacturer.

(6) Method of disposition. The plan shall describe how covered household hazardous products will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of covered household hazardous products under the plan shall use management activities that promote source reduction, reuse, recycling, energy recovery, and disposal. Collected covered household hazardous products shall be recycled when technically and economically feasible.

(7) Roles and responsibilities. A stewardship plan shall list all key participants in the covered household hazardous products collection chain, including;

(A) the name and location of the collection facilities accepting covered household hazardous products under the plan and the address and contact information for each facility;

(B) the name and contact information of the contractor responsible for transporting the covered household hazardous products; and

(C) the name and address of the recycling and disposal facilities where the covered household hazardous products collected are deposited.

(8) Participation rate. A stewardship plan shall include a collection participation rate as a performance goal for covered household hazardous products based on the participation rate determined by the number of total participants in the collection plan during a program year divided by the total number of households in the State. If a stewardship organization does not meet its participation rate, the Secretary may require the stewardship organization to revise the collection plan to provide for one or more of the following additional public education and outreach, additional collection events, or additional hours of operation for collection sites.

(9) Plan funding. The plan shall describe how the stewardship organization will fund the implementation of the plan and collection under the

plan including the costs for education and outreach, collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility and equipment costs, maintenance, and labor. The plan must include how municipalities will be compensated for all costs associated with collection of covered household hazardous products.

(c) Term of collection plan. A collection plan approved by the Secretary under section 7187 of this title shall have a term not to exceed five years, provided that the manufacturer remains in compliance with the requirements of this chapter and the terms of the approved plan.

(d) Plan implementation. A stewardship organization shall implement a collection plan by no later than January 1, 2021.

§ 7184. STEWARDSHIP ORGANIZATIONS

(a) Participation in a stewardship organization. A manufacturer shall meet the requirements of this chapter by participating in a stewardship organization that undertakes the responsibilities under sections 7182, 7183, and 7185 of this title.

(b) Qualifications for a stewardship organization. To qualify as a stewardship organization under this chapter, an organization shall:

(1) commit to assume the responsibilities, obligations, and liabilities of all manufacturers participating in the stewardship organization;

(2) not create unreasonable barriers for participation in the stewardship organization; and

(3) maintain a public website that lists all manufacturers and manufacturers' brands and products covered by the stewardship organization's approved collection plan.

§ 7185. ANNUAL REPORT; PLAN AUDIT

(a) Annual report. On or before March 1, 2022, and annually thereafter, a stewardship organization of manufacturers of covered household hazardous products shall submit a report to the Secretary that contains all of the following:

(1) A description of the collection program.

(2) The volume or weight by hazard category of covered household hazardous products collected, the disposition of the collected covered household hazardous products, and the number of covered entities participating at each collection facility or collection event from which the covered household hazardous products were collected.

(3) An estimate of the weight or volume by hazard category of covered household hazardous products sold in the State in the previous calendar year by manufacturer participating in stewardship organization's collection plan. Sales data and other confidential business information provided under this section shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Confidential information shall be redacted from any final public report.

(4) A comparison of the plan's participation rate compared to actual participation rate and how the program will be improved if the participation rate goal was not met.

(5) A description of the methods used to reduce, reuse, collect, transport, recycle, and process the covered household hazardous products.

(6) The cost of implementing the stewardship plan including the costs of administration, collection, transportation, recycling, disposal, and education and outreach.

(7) A description and evaluation of the success of the education and outreach materials.

(8) Recommendations for any changes to the program.

(b) Plan audit. On or before March 1, 2026 and every five years thereafter, a stewardship organization of manufacturers of covered household hazardous products shall hire an independent third party to audit the plan and the plan's operation. The auditor shall examine the effectiveness of the program in collecting and disposing of covered household hazardous products. The auditor shall examine the cost-effectiveness of the program and compare it to that of collection programs for covered household hazardous products in other jurisdictions. The auditor shall make recommendations to the Secretary on ways to increase the program's efficacy and cost-effectiveness.

(c) Public posting. A stewardship organizations shall post a report or audit required under this section to the website of the stewardship organization.

§ 7186. ANTITRUST; CONDUCT AUTHORIZED

(a) Activity authorized. A manufacturer, group of manufacturers, or stewardship organization implementing or participating in an approved stewardship plan under this chapter for the collection, transport, processing, and end-of-life management of covered household hazardous products is individually or jointly immune from liability for conduct under State laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1, to the extent that the conduct is reasonably necessary to plan, implement, and

comply with the stewardship organization's chosen system for managing discarded covered household hazardous products.

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or stewardship organizations affecting the price of covered household hazardous product or any agreement restricting the geographic area in which or customers to whom covered household hazardous product shall be sold.

§ 7187. AGENCY RESPONSIBILITIES

(a) Review and approve collection plans. The Secretary shall review and approve or deny collection plans submitted under section 7183 of this title. The Secretary shall approve a collection plan if the Secretary finds that the plan:

(1) complies with the requirements of subsection 7183(a) of this title.

(2) provides adequate notice to the public of the collection opportunities available for covered household hazardous products.

(3) ensures that collection of covered household hazardous products will occur in an environmentally sound fashion that is consistent with the law or with any special handling requirements adopted by the Secretary.

(4) promotes the collection and disposal of covered household hazardous products.

(b) Plan amendment. The Secretary, in his or her discretion or at the request of a manufacturer or a stewardship organization, may require a stewardship organization to amend an approved plan. Plan amendments shall be subject to the public input provisions of subsection (c) of this section.

(c) Public input. The Secretary shall establish a process under which a collection plan for covered household hazardous products is available for public review and comment for 30 days prior to plan approval or amendment. In establishing such a process, the Secretary shall consult with interested persons, including manufacturers, environmental groups, wholesalers, retailers, municipalities, and solid waste districts.

(d) Registrations. The Secretary shall accept, review, and approve or deny registrations required by this chapter. The Secretary may revoke a registration of a stewardship organization for actions that are unreasonable, unnecessary, or contrary to the requirements or the policy of this chapter.

(e) Supervisory capacity. The Secretary shall act in a supervisory capacity over the actions of a stewardship organization registered under this section. In

acting in this capacity, the Secretary shall review the actions of the stewardship organization to ensure that they are reasonable, necessary, and limited to carrying out requirements of and policy established by this chapter.

(f) Special handling requirements. The Secretary may adopt, by rule, special handling requirements for the collection, transport, and disposal of covered household hazardous products.

§ 7188. RETAILER OBLIGATIONS

(a) Sale prohibited. Except as set forth under subsection (b) of this section, beginning on January 1, 2021, no retailer shall sell or offer for sale a covered household hazardous product unless the retailer has reviewed the stewardship organization website required in subsection 7184(b) of this title to determine that the manufacturer of the covered household hazardous product is implementing an approved collection plan or is a member of a stewardship organization.

(b) Inventory exception; expiration or revocation of manufacturer registration. A retailer shall not be responsible for an unlawful sale of a covered household hazardous product under this subsection if:

(1) the retailer purchased the covered household hazardous product prior to January 1, 2021; or

(2) the manufacturer's collection plan expired or was revoked, and the retailer took possession of the in-store inventory of covered household hazardous product prior to the expiration or revocation of the manufacturer's collection plan.

§ 7189. OTHER DISPOSAL PROGRAMS

A municipality or other public agency shall not require covered entities to use public facilities to dispose of covered household hazardous products to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their collection and disposal obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program collecting and disposing of covered household hazardous products in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or disposing of covered household hazardous products, provided that all other applicable laws are met.

§ 7190. RULEMAKING

The Secretary of Natural Resources may adopt rules to implement the requirements of this chapter.

Sec. 4. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF
REGISTRATION FEE FOR COVERED HOUSEHOLD
HAZARDOUS PRODUCTS

On or before January 15, 2021, the Secretary of Natural Resources shall submit to the House Committees on Ways and Means and on Natural Resources, Fish, and Wildlife and the Senate Committees on Finance and on Natural Resources and Energy a recommended fee for the registration of stewardship organizations under the covered household hazardous product program under 10 V.S.A. chapter 164B.

Sec. 5. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

* * *

(5) Paint (~~whether water-based or oil-based~~), water-based, oil-based; paint thinner; paint remover; stains; and varnishes. This prohibition shall not apply to solidified ~~water-based~~ water-based paint in quantities of less than one gallon, nor shall this prohibition apply to solidified ~~water-based~~ water-based paint in quantities greater than one gallon if those larger quantities are from a waste stream that has been subject to an effective paint reuse program, as determined by the Secretary.

(6) Nickel-cadmium batteries, small sealed lead acid batteries, nonconsumer mercuric oxide batteries, and any other battery added by the Secretary by rule.

* * *

(8) Banned electronic devices. After January 1, 2011; computers; peripherals; computer monitors; cathode ray tubes; televisions; printers; personal electronics such as personal digital assistants and personal music players; electronic game consoles; printers; fax machines; wireless telephones; telephones; answering machines; videocassette recorders; digital versatile disc players; digital converter boxes; stereo equipment; and power supply cords (~~as used to charge electronic devices~~).

* * *

(12) Covered household hazardous products after January 1, 2021.

Sec. 6. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the

following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species; ~~and~~

(28) 30 V.S.A. § 255, relating to regional coordination to reduce greenhouse gases; and

(29) 10 V.S.A. chapter 164B, relating to collection and management of covered household hazardous products.

* * *

Sec. 7. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(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:

* * *

(U) chapter 168 (product stewardship for primary batteries and rechargeable batteries);

(V) chapter 164B (collection and management of covered household hazardous products).

(2) 29 V.S.A. chapter 11 (management of lakes and ponds).

(3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

* * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Masland of Thetford, for the committee on Ways and Means, recommended the bill ought to pass when amended by the committee on Natural Resources, Fish, and Wildlife.

The bill, having appeared on the Calendar one day for notice, was taken up, read second time, the report of the committees on Natural Resources, Fish, and Wildlife and Ways and Means agreed to and third reading was ordered.

**Committee Bill; Second Reading;
Bill Amended; Consideration Interrupted**

H. 911

Rep. Ancel of Calais spoke for the committee on Ways and Means.

House bill entitled

An act relating to changes in Vermont's personal income tax and education financing system

Rep. Sharpe of Bristol, for the committee on Education, recommended the bill ought to pass

Rep. Juskiewicz of Cambridge, for the committee on Appropriations, recommended the bill ought to pass.

Having appeared on the Calendar one day for notice, was taken up, read the second time.

Pending the question, Shall the bill be read a third time? **Rep. Ancel of Calais** moved to amend the bill as follows:

First: In Sec. 8 (education fund), in subdivision (b)(3), after "required under 32 V.S.A. § 6066(a)(1)", by striking out "and (2)", and in the phrase "of payments required under 32 V.S.A. § 6066(a)(3)", by striking out "(3)" and inserting in lieu thereof "(4)"

Second: By inserting a Sec. 9a to read as follows:

Sec. 9a. REPORT

On or before January 1, 2024, the Joint Fiscal Office shall report to the House Committees on Appropriations and on Ways and Means and the Senate Committees on Appropriations and on Finance on the impact of the changes in Secs. 8 and 9 of this act reallocating the revenues generated for the General Fund and Education Fund.

Third: In Sec. 10, 32 V.S.A. § 5401 (definitions), in subdivision (17)(A), in the citation "16 V.S.A. § 4025(a)(1)-(8)", by striking out "(8)" and inserting in lieu thereof "(7)", and after the phrase "statewide education homestead tax in the following fiscal year" by inserting the phrase ", without regard to any adjustment under chapter 154 of this title", and in subdivision (17)(B), in the second instance of the word "minus", before "any projected transfer", by striking out the word "minus" and inserting in lieu thereof the word "plus"

Fourth: In Sec. 12, 32 V.S.A. § 5402b (recommendation of the Commissioner), by striking out subdivision (a)(2) in its entirety and inserting in lieu thereof "[Repealed.]", and in subdivision (a)(3), by striking out the

word “were” and inserting in lieu thereof the word “are”

Fifth: By inserting a Sec. 12a (cost containment) to read as follows:

Sec. 12a. COST CONTAINMENT

The General Assembly intends that the changes to the calculation of spending adjusted homestead tax rates in this act will lead to cost containment by increasing the tax cost for each additional dollar of education spending over the cost under the law prior to this act.

Sixth: In Sec. 13, 32 V.S.A. § 6066 (computation of adjustment), in subdivision (a)(5), after “the reduced property tax.” by inserting a sentence to read: “The adjustments under subdivisions (3) and (4) of this subsection shall be calculated considering only the tax due on the first \$400,000.00 in equalized housesite value.”

Seventh: In Sec. 21 (effective dates), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b)(1) Notwithstanding any other provision of law, for all of the following districts, the five percent provision shall continue to apply, except that the five percent provision shall not be applied to limit any reduction in that district’s equalized homestead property tax rate or related household income percentage adjustments:

(A) any merged district within the Taconic and Green Regional School District;

(B) any merged district within the NEK Choice School District; and

(C) any district that merged operations after the passage of this act, but before July 1, 2019 under 2015 Acts and Resolves No. 46, Sec. 7, and whose first fiscal year of operation is fiscal year 2020.

(2) For any school district not listed in subdivision (1) of this subsection, the five percent provision shall not apply.

Eighth: By inserting a new reader assistance heading and Sec. 21a to read as follows:

* * * Billing Assistance for Towns * * *

Sec. 21a. BILLING ASSISTANCE FOR TOWNS

For fiscal year 2019, there is appropriated from the equalization and reappraisal account established in the Education Fund under 16 V.S.A. § 4025(c), the amount of \$200,000.00 for the Commissioner of Taxes to assist towns with the costs associated with issuing separate municipal and education tax bills under this act.

Which was agreed to.

Pending the question, Shall the bill be read a third time? **Rep. Beck of St. Johnsbury** moved to amend the bill as follows:

In Sec. 22 (effective dates), by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) as follows:

(e) Secs. 8-19 and 21 (education financing changes) shall take effect on July 1, 2018 and apply to fiscal year 2019 and after; except that, notwithstanding any other provision of law:

(1) for fiscal year 2019 only, the base spending amount under 32 V.S.A. § 5401(17) shall be \$11,916.00;

(2) for fiscal year 2020 only, the base spending amount under 32 V.S.A. § 5401(17) shall:

(A) include only 25 percent of the school income tax surcharge deposited in the Education Fund under 16 V.S.A. § 4025(a)(8); and

(B) be 94 percent of what it would otherwise be calculated to be.

(3) for fiscal year 2021 only, the base spending amount under 32 V.S.A. § 5401(17) shall:

(A) include only 50 percent of the school income tax surcharge deposited in the Education Fund under 16 V.S.A. § 4025(a)(8); and

(B) be 96 percent of what it would otherwise be calculated to be.

(4) for fiscal year 2022 only, the base spending amount under 32 V.S.A. § 5401(17) shall:

(A) include only 75 percent of the school income tax surcharge deposited in the Education Fund under 16 V.S.A. § 4025(a)(8); and

(B) be 98 percent of what it would otherwise be calculated to be.

Thereupon, **Rep. Beck of St. Johnsbury** asked and was granted leave of the House to withdraw his amendment.

Pending the question, Shall the bill be read a third time? **Rep. Higley of Lowell** moved to amend the bill as follows:

First: By inserting a Sec. 21a to read:

* * * Cost Containment; Allowable Growth in Education

Spending for Fiscal Years 2020 and 2021 * * *

Sec. 21a. ALLOWABLE GROWTH IN EDUCATION SPENDING FOR

FISCAL YEARS 2020 AND 2021

(a) Notwithstanding any other provision of law, for fiscal years 2020 and 2021 only, “excess spending” under 32 V.S.A. § 5401(12) shall be calculated as follows:

(1) For districts where the total amount of exclusions in 16 V.S.A. § 4001(6)(B) either stays the same or increases from the prior fiscal year to the current fiscal year, “excess spending” means the per-equalized-pupil amount of the district’s education spending, plus any amount required to be added from a Capital Construction Reserve Fund under 24 V.S.A. § 2804(b) that is in excess of the district’s per-equalized-pupil amount of education spending in the prior fiscal year, plus the district’s allowable growth. As used in this subdivision, “education spending” means education spending as defined in 16 V.S.A. § 4001(6) after the exclusions in 16 V.S.A. § 4001(6)(B) are subtracted.

(2) For districts where the total amount of exclusions in 16 V.S.A. § 4001(6)(B) decreases from the prior fiscal year to the current fiscal year, “excess spending” means the per-equalized-pupil amount of the district’s education spending, plus any amount required to be added from a Capital Construction Reserve Fund under 24 V.S.A. § 2804(b) that is in excess of the district’s per-equalized-pupil amount of total education spending in the prior fiscal year, plus the district’s allowable growth. As used in this subdivision, “education spending” means education spending as defined in 16 V.S.A. § 4001(6) before the exclusions in 16 V.S.A. § 4001(6)(B) are subtracted.

(b) For fiscal years 2020 and 2021, the “allowable growth” for any individual school district is an amount equal to the actual amount of per-equalized-pupil education spending in the district in the prior fiscal year, multiplied by the district’s “allowable growth percentage.” A district’s “allowable growth percentage” means a percentage that results from the following equation: the highest per-equalized-pupil amount of the education spending in any district in the State in the prior fiscal year, divided by the actual amount of per-equalized-pupil education spending in the district in the prior fiscal year, minus one, multiplied by five and one-half percent. For the purpose of the calculations made under this subsection, the term “education spending” refers to education spending as used to calculate excess spending under 16 V.S.A. § 4001(6), including all the adjustments under 16 V.S.A. § 4001(6)(B).

Second: In Sec. 22 (effective dates), in subsection (e), by striking out “19” and inserting in lieu thereof “16”, and by adding subsections (g) and (h) to read as follows:

(g) Sec. 17–19 (excess spending repeal) shall take effect on July 1, 2021

and apply to fiscal year 2022 and after. Notwithstanding any other provision of law, for fiscal year 2019 only, "excess spending" calculated under 32 V.S.A. § 5401(12) shall be zero for every district.

(h) Sec. 21a (allowable growth) shall take effect on July 1, 2019 and apply to fiscal years 2020 and 2021 only.

Which was disagreed to.

Pending the question, Shall the bill be read a third time? **Reps. Sibilia of Dover and Gannon of Wilmington** moved to amend the bill as follows:

First: By striking Secs. 15–16 (fiscal 2019 yields, base income percentage, and nonresidential rate) in their entirety, and the associated reader assistance heading, and inserting in lieu thereof the following:

* * * Yield, Applicable Percentage and Nonresidential Rate
for Fiscal Year 2019 * * *

Sec. 15. PROPERTY DOLLAR EQUIVALENT YIELD AND APPLICABLE
PERCENTAGE FOR FISCAL YEAR 2019

(a) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the property dollar equivalent yield shall be \$9,832.00.

(b) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the income dollar equivalent yield shall be \$11,880.00.

Sec. 16. NONRESIDENTIAL PROPERTY TAX RATE FOR FISCAL YEAR
2019

Notwithstanding any other provision of law, for fiscal year 2019 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(2) shall be \$1.591 per \$100.00.

Second: In Sec. 22 (effective dates), by striking out subsections (d)–(f) in their entirety and inserting in lieu thereof the following:

(d) Notwithstanding 1 V.S.A. § 214, Sec. 7 (school income tax surcharge) shall take effect on January 1, 2019 and apply to taxable year 2019 and after. Notwithstanding any other provision of law, for taxable year 2019 only, no interest or penalty shall be assessed for the underpayment of estimated tax for any individual taxpayer resulting from a liability to pay the school income tax surcharge imposed under 32 V.S.A. § 5822a.

(e) Secs. 8–9 (yield and nonresidential rate for fiscal year 2019) shall take effect on July 1, 2018 and apply to fiscal year 2019 and after.

(f) Secs. 10–21 (education financing changes) shall take effect on July 1,

2019 and apply to fiscal year 2020 and after; except that:

(1) for fiscal year 2020 only, the base spending amount under 32 V.S.A. § 5401(17) shall be 96 percent of what it would otherwise be calculated to be;

(2) for fiscal year 2021 only, the base spending amount under 32 V.S.A. § 5401(17) shall be 96 percent of what it would otherwise be calculated to be.

(g) Sec. 20 (teachers' retirement) shall take effect on July 1, 2019 and apply to fiscal year 2020 and after.

Pending the question, Shall the bill be amended as offered by Reps. Sibilia of Dover and Gannon of Wilmington? **Rep. Sibilia of Dover** demanded the Yeas and Nays, which demand was sustained by the Constitutional number. The Clerk proceeded to call the roll and the question, Shall the bill be amended as offered by Reps. Sibilia of Dover and Gannon of Wilmington? was decided in the negative. Yeas, 44. Nays, 92.

Those who voted in the affirmative are:

Bancroft of Westford	Hebert of Vernon	Quimby of Concord
Batchelor of Derby	Helm of Fair Haven	Read of Fayston
Beyor of Highgate	Higley of Lowell	Rosenquist of Georgia
Brennan of Colchester	Jickling of Randolph	Savage of Swanton
Burditt of West Rutland	Keefe of Manchester	Scheuermann of Stowe
Cina of Burlington	Kimbell of Woodstock	Shaw of Pittsford
Colburn of Burlington	Lewis of Berlin	Sibilia of Dover
Devereux of Mount Holly	McCoy of Poultney	Smith of Derby
Donahue of Northfield *	Morrissey of Bennington	Smith of New Haven
Feltus of Lyndon	Murphy of Fairfax	Sullivan of Dorset
Frenier of Chelsea	Myers of Essex	Terenzini of Rutland Town
Gamache of Swanton	Nolan of Morristown	Turner of Milton
Gannon of Wilmington	Norris of Shoreham	Viens of Newport City
Haas of Rochester	Pajala of Londonderry	Weed of Enosburgh
Harrison of Chittenden	Parent of St. Albans Town	

Those who voted in the negative are:

Ancel of Calais	Fagan of Rutland City	Morris of Bennington
Bartholomew of Hartland	Fields of Bennington	Mrowicki of Putney
Baser of Bristol	Forguites of Springfield	Noyes of Wolcott
Beck of St. Johnsbury	Gage of Rutland City	Ode of Burlington
Belaski of Windsor	Gardner of Richmond	O'Sullivan of Burlington
Bissonnette of Winooski	Giambatista of Essex	Partridge of Windham
Bock of Chester	Gonzalez of Winooski	Pearce of Richford
Botzow of Pownal	Graham of Williamstown	Potter of Clarendon
Briglin of Thetford	Head of South Burlington	Pugh of South Burlington
Browning of Arlington	Hill of Wolcott	Rachelson of Burlington
Brumsted of Shelburne	Hooper of Montpelier	Scheu of Middlebury
Burke of Brattleboro	Hooper of Randolph	Sharpe of Bristol
Canfield of Fair Haven	Houghton of Essex	Sheldon of Middlebury

Carr of Brandon	Howard of Rutland City	Squirrell of Underhill
Chesnut-Tangerman of Middletown Springs	Jessup of Middlesex	Stevens of Waterbury
Christensen of Weathersfield	Joseph of North Hero	Stuart of Brattleboro
Christie of Hartford	Juskiewicz of Cambridge	Sullivan of Burlington
Conlon of Cornwall	Keenan of St. Albans City	Taylor of Colchester
Connor of Fairfield	Krowinski of Burlington	Till of Jericho
Conquest of Newbury	Lalonde of South Burlington	Toleno of Brattleboro
Copeland-Hanzas of Bradford	Lanpher of Vergennes	Toll of Danville
Corcoran of Bennington	Lawrence of Lyndon	Townsend of South Burlington
Cupoli of Rutland City	Lefebvre of Newark	Troiano of Stannard
Dakin of Colchester	Lippert of Hinesburg	Van Wyck of Ferrisburgh
Deen of Westminster	Long of Newfane	Webb of Shelburne
Dickinson of St. Albans Town	Lucke of Hartford	Willhoit of St. Johnsbury
Donovan of Burlington	Marcotte of Coventry	Wood of Waterbury
Dunn of Essex	Masland of Thetford	Wright of Burlington
Emmons of Springfield	Mattos of Milton	Yacovone of Morristown
	McCormack of Burlington	Yantachka of Charlotte
	McCullough of Williston	Young of Glover
	Miller of Shaftsbury	

Those members absent with leave of the House and not voting are:

Ainsworth of Royalton	LaClair of Barre Town	Strong of Albany
Buckholz of Hartford	Macaig of Williston	Trieber of Rockingham
Condon of Colchester	Martel of Waterford	Walz of Barre City
Grad of Moretown	McFaun of Barre Town	
Kitzmiller of Montpelier	Poirier of Barre City	

Rep. Donahue of Northfield explained her vote as follows:

“Madam Speaker:

I vote yes. Without this amendment, the underlying bill creates a new income tax that will be collected back-dated to January. I cannot support a retroactively applied tax.”

Recess

At five o'clock and thirty minutes in the evening, the Speaker declared a recess until five o'clock and forty minutes in the evening.

At five o'clock and thirty-eight minutes in the evening, the Speaker called the House to order.

Consideration Resumed, Third Reading Ordered

H. 911

consideration resumed on House bill, entitled

An act relating to changes in Vermont's personal income tax and education financing system

Thereupon, third reading was ordered.

Adjournment

At five o'clock and forty-six minutes in the evening, on motion of **Rep. Turner of Milton**, the House adjourned until tomorrow at one o'clock in the afternoon.