

Journal of the Senate

THURSDAY, MAY 3, 2018

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 57

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 716. An act relating to approval of the adoption of the charter of the Edward Farrar Utility District and the merger of the Village of Waterbury into the District.

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

The House has considered bills originating in the Senate of the following titles:

S. 111. An act relating to privatization contracts.

S. 192. An act relating to transferring the professional regulation of law enforcement officers from the Vermont Criminal Justice Training Council to the Office of Professional Regulation.

S. 269. An act relating to blockchain, cryptocurrency, and financial technology.

S. 281. An act relating to the mitigation of systemic racism.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the Senate is requested.

The House has considered Senate proposals of amendment to House bill of the following title:

H. 711. An act relating to employment protections for crime victims.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Head of South Burlington
Rep. Stevens of Waterbury
Rep. Strong of Albany.

The House has considered Senate proposals of amendment to House bill of the following title:

H. 915. An act relating to the protection of pollinators.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

And the Speaker appointed as members of such Committee on the part of the House:

Rep. Smith of New Haven
Rep. Bock of Chester
Rep. Norris of Shoreham.

The House has considered Senate proposal of amendment to House proposal of amendment to the following bill:

H. 593. An act relating to miscellaneous consumer protection provisions.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to the following bill:

H. 676. An act relating to miscellaneous energy subjects.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

The House has considered Senate proposal of amendment to House proposal of amendment to the following bill:

H. 806. An act relating to the Southeast State Correctional Facility.

And has severally concurred therein with further amendments in the passage of which the concurrence of the Senate is requested.

Message from the House No. 58

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered Senate proposals of amendment to House bill entitled:

H. 924. An act relating to making appropriations for the support of government.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The Speaker appointed as members of such Committee on the part of the House:

Rep. Toll of Danville
Reps. Fagan of Rutland City
Rep. Hooper of Montpelier

The House has considered Senate proposal of amendment to bill of the following title:

H. 25. An act relating to sexual assault survivors' rights.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

Message from the House No. 59

A message was received from the House of Representatives by Ms. Rebecca Silbernagel, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

S. 85. An act relating to simplifying government for small businesses.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Myers of Essex
Rep. Sheldon of Middlebury
Rep. Kimbell of Woodstock

The House has considered Senate proposal of amendment to House proposals of amendment to Senate bill of the following title:

S. 101. An act relating to the conduct of forestry operations.

And has concurred therein.

The House has considered Senate proposals of amendment to the following House bills:

H. 378. An act relating to the creation of the Artificial Intelligence Task Force.

H. 404. An act relating to Medicaid reimbursement for long-acting reversible contraceptives.

H. 624. An act relating to the protection of information in the statewide voter checklist.

H. 710. An act relating to beer franchises.

H. 718. An act relating to creation of the Restorative Justice Study Committee.

H. 719. An act relating to insurance companies and trust companies.

H. 856. An act relating to miscellaneous amendments to municipal law.

H. 892. An act relating to regulation of short-term, limited-duration health insurance coverage and association health plans.

And has severally concurred therein.

The Governor has informed the House that on May 1, 2018, he approved and signed bills originating in the House of the following titles:

H. 551. An act relating to flags and flag-flying protocol.

H. 566. An act relating to animal cruelty.

H. 843. An act relating to technical corrections.

Bill Referred

House bill of the following title was read the first time:

H. 716. An act relating to approval of the adoption of the charter of the Edward Farrar Utility District and the merger of the Village of Waterbury into the District.

and pursuant to Temporary Rule 44A was referred to the Committee on Rules.

**House Proposals of Amendment to Senate Proposal of Amendment
Concurred In**

H. 874.

House proposals of amendment to Senate proposal of amendment to House bill entitled:

An act relating to inmate access to prescription drugs.

Was taken up.

The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: In Sec. 1, 28 V.S.A. § 801, after the section heading “MEDICAL CARE OF INMATES” by inserting the following:

* * *

(b)(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

Second: In Sec. 1, 28 V.S.A. § 801(e)(1), after the words “Except as otherwise provided in this subsection, an” by striking “offender” and inserting in lieu thereof “offender inmate”

Third: In Sec. 1, 28 V.S.A. § 801(e)(1), after the words “prescription monitoring or information system” by inserting the following: , including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment,

Fourth: In Sec. 1, 28 V.S.A. § 801(e), after subdivision (4), by inserting a subdivision (5) to read as follows:

(5) As used in this subchapter:

(A) “Medically necessary” describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual’s diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) “Medication-assisted treatment” shall have the same meaning as in 18 V.S.A. § 4750.

Fifth: By inserting after Sec. 1 a new section to be Sec. 1a to read as follows:

Sec. 1a. 18 V.S.A. § 4750 is added to read:

§ 4750. DEFINITION

As used in this chapter, “medication-assisted treatment” means the use of U.S. Federal Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Thereupon, the question, Shall the Senate concur in the House proposals of amendment to the Senate proposal of amendment?, was decided in the affirmative.

House Proposal of Amendment Concurred In with Amendment

S. 166.

House proposal of amendment to Senate bill entitled:

An act relating to the provision of medication-assisted treatment for inmates.

Was taken up.

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that medication-assisted treatment offered at or facilitated by a correctional facility is a medically necessary component of treatment for inmates diagnosed with opioid use disorder.

Sec. 2. 18 V.S.A. § 4750 is added to read:

§ 4750. DEFINITION

As used in this chapter, “medication-assisted treatment” means the use of U.S. Federal Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

Sec. 3. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

* * *

(b)(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

* * *

(e)(1) Except as otherwise provided in this subsection, an ~~offender~~ inmate who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed physician assistant, or a licensed advanced practice registered nurse, ~~or a licensed nurse practitioner~~ and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate's pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system, including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment, shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, ~~a licensed nurse practitioner~~, or a licensed advanced practice registered nurse.

(2) ~~However~~ Notwithstanding subdivision (1) of this subsection, the Department may defer provision of a validly prescribed medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, ~~a nurse practitioner~~, or an advanced practice registered nurse, it is not ~~in the inmate's best interest~~ medically necessary to continue the medication at that time.

(3) The licensed practitioner who makes the clinical judgment to discontinue a medication shall ~~enter~~ cause the reason for the discontinuance to be entered into the inmate's ~~permanent~~ medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(4) It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

(5) As used in this subchapter:

(A) “Medically necessary” describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual’s diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) “Medication-assisted treatment” shall have the same meaning as in 18 V.S.A. § 4750.

* * *

Sec. 4. 28 V.S.A. § 801b is added to read:

§ 801b. MEDICATION-ASSISTED TREATMENT IN CORRECTIONAL FACILITIES

(a) If an inmate receiving medication-assisted treatment prior to entering the correctional facility continues to receive medication prescribed in the course of medication-assisted treatment pursuant to section 801 of this title, the inmate shall be authorized to receive that medication for as long as medically necessary.

(b)(1) If at any time an inmate screens positive as having an opioid use disorder, the inmate may elect to commence buprenorphine-specific medication-assisted treatment if it is deemed medically necessary by a provider authorized to prescribe buprenorphine. The inmate shall be authorized to receive the medication as soon as possible and for as long as medically necessary.

(2) Nothing in this subsection shall prevent an inmate who commences medication-assisted treatment while in a correctional facility from transferring from buprenorphine to methadone if:

(A) methadone is deemed medically necessary by a provider authorized to prescribe methadone; and

(B) the inmate elects to commence methadone as recommended by a provider authorized to prescribe methadone.

(c) The licensed practitioner who makes the clinical judgment to discontinue a medication shall cause the reason for the discontinuance to be entered into the inmate’s medical record, specifically stating the reason for the discontinuance. The inmate shall be provided, both orally and in writing, with a specific explanation of the decision to discontinue the medication and with notice of the right to have his or her community-based prescriber notified of

the decision. If the inmate provides signed authorization, the Department shall notify the community-based prescriber in writing of the decision to discontinue the medication.

(d) As part of reentry planning for an inmate who screens positive for an opioid use disorder and for whom medication assisted treatment is medically necessary, the Department shall commence medication-assisted treatment prior to release. If medication-assisted treatment is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.

(e) Any counseling or behavioral therapies provided in conjunction with the use of medication-assisted treatment shall be medically necessary.

* * *

Sec. 5. MEMORANDUM OF UNDERSTANDING; MEDICATION-ASSISTED TREATMENT IN STATE CORRECTIONAL FACILITIES

(a) On or before December 31, 2018, the Departments of Corrections and of Health may enter into a memorandum of understanding with opioid treatment programs throughout the State, certified and accredited pursuant to 42 C.F.R. part 8, that serve regions in which a State correctional facility is located to provide medication-assisted treatment to those inmates for whom a licensed practitioner has determined medication-assisted treatment is medically necessary. Treatment received pursuant to this section shall be coordinated pursuant to 18 V.S.A. § 4753.

(b) As used in this section, “medication-assisted treatment” shall have the same meaning as in 18 V.S.A. § 4750.

Sec. 5a. EVALUATION; MEDICATION-ASSISTED TREATMENT FACILITATED BY CORRECTIONAL FACILITIES

On or before January 15, 2022, the Department of Corrections shall present an evaluation on the effectiveness of the medication-assisted treatment program facilitated by correctional facilities to the House Committee on Corrections and Institutions and the Senate Committee on Institutions.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Rodgers moved that the Senate concur in the House proposal of amendment with an amendment as follows:

In Sec. 4, 28 V.S.A. § 801b, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d)(1) As part of reentry planning, the Department shall commence medication-assisted treatment prior to an inmate’s release if:

- (A) the inmate screens positive for an opioid use disorder;
- (B) medication-assisted treatment is medically necessary; and
- (C) the inmate elects to commence medication-assisted treatment.

(2) If medication-assisted treatment is indicated and despite best efforts induction is not possible prior to release, the Department shall ensure comprehensive care coordination with a community-based provider.

Which was agreed to.

Rules Suspended; Proposal of Amendment; Consideration Postponed

H. 911.

Appearing the Calendar for notice, on motion of Senator Ashe, the rules were suspended and Senate bill entitled:

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

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Finance, reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Personal Income Tax Changes * * *
* * * Taxable Income * * *

Sec. 1. 32 V.S.A. § 5811 is amended to read:

§ 5811. DEFINITIONS

* * *

(21) “Taxable income” means, in the case of an individual, federal adjusted gross income determined without regard to 26 U.S.C. § 168(k) and:

* * *

(B) Decreased by the following items of income (to the extent such income is included in federal adjusted gross income):

- (i) income from U.S. government obligations;
- (ii) with respect to adjusted net capital gain income as defined in 26 U.S.C. § 1(h) reduced by the total amount of any qualified dividend income:

either the first \$5,000.00 of such adjusted net capital gain income; or 40 percent of adjusted net capital gain income from the sale of assets held by the taxpayer for more than three years, except not adjusted net capital gain income from:

(I) the sale of any real estate or portion of real estate used by the taxpayer as a primary or nonprimary residence; or

(II) the sale of depreciable personal property other than farm property and standing timber; or stocks or bonds publicly traded or traded on an exchange, or any other financial instruments; regardless of whether sold by an individual or business; and provided that the total amount of decrease under this subdivision (21)(B)(ii) shall not exceed 40 percent of federal taxable income; ~~and~~

(iii) recapture of State and local income tax deductions not taken against Vermont income tax; and

(iv) the portion of federally taxable benefits received under the federal Social Security Act that is required to be excluded under section 5830e of this chapter; and

(C) Decreased by the following exemptions and deductions:

(i) the amount of personal exemptions taken at the federal level a personal exemption of \$4050.00 per person for the taxpayer, for the spouse or the deceased spouse of the taxpayer whose filing status under section 5822 of this chapter is married filing a joint return or surviving spouse, and for each individual qualifying as a dependent of the taxpayer under 26 U.S.C. § 152, provided that no exemption may be claimed for an individual who is a dependent of another taxpayer;

(ii) ~~for taxpayers who do not itemize at the federal level, the amount of the a standard deduction taken at the federal level determined as follows:~~

(I) for taxpayers whose filing status under section 5822 of this chapter is unmarried (other than surviving spouses or heads of households) or married filing separate returns, \$6,000.00;

(II) for taxpayers whose filing status under section 5822 of this chapter is head of household, \$9,000.00;

(III) for taxpayers whose filing status under section 5822 of this chapter is married filing joint return or surviving spouse, \$12,000.00; and

(iii) ~~for taxpayers who itemize at the federal level:~~

~~(I) the amount of federally itemized deductions for medical and dental expenses and charitable contributions;~~

~~(II) the total amount of federally itemized deductions, other than deductions for State and local income taxes, medical and dental expenses, and charitable contributions, deducted from federal adjusted gross income for the~~

~~taxable year, but in no event shall the amount under this subdivision exceed two and one-half times the federal standard deduction allowable to the taxpayer; and~~

~~(III) in no event shall the total amount of deductions allowed under subdivisions (I) and (II) of this subdivision (21)(C)(iii) reduce the total amount of itemized deductions below the federal standard deduction allowable to the taxpayer an additional deduction of \$1,000.00 for each federal deduction for which the taxpayer qualified and received under 26 U.S.C. § 63(f); and~~

(iv) the dollar amounts of the personal exemption allowed under subdivision (i) of this subdivision (21)(C), the standard deduction allowed under subdivision (ii) of this subdivision (21)(C), and the additional deduction allowed under subdivision (iii) of this subdivision (21)(C) shall be adjusted annually for inflation by the Commissioner of Taxes by using the percentage increase in the Consumer Price Index beginning with taxable year 2019 and ending with the taxable year in question. As used in this subdivision, "consumer price index" means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

* * *

* * * Personal Income Tax Rates * * *

Sec. 2. PERSONAL INCOME TAX RATES

(a) 2009 Spec. Sess. Acts and Resolves No. 2, Sec. 20 is repealed.

(b) For taxable year 2018 and after, income tax rates under 32 V.S.A. § 5822(a)(1)-(5), after taking into consideration any inflation adjustments to taxable income as required by 32 V.S.A. § 5822(b)(2), shall be as follows:

(1) taxable income that without the passage of this act would have been subject to a rate of 3.55 percent shall be taxed at the rate of 3.35 percent instead;

(2) taxable income that without the passage of this act would have been subject to a rate of 6.80 percent shall be taxed at the rate of 6.60 percent instead;

(3) taxable income that without the passage of this act would have been subject to a rate of 7.80 percent shall be taxed at the rate of 7.60 percent instead;

(4) taxable income that without the passage of this act would have been subject to a rate of 8.80 percent shall be taxed at the rate of 8.70 percent instead; and

(5) taxable income that without the passage of this act would have been subject to a rate of 8.95 percent shall be taxed at the rate of 8.85 percent instead;

(c) When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall revise the tables in 32 V.S.A. § 5822(a)(1)-(5) to reflect the changes to the tax rates and tax brackets made in this section.

* * * Charitable Credit; Earned Income Tax Credit; Social Security Income; Other
Adjustments * * *

Sec. 3. 32 V.S.A. § 5822 is amended to read:

§ 5822. TAX ON INCOME OF INDIVIDUALS, ESTATES, AND TRUSTS

(a) A tax is imposed for each taxable year upon the taxable income earned or received in that year by every individual, estate, and trust, subject to income taxation under the laws of the United States, in an amount determined by the following tables, and adjusted as required under this section:

* * *

(b) As used in this section:

(1) “Married individuals,” “surviving spouse,” “head of household,” “unmarried individual,” “estate,” and “trust” have the same meaning as under the Internal Revenue Code.

(2) The amounts of taxable income shown in the tables in this section shall be adjusted annually for inflation by the Commissioner of Taxes, using the ~~Consumer Price Index adjustment percentage, in the manner prescribed for inflation adjustment of federal income tax tables for the taxable year by the Commissioner of Internal Revenue, beginning with taxable year 2003~~ percentage increase in the Consumer Price Index beginning with taxable year 2019 and ending with the taxable year in question. As used in this subdivision, “consumer price index” means the last Consumer Price Index for All Urban Consumers published by the U.S. Department of Labor.

* * *

(d)(1) A taxpayer shall be entitled to a credit against the tax imposed under this section of 24 percent of each of the credits allowed against the taxpayer’s federal income tax for the taxable year as follows: credit for people who are elderly or permanently totally disabled, investment tax credit attributable to the Vermont-property portion of the investment, and child care and dependent care credits.

* * *

(3) Individuals shall receive a nonrefundable charitable contribution credit against the tax imposed under this section for the taxable year. The credit shall be five percent of the charitable contributions made during the taxable year that are allowable under 26 U.S.C. § 170. This credit shall be available irrespective of a taxpayer’s election not to itemize at the federal level.

* * *

Sec. 4. 32 V.S.A. § 5828b(a) is amended to read:

(a) A resident individual or part-year resident individual who is entitled to an earned income tax credit granted under the laws of the United States shall be entitled to a credit against the tax imposed for each year by section 5822 of this title. The credit shall be ~~32~~ 35 percent of the earned income tax credit granted to the individual under the laws of the United States, multiplied by the percentage ~~which~~ that the individual's earned income that is earned or received during the period of the individual's residency in this State bears to the individual's total earned income.

Sec. 5. 32 V.S.A. § 5830e is added to read:

§ 5830e. SOCIAL SECURITY INCOME

The portion of federally taxable Social Security benefits excluded from taxable income under subdivision 5811(21)(B)(iv) of this chapter shall be as follows:

(1) For taxpayers whose filing status is single, married filing separately, head of household, or qualifying widow or widower:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$45,000.00, all federally taxable benefits received under the federal Social Security Act shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$45,000.00 but less than \$55,000.00, the percentage of federally taxable benefits received under the Social Security Act to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$45,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$55,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the federally taxable benefits received under the Social Security Act.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$55,000.00, no amount of the federally taxable benefits received under the Social Security Act shall be excluded under this section.

(2) For taxpayers whose filing status is married filing jointly:

(A) If the federal adjusted gross income of the taxpayer is less than or equal to \$60,000.00, all federally taxable benefits received under the Social Security Act shall be excluded.

(B) If the federal adjusted gross income of the taxpayer is greater than \$60,000.00 but less than \$70,000.00, the percentage of federally taxable benefits

received under the Social Security Act to be excluded shall be proportional to the amount of the taxpayer's federal adjusted gross income over \$60,000.00, determined by:

(i) subtracting the federal adjusted gross income of the taxpayer from \$70,000.00;

(ii) dividing the value under subdivision (i) of this subdivision (B) by \$10,000.00; and

(iii) multiplying the value under subdivision (ii) of this subdivision (B) by the federally taxable benefits received under the Social Security Act.

(C) If the federal adjusted gross income of the taxpayer is equal to or greater than \$70,000.00, no amount of the federally taxable benefits received under the Social Security Act shall be excluded under this section.

Sec. 6. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

* * *

(w) The statutory purpose of the partial exemption of federally taxable benefits under the Social Security Act in section 5830e of this title is to lessen the tax burden on Vermonters with low to moderate income who derive part of their income from Social Security payments.

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

§ 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

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

Sec. 8. FEDERAL TAX REFORM

On or before November, 15, 2018, the Office of Legislative Council, with the assistance of the Joint Fiscal Office and the Department of Taxes, shall report to the Joint Fiscal Committee, the Senate Committee on Finance, and the House Committee on Ways and Means on the federal and state implementation of changes necessitated by the Tax Cut and Jobs Act and shall identify potential areas for legislative or administrative reactions.

* * * Education Financing Changes * * *

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

* *

Sec. 9. PROPERTY DOLLAR EQUIVALENT YIELD AND INCOME
DOLLAR EQUIVALENT YIELD FOR FISCAL YEAR 2019

(a) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the property dollar equivalent yield shall be \$9,863.00.

(b) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2019 only, the income dollar equivalent yield shall be \$11,920.00.

Sec. 10. NONRESIDENTIAL PROPERTY TAX RATE FOR FISCAL YEAR
2019

Notwithstanding any other provision of law, for fiscal year 2019 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(2) shall be \$1.606 per \$100.00.

Sec. 11. 32 V.S.A. § 5402b(a)(4) is amended to read:

(4) the percentage change in the ~~median~~ average education tax bill applied to nonresidential property, and the percentage change in the ~~median~~ average education tax bill of homestead property, and the percentage change in the ~~median~~ average education tax bill for taxpayers who claim an adjustment under subsection 6066(a) of this title are equal.

* * *Statewide education property tax bills* * *

Sec. 12. 32 V.S.A. § 5402(b) is amended to read:

(b) The statewide education tax shall be calculated as follows:

* * *

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property; provided, however, that the tax levied under this chapter shall be billed to each taxpayer by the municipality in a manner that clearly indicates the tax is separate from any other tax assessed and collected under chapter 133, including an itemization of the separate taxes with an aggregated total of the taxes due.

* * *

Sec. 13. 32 V.S.A. § 6066a(f) is amended to read:

(f) Property tax bills.

(1) For taxpayers and amounts stated in the notice to towns on July 1, municipalities shall create and send to taxpayers a homestead property tax bill, instead of the bill required under subdivision 5402(b)(1) of this title, providing the total amount allocated to payment of homestead education property tax liabilities and notice of the balance due. Nothing in this subdivision, however, shall be interpreted as altering the requirement under subdivision 5402(b)(1) of this title

that the statewide education homestead tax be billed in a manner that is stated clearly and separately from any other tax. Municipalities shall apply the amount allocated under this chapter to current-year property taxes in equal amounts to each of the taxpayers' property tax installments that include education taxes. Notwithstanding section 4772 of this title, if a town issues a corrected bill as a result of the November 1 notice sent by the Commissioner under subsection (a) of this section, issuance of ~~such~~ the corrected new bill does not extend the time for payment of the original bill, nor relieve the taxpayer of any interest or penalties associated with the original bill. If the corrected bill is less than the original bill, and there are also no unpaid ~~current-year~~ current-year taxes, interest, or penalties and no ~~past-year~~ past-year delinquent taxes or penalties and interest charges, any overpayment shall be reflected on the corrected tax bill and refunded to the taxpayer.

* * *

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

- (a) This section shall take effect on passage.
- (b) Notwithstanding 1 V.S.A. § 214, Secs. 1-6 (income tax changes) shall take effect retroactively on January 1, 2018 and apply to taxable year 2018 and after.
- (c) Notwithstanding 1 V.S.A. § 214, Sec. 7 (income tax link to the federal tax statutes) shall take effect retroactively on January 1, 2017 and apply to taxable years beginning on January 1, 2017 and after.
- (d) Secs. 9-10 (yields; nonresidential rate) shall take effect on July 1, 2018 and apply to fiscal year 2019 only.
- (e) Secs. 8 (federal tax reform), 11 (Commissioner's recommendation), 12-13 (tax bills) shall take effect on July 1, 2018.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Ashe, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

Thereupon, the bill was read the second time by title only pursuant to Rule 43. Thereupon, pending the question, Shall the proposal of amendment of the Committee of Finance be agreed to?, Senator Ashe, moved that consideration of the bill be postponed, which was agreed to.

Proposal of Amendment; Third Reading Ordered

H. 912.

Senator Ayer, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to the health care regulatory duties of the Green Mountain Care Board.

Reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 15 in its entirety and adding six new sections to read as follows:

* * * Medicaid Budget Estimates * * *

Sec. 15. 32 V.S.A. § 305a(c) is amended to read:

(c)(1)(A) The January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the Agency and the Joint Fiscal Office for State Health Care Assistance Programs or premium assistance programs supported by the State Health Care Resources and Global Commitment Funds, and for the Programs under any Medicaid Section 1115 waiver.

(B) For Board consideration, there shall be provided two versions of the next succeeding fiscal year's estimated per-member per-month expenditures:

(i) one version shall include an increase in Medicaid provider reimbursements in order to ensure that the expenditure estimates reflect amounts attributable to health care inflation as required by subdivisions 307(d)(5) and (d)(6) of this title inflation trends as set forth in subdivision 307(d)(5) of this title; and

(ii) one version shall be without the inflationary adjustment reflect any additional increase or decrease to Medicaid provider reimbursements that would be necessary to attain Medicare levels as set forth in subdivision 307(d)(6) of this title.

(C) For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category.

(D) The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down State contribution payment and for the disproportionate share hospital payments.

(2) In July, the Administration and the Joint Fiscal Office shall make a report to the Emergency Board on the most recently ended fiscal year for all Medicaid and Medicaid-related programs, including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the Emergency Board may adopt revised estimates for the current fiscal year and estimates for the next succeeding fiscal year.

Sec. 16. 32 V.S.A. § 307(d) is amended to read:

(d) The Governor's budget shall include his or her recommendations for an annual budget for Medicaid and all other health care assistance programs administered by the Agency of Human Services. The Governor's proposed Medicaid budget shall include a proposed annual financial plan, and a proposed five-year financial plan, with the following information and analysis:

* * *

(5) health care inflation trends ~~consistent with that~~ reflect consideration of provider reimbursements approved under 18 V.S.A. § 9376 and expenditure trends reported under 18 V.S.A. § 9375a 9383;

* * *

* * * Green Mountain Care Board Billback Formula * * *

Sec. 17. 18 V.S.A. § 9374(h) is amended to read:

(h)(1) The Board may assess and collect from each regulated entity the actual costs incurred by the Board, including staff time and contracts for professional services, in carrying out its regulatory duties for health insurance rate review under 8 V.S.A. § 4062; hospital budget review under chapter 221, subchapter 7 of this title; and accountable care organization certification and budget review under section 9382 of this title.

(2)(A) Except In addition to the assessment and collection of actual costs pursuant to subdivision (1) of this subsection and except as otherwise provided in ~~subdivision (2)~~ subdivisions (2)(C) and (3) of this subsection, all other expenses incurred to obtain information, analyze expenditures, review hospital budgets, and for any other contracts authorized by of the Board shall be borne as follows:

~~(A)(i)~~ 40 percent by the State from State monies;

~~(B)(ii)~~ ~~15~~ 30 percent by the hospitals;

~~(C)(iii)~~ 15 24 percent by nonprofit hospital and medical service corporations licensed under 8 V.S.A. chapter 123 or 125;

~~(D)~~ ~~15 percent by,~~ health insurance companies licensed under 8 V.S.A. chapter 101; ~~and~~

~~(E)~~ ~~15 percent by,~~ and health maintenance organizations licensed under 8 V.S.A. chapter 139; ~~and~~

(iv) six percent by accountable care organizations certified under section 9382 of this title.

(B) Expenses under subdivision (A)(iii) of this subdivision (2) shall be allocated to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this subdivision (2) shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care, limited benefits, disability, credit or stop loss, or excess loss insurance coverage.

(C) Expenses incurred by the Board for regulatory duties associated with certificates of need shall be assessed pursuant to the provisions of section 9441 of this title and not in accordance with the formula set forth in subdivision (A) of this subdivision (2).

~~(2)(3)~~ The Board may determine the scope of the incurred expenses to be allocated pursuant to the formula set forth in subdivision ~~(1)(2)~~ of this subsection if, in the Board's discretion, the expenses to be allocated are in the best interests of the regulated entities and of the State.

~~(3) Expenses under subdivision (1) of this subsection shall be billed to persons licensed under Title 8 based on premiums paid for health care coverage, which for the purposes of this section shall include major medical, comprehensive medical, hospital or surgical coverage, and comprehensive health care services plans, but shall not include long-term care or limited benefits, disability, credit or stop loss, or excess loss insurance coverage.~~

(4) If the amount of the proportional assessment to any entity calculated in accordance with the formula set forth in subdivision (2)(A) of this subsection would be less than \$150.00, the Board shall assess the entity a minimum fee of \$150.00. The Board shall apply the amounts collected based on the difference between each applicable entity's proportional assessment amount and \$150.00 to reduce the total amount assessed to the regulated entities pursuant to subdivisions (2)(A)(ii)-(iv) of this subsection.

* * * Composition of Green Mountain Care Board and Advisory Group * * *

Sec. 18. 18 V.S.A. § 9374 is amended to read:

§ 9374. BOARD MEMBERSHIP; AUTHORITY

(a)(1) On July 1, 2011, the Green Mountain Care Board is created and shall consist of a chair and four members. The Chair and all of the members shall be State employees and shall be exempt from the State classified system. The Chair shall receive compensation equal to that of a Superior judge, and the compensation for the remaining members shall be two-thirds of the amount received by the Chair.

(2) The Chair and the members of the Board shall be nominated by the Green Mountain Care Board Nominating Committee established in subchapter 2 of this chapter using the qualifications described in section 9392 of this chapter and shall be otherwise appointed and confirmed in the manner of a Superior judge. The Governor shall not appoint a nominee who was denied confirmation by the Senate within the past six years. At least one member of the Board shall be an individual licensed to practice medicine under 26 V.S.A. chapter 23 or 33, an individual licensed as a physician assistant under 26 V.S.A. chapter 31, or an individual licensed as a registered nurse or an advanced practice registered nurse under 26 V.S.A. chapter 28.

* * *

(c)(1) No Board member shall, during his or her term or terms on the Board, be an officer of, director of, organizer of, employee of, consultant to, or attorney for any person subject to supervision or regulation by the Board; provided that for a health care ~~practitioner~~ professional, the employment restriction in this subdivision ~~shall apply only to administrative or managerial employment or affiliation with a hospital or other health care facility, as defined in section 9432 of this title,~~ and shall not be construed to limit generally the ability of the health care ~~practitioner~~ professional to practice his or her profession.

* * *

* * * Regulation of Freestanding Health Care Facilities * * *

Sec. 19. REGULATION OF FREESTANDING HEALTH CARE FACILITIES; WORKING GROUP; REPORT

(a) The Secretary of Human Services or designee shall convene a working group to develop recommendations for the regulation of freestanding health care facilities and their role in a coordinated and cohesive health care delivery system. The recommendations shall include:

(1) whether and how the State should license and regulate ambulatory surgical centers, freestanding birth centers, urgent care clinics, retail health clinics, and other freestanding health care facilities; and

(2) whether and to what extent these facilities should participate in Vermont's health care reform initiatives.

(b) The working group shall comprise representatives of ambulatory surgical centers, urgent care clinics, hospitals, the Green Mountain Care Board, the Department of Vermont Health Access, the Department of Health, the Office of the Health Care Advocate, the Vermont Program for Quality in Health Care, Inc., and other interested stakeholders.

(c) On or before February 1, 2019, the working group shall provide its recommendations to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

* * * Effective Dates * * *

Sec. 20. EFFECTIVE DATES

(a) Secs. 6 (certificate of need) and 17 (billback formula) shall take effect on July 1, 2018, provided that for applications for a certificate of need that are already in process on that date, the rules and procedures in place at the time the application was filed shall continue to apply until a final decision is made on the application.

(b) Sec. 18 shall take effect on passage and shall apply beginning with the first vacancy occurring on the Green Mountain Care Board on or after that date; provided, however, that it shall not apply to the vacancy of a member serving on the Board on the date of passage who seeks to serve more than one term.

(c) The remaining sections of this act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sirotkin, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 4, 18 V.S.A. § 9405(b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) ~~The Plan shall include~~ In developing the Plan, the Board shall:

(A) ~~A statement of principles reflecting the policies consider the principles in section 9371 of this title, as well as the purposes enumerated in sections 9401 and 9431 of this chapter to be used in allocating resources and in establishing priorities for health services.~~ title;

(B) ~~Identification of the current supply and distribution of hospital, nursing home, and other inpatient services; home health and mental health services; treatment and prevention services for alcohol and other drug abuse; emergency care; ambulatory care services, including primary care resources, federally qualified health centers, and free clinics; major medical equipment; and health screening and early intervention services.~~

~~(C) Consistent with the principles set forth in subdivision (A) of this subdivision (1), recommendations for the appropriate supply and distribution of resources, programs, and services identified in subdivision (B) of this subdivision (1), options for implementing such recommendations and mechanisms which will encourage the appropriate integration of these services on a local or regional basis. To arrive at such recommendations, the Green Mountain Care Board shall consider at least the following factors:~~

- ~~(i) the values and goals reflected in the State Health Plan;~~
- ~~(ii) the needs of the population on a statewide basis;~~
- ~~(iii) the needs of particular geographic areas of the State, as identified in the State Health Plan;~~
- ~~(iv) the needs of uninsured and underinsured populations;~~
- ~~(v) the use of Vermont facilities by out-of-state residents;~~
- ~~(vi) the use of out-of-state facilities by Vermont residents;~~
- ~~(vii) the needs of populations with special health care needs;~~
- ~~(viii) the desirability of providing high quality services in an economical and efficient manner, including the appropriate use of midlevel practitioners;~~
- ~~(ix) the cost impact of these resource requirements on health care expenditures;~~
- ~~(x) the overall quality and use of health care services as reported by the Vermont Program for Quality in Health Care and the Vermont Ethics Network;~~
- ~~(xi) the overall quality and cost of services as reported in the annual hospital community reports;~~
- ~~(xii) individual hospital four-year capital budget projections; and~~
- ~~(xiii) the four-year projection of health care expenditures prepared by the Board~~

(B) identify priorities using information from:

- (i) the State Health Improvement Plan;
- (ii) the community health needs assessments required by section 9405a of this title;
- (iii) available health care workforce information;

(iv) materials provided to the Board through its other regulatory processes, including hospital budget review, oversight of accountable care organizations, issuance and denial of certificates of need, and health insurance rate review; and

(v) the public input process set forth in this section;

(C) use existing data sources to identify and analyze the gaps between the supply of health resources and the health needs of Vermont residents and to identify utilization trends to determine areas of underutilization and overutilization; and

(D) consider the cost impacts of fulfilling any gaps between the supply of health resources and the health needs of Vermont residents.

Second: By striking out Sec. 11, 32 V.S.A. § 307(d), in its entirety and inserting in lieu thereof the following:

Sec. 11. [Deleted.]

Third: By inserting a reader assistance heading and a new section to be Sec. 13a to read as follows:

* * * Accountable Care Organizations; Fair and Equitable
Payment Amounts * * *

Sec. 13a. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(3) The ACO has established appropriate mechanisms to receive and distribute payments to its participating health care providers in a fair and equitable manner, and any payment differential based on whether a provider is affiliated with a hospital or health care facility or practices independently is disclosed and factually justified.

* * *

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the recommendation of proposal of amendment of the Committee on Health and Welfare be amended as recommended by the Committee on Finance.?, Senator Sirotkin moved to amend the proposal of amendment of the Committee on Finance, by striking out the third instance of amendment in its entirety and inserting in lieu thereof a new third instance of amendment to read as follows:

Third: By inserting a reader assistance heading and a new section to be Sec. 13a to read as follows:

* * * Accountable Care Organizations; Fair and Equitable
Payment Amounts * * *

Sec. 13a. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(3) The ACO has established appropriate mechanisms to receive and distribute payments to its participating health care providers in a fair and equitable manner. To the extent that the ACO has the authority and ability to establish provider reimbursement rates, the ACO shall minimize differentials in payment methodology and amounts among comparable participating providers across all practice settings, as long as doing so is not inconsistent with the ACO's overall payment reform objectives.

* * *

Which was agreed to.

Thereupon, the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance, as amended.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare, as amended?, Senator Ayer moved to amend the proposal of amendment of the Committee on Health and Welfare, as amended, as follows:

Sec. 15. 32 V.S.A. § 305a(c) is amended to read:

(c)(1)(A) The January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years for each Medicaid enrollment group as defined by the Agency and the Joint Fiscal Office for State Health Care Assistance Programs or premium assistance programs supported by the State Health Care Resources and Global Commitment Funds, and for the Programs under any Medicaid Section 1115 waiver.

(B) For Board consideration, there shall be provided ~~two~~ three versions of the next succeeding fiscal year's estimated per-member per-month expenditures:

(i) ~~one version shall include an increase in Medicaid provider reimbursements in order to ensure that the expenditure estimates reflect amounts attributable to health care inflation as required by subdivisions 307(d)(5) and (d)(6) of this title and inflation trends as set forth in subdivision 307(d)(5) of this title;~~

(ii) one version shall be without the inflationary adjustment; and

(iii) one version shall reflect any additional increase or decrease to Medicaid provider reimbursements that would be necessary to attain Medicare levels as set forth in subdivision 307(d)(6) of this title.

(C) For VPharm, the January estimates shall include estimated caseloads and estimated per-member per-month expenditures for the current and next succeeding fiscal years by income category.

(D) The January estimates shall include the expenditures for the current and next succeeding fiscal years for the Medicare Part D phased-down State contribution payment and for the disproportionate share hospital payments.

(2) In July, the Administration and the Joint Fiscal Office shall make a report to the Emergency Board on the most recently ended fiscal year for all Medicaid and Medicaid-related programs, including caseload and expenditure information for each Medicaid eligibility group. Based on this report, the

Emergency Board may adopt revised estimates for the current fiscal year and estimates for the next succeeding fiscal year.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Health and Welfare, as amended was agreed to and third reading of the bill was ordered.

Bills Passed in Concurrence with Proposals of Amendment

House bills of the following titles were severally read the third time and passed in concurrence with proposals of amendment:

H. 908. An act relating to the Administrative Procedure Act.

H. 910. An act relating to the Open Meeting Law and the Public Records Act.

Third Readings Ordered

H. 925.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the City of Barre.

Reported that the bill ought to pass in concurrence.

Senator Cummings, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 926.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of amendments to the charter of the Town of Colchester.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposals of Amendment; Consideration Postponed

H. 614.

Senator Soucy, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to the sale and use of fireworks.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: In Sec. 1, in 20 V.S.A. § 3132, in subsection (e), after the word “sale” by inserting the following: a form to be developed by the State Fire Marshall that shall provide; and by striking out subsection (f) in its entirety.

Second: By striking out Sec. 2 in its entirety.

And by renumbering the remaining section to be numerically correct.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43 and pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Sears moved to commit the bill to the Committee on Judiciary. Thereupon, Senator Sears requested and was granted leave to withdraw his motion.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs?, Senator Sears requested that the question be divided?

Thereupon, on motion of Senator Soucy, consideration of the bill was postponed until tomorrow.

Proposal of Amendment; Third Reading Ordered

H. 660.

Senator Benning, for the Committee on Judiciary, to which was referred House bill entitled:

An act relating to establishing the Commission on Sentencing Disparities and Criminal Code Reclassification.

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

Sec. 1. 13 V.S.A. § 5451 is amended to read:

§ 5451. CREATION OF COMMISSION

(a) The Vermont ~~sentencing commission~~ Sentencing Commission is established for the purpose of overseeing criminal sentencing practices in the ~~state~~ State, reducing geographical disparities in sentencing, and making

recommendations regarding criminal sentencing to the ~~general assembly~~
General Assembly.

(b) The ~~committee~~ Commission shall consist of the following members:

* * *

(2) the ~~administrative judge~~ Chief Superior Judge or designee, provided that the designee is a sitting or retired Vermont judge;

* * *

(16) the ~~executive director~~ Executive Director of the Vermont ~~center for justice research~~ Crime Research Group; and

* * *

Sec. 2. 13 V.S.A. § 5452 is amended to read:

§ 5452. DUTIES

* * *

(c) It shall be a priority for the Sentencing Commission to develop responses to the significant impacts that increased opioid addiction have had on the criminal justice system. The Commission shall consider:

(1) whether and under what circumstances offenses committed as a result of opioid addiction should be classified as civil rather than criminal offenses;

(2) whether the possession or sale of specific, lesser amounts of opioids and other regulated drugs should be classified as civil rather than criminal offenses;

(3) how to maximize treatment for offenders as a response to offenses committed as a result of opioid addiction.

Sec. 3. VERMONT SENTENCING COMMISSION; REPORT ON
SENTENCING DISPARITIES AND CRIMINAL CODE
RECLASSIFICATION

(a)(1) In order to improve the consistent and uniform application of criminal justice throughout Vermont, the Vermont Sentencing Commission established under 13 V.S.A. § 5451 shall review Vermont's criminal offenses and place each one in a standardized penalty classification system.

(2) The Commission shall develop a classification system that creates categories of criminal offenses on the basis of the maximum potential period of imprisonment and the maximum potential fine. The Commission shall propose legislation that places each of Vermont's criminal statutes into one of the classification offense categories it identifies.

(3) When determining the appropriate category for each offense, the Commission shall consider whether the existing statutory penalties for the offense are appropriate or in need of adjustment better to reflect prevailing average sentencing practices and the effective uses of criminal punishment. For purposes of this analysis, the Commission shall for each offense consider the average sentence and the average amount of time actually served. If the Commission is unable to determine an appropriate classification for a particular offense, the Commission shall indicate multiple classification possibilities for that offense. Unless there is a compelling rationale, the Commission shall not propose establishing new mandatory minimum sentences or increasing existing minimum or maximum sentences.

(4) For purposes of the classification system developed pursuant to this section, the Commission shall consider the recommendations of the Criminal Code Reclassification Study Committee and shall consider whether to propose:

(A) rules of statutory interpretation specifically for criminal provisions;

(B) the consistent use of mens rea terminology in all criminal provisions;

(C) a comprehensive section of definitions applicable to all criminal provisions;

(D) the decriminalization of some or all fine-only offenses and the transferal of them to the Judicial Bureau for consideration as civil offenses; and

(E) a redefinition of what constitutes an attempt in Vermont criminal law, including whether the Model Penal Code's definition of attempt should be adopted in Vermont.

(b)(1) On or before December 15, 2018, the Commission shall report to the Joint Justice Oversight Committee on its progress toward achieving the goals of this section. The report required by this subdivision may be provided by oral testimony.

(2) On or before November 30, 2019, the Commission shall submit a report consisting of proposed legislation to the House and Senate Committees on Judiciary.

Sec. 4. APPROPRIATION

The sum of \$50,000.00 is appropriated from the General Fund to the Judiciary in FY 2019 to carry out the purposes of this act. It is the intent of the General Assembly to fund at least the same amount in FY 2020.

Sec. 5. REPEAL

13 V.S.A. §§ 5451 (creation of Vermont Sentencing Commission) and 5452 (creation of Vermont Sentencing Commission) shall be repealed on July 1, 2021.

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Judiciary with the following amendment thereto:

In Sec. 4, in the first sentence, after the words "Judiciary in" by inserting the following: FY 2018 to carry forward to

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Judiciary was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Judiciary, as amended, was agreed to and third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered**H. 736.**

Senator Lyons, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to lead poisoning prevention.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By inserting a new Sec. 1 before the existing Sec. 1 to read as follows:

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that the regulatory authority over lead poisoning prevention practices, which is currently divided between the State of Vermont and the U.S. Environmental Protection Agency (EPA), shall

be assumed by the State. The Commissioner of Health shall take necessary steps to receive all appropriate authority from the EPA not later than December 2019.

Second: In Sec. 2, in 18 V.S.A. § 1751(b), in subdivision (18), following “or likely exposure to”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: ~~lead-based paint~~ lead

Third: In Sec. 2, in 18 V.S.A. § 1751(b), in subdivision (22)(B), by striking out the following: “lead-based paint” in the second instance in which it appears and inserting in lieu thereof the following: lead

Fourth: In Sec. 2, in 18 V.S.A. § 1751(b), by renumbering the existing subdivision (24) to appear after the existing subdivision (27) and by renumbering all affected subdivisions to be numerically correct

Fifth: In Sec. 2, in 18 V.S.A. § 1763, in the first sentence, following “subsection 1759(e) of this chapter or”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: ~~lead-based paint~~ lead

Sixth: In Sec. 2, in 18 V.S.A. § 1764, following “under subsection”, by striking out the following: “1752(d)” and inserting in lieu thereof the following: ~~1752(d)~~ 1752(e)

Seventh: In Sec. 2, in 18 V.S.A. § 1765, in subsection (a), following “determines that”, by striking out the following: “lead-based paint” and inserting in lieu thereof the following: ~~lead-based paint~~ lead and following “rental target”, by striking out the word “property” and inserting in lieu thereof the following: ~~property~~ housing

Eighth: By inserting a new Sec. 3 before the effective date section to read as follows:

Sec. 3. STATUS UPDATES

On or before February 1 of 2019 and 2020, the Commissioner of Health shall provide a status update regarding the implementation of the lead poisoning prevention program to the House Committee on Human Services and to the Senate Committee on Health and Welfare.

And by renumbering all sections to be numerically correct

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health and Welfare with the following amendments thereto:

By striking out the *Eighth* proposal of amendment in its entirety and inserting in lieu thereof the following:

Eighth: By inserting a new Sec. 3 to read as follows:

Sec. 3. STATUS UPDATES

On or before February 1 of 2019 and 2020, the Commissioner of Health shall provide a status update regarding the implementation of the lead poisoning prevention program and associated fees to the House Committees on Human Services and on Ways and Means and to the Senate Committees on Finance and on Health and Welfare.

And by renumbering the remaining sections to be numerically correct

And that the bill be further amended in Sec. 2, 18 V.S.A. § 1759(f), by striking out the word "implantation" and inserting in lieu thereof implementation

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, the proposals of amendment recommended by the Committee on Health and Welfare, as amended, were severally agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 899.

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to fees for records filed in town offices and a town fee report and request.

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

Sec. 1. 32 V.S.A. § 1671 is amended to read:

§ 1671. TOWN CLERK FEES RELATED TO RECORDS; RESERVE FUND

(a) For the purposes of this section, a “page” is defined as a single side of a leaf of paper on which is printed, written, or otherwise placed information to be recorded or filed. The maximum covered area on a page shall be 7 1/2 inches by 14 12 inches. All letters shall be at least one-sixteenth inch in height or in at least eight point type. Unless otherwise provided by law, the fees to town clerks shall be as follows:

(1) For recording a trust mortgage deed as provided in 24 V.S.A. § 1155, ~~\$10.00 per page;~~ \$20.00 for the first page and \$15.00 for each additional page.

(2) For filing or recording a copy of a complaint to foreclose a mortgage as provided in 12 V.S.A. § 4523(b), ~~\$10.00 per page;~~ \$20.00 for the first page and \$15.00 for each additional page.

(3) For examination of records by town clerk, a fee of \$5.00 per hour may be charged but not more than \$25.00 for each examination on any one calendar day;

(4) For examination of records by others, a fee of \$2.00 per hour may be charged;

(5) ~~Town clerks may require fees for all filing, recording, and copying to be paid in advance; [Repealed.]~~

(6)(A) ~~For~~ Except as provided in subdivisions (B) and (C) of this subdivision (6), for the recording or filing, or both, of any document that is to become a matter of public record in the town clerk’s office, or for any certified copy of such document, a fee of \$10.00 per page shall be charged; except that for \$20.00 for the first page and \$15.00 for each additional page.

(B) For the recording or filing, or both, of a property transfer return, a flat fee of \$10.00 \$25.00 shall be charged;

(C) For the recording or filing, or both, of documents issued by a municipal officer, employee, or entity, including land use permits, certificates of compliance or occupancy, and notices of violation, a flat fee of \$15.00 shall be charged.

(7) For uncertified copies of records and documents on file, or recorded, a fee of \$1.00 per page shall be charged, with a minimum fee of \$2.00; however, copies of minutes of municipal meetings or meetings of local boards and commissions, copies of grand lists and checklists and copies of any public records that any agency of that political subdivision has deposited with the clerk shall be available to the public at actual cost;

(8) For survey plats filed in accordance with 27 V.S.A. chapter 17, a fee of ~~\$15.00 per 11 inch by 17 inch sheet, \$15.00 per 18 inch by 24 inch sheet, and \$15.00 per 24 inch by 36 inch~~ \$30.00 per sheet shall be charged.

(9) Unless otherwise specified by law, for any certified copy of a document that is a matter of public record in the town clerk's office, a fee of \$10.00 per page shall be charged.

(b)(1) A schedule of all fees shall be posted in the town clerk's office.

(2) A town clerk may require fees for all filing, recording, and copying to be paid in advance.

(c)(1) The legislative body may create shall maintain a Restoration Reserve Fund of no less than \$0.50 per page and no more than \$1.00 per page from recording fees established into which shall be deposited:

(A) an amount equivalent to at least \$10.00 for each record filed under subdivisions (a)(1) and, (a)(2), (a)(6)(A), and (a)(8) of this section; and

(B) any additional fees collected under this section that the legislative body may approve for deposit into the Fund.

(3)(A) The Monies in the Restoration Reserve Fund shall be used solely for restoration, preservation, and conservation of municipal records. Permitted uses of Fund monies may include:

(i) the purchase of hardware or software related to carrying out these activities in a manner that is consistent with legal requirements; and

(ii) the acquisition or maintenance of safes or vaults as required under 24 V.S.A. § 1178.

(B) If a municipality has previously established the Fund, no additional action will be required.

(d) ~~A legislative body may establish or abolish a Restoration Reserve Fund only by affirmative vote at a legally warned meeting of the legislative body. Nothing in this section shall preclude the legislative body of a municipality from committing funds to a the municipality's Restoration Reserve Fund in addition to those funds referenced in subsection (c) of this section.~~

Sec. 2. 32 V.S.A. § 606 is amended to read:

§ 606. LEGISLATIVE FEE REVIEW PROCESS; FEE BILL

When the consolidated fee reports and requests are submitted to the General Assembly pursuant to sections 605 and, 605a, and 611 of this title, they shall immediately be forwarded to the House Committee on Ways and Means, which shall consult with other standing legislative committees having

jurisdiction of the subject area of a fee contained in the reports and requests. As soon as possible, the Committee on Ways and Means shall prepare and introduce a “consolidated fee bill” proposing:

- (1) The creation, change, reauthorization, or termination of any fee.
- (2) The amount of a newly created fee, or change in amount of an existing or reauthorized fee.
- (3) The designation, or redesignation, of the fund into which revenue from a fee is to be deposited.

Sec. 3. 32 V.S.A. chapter 7, subchapter 6A is added to read:

Subchapter 6A. Town Fee Report and Request

§ 611. CONSOLIDATED TOWN FEE REPORT AND REQUEST

(a) As used in this section:

(1) “Cost” shall be narrowly construed, and may include reasonable and directly related costs of administration, maintenance, and other expenses due to providing the service or product or performing the regulatory function.

(2) “Fee” means a monetary charge collected by or on behalf of a town for a service or product provided to, or the regulation of, specified classes of individuals or entities.

(3) “Town” means a town, city, unorganized town or gore, and the unified towns and gores in Essex County.

(b) On or before the third Tuesday of the legislative session of 2019 and every three years thereafter, the Vermont Municipal Clerks’ and Treasurers’ Association and the Vermont League of Cities and Towns shall jointly submit a consolidated town fee report and request. The report shall be submitted to the House Committee on Ways and Means, the Senate Committee on Finance, and the House and Senate Committees on Government Operations. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

(c) For each fee in existence on the preceding July 1, the report shall specify:

- (1) its statutory authorization and termination date, if any;
- (2) its current rate or amount and the date it was last set or adjusted by the General Assembly;
- (3) the fund into which its revenues are deposited; and

(4) for each town, in each of the two previous fiscal years, the revenues derived from each fee.

(d) A fee request shall contain any proposal to:

(1) Create a new fee, or change, reauthorize, or terminate an existing fee, which shall include a description of the services provided or the function performed.

(2) Set a new or adjust an existing fee rate or amount. Each new or adjusted fee rate shall be accompanied by information justifying the rate, which may include:

(A) the relationship between the revenue to be raised by the fee or change in the fee and the cost or change in the cost of the service, product, or regulatory function supported by the fee;

(B) the inflationary pressures that have arisen since the fee was last set;

(C) the effect on budgetary adequacy if the fee is not increased;

(D) the existence of comparable fees in other jurisdictions;

(E) policies that might affect the acceptance or the viability of the fee amount; and

(F) other considerations.

(3) Designate, or redesignate, the fund into which revenue from a fee is to be deposited.

Sec. 4. EFFECTIVE DATE; TRANSITION

(a) This act shall take effect on July 1, 2018.

(b)(1) With regard to requests to file or record a document made through the mail for which insufficient fees have been tendered, until at least January 1, 2019, in lieu of imposing a requirement to pay fees for a filing or recording in advance under Sec. 1, 32 V.S.A. § 1671(b)(2), the town clerk or designee shall:

(A) file or record the document in the order received; and

(B) attempt to contact the sender to notify the sender of the deficiency in the amount tendered and the requirement to pay in full.

(2) The obligations to file or record the document and to contact a sender under this subsection shall not apply if the mailing does not include contact information in the form of a telephone number, e-mail address, facsimile number, or physical address. If such contact information is not

provided, the clerk may impose a requirement to pay fees for a filing or recording in advance pursuant to Sec. 1, 32 V.S.A. § 1671(b)(2).

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Champion, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Second: By striking out Sec. 4 in its entirety and inserting in lieu thereof the following:

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to a town fee report and request.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, the proposal of amendment recommended by the Committee on Government Operations, as amended, was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 913.

Senator Pearson, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to boards and commissions.

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

* * * Merger of Groundwater and Well Water Committees * * *

Sec. 1. 10 V.S.A. § 1392 is amended to read:

§ 1392. DUTIES; POWERS OF SECRETARY

(a) The Secretary shall develop a comprehensive groundwater management program to protect the quality of groundwater resources by:

* * *

(c)(1) The Secretary shall establish a groundwater coordinating committee, with representation from the Division of Drinking Water and Groundwater Protection within the Department, the Division of Geology and Mineral Resources within the Department, the Agency of Agriculture, Food and Markets, and the Departments of Forests, Parks and Recreation and of Health to provide advice in the development of the program and its implementation, on issues concerning groundwater quality and quantity, and on groundwater issues relevant to well-drilling activities and the licensure of well drillers.

(2) In carrying out his or her duties under this subchapter, the Secretary shall give due consideration to the recommendations of the groundwater coordinating committee.

(3) The Secretary may request representatives of other agencies and the private sector, including licensed well drillers, to serve on the groundwater coordinating committee.

* * *

Sec. 2. 10 V.S.A. § 1395b is amended to read:

§ 1395b. ~~WATER WELL ADVISORY COMMITTEE~~

~~(a) The Vermont water well advisory committee is created. The committee shall consist of seven members: the director of the groundwater and water supply division, the state geologist, a representative from the department of health, and four members appointed by the governor. Three of the four public members shall be licensed well drillers, with at least five years of experience. The fourth public member shall be a person not associated with the well-drilling business who has an interest in wells and water quality.~~

~~(b) The purpose of the committee is to advise and assist agency personnel in the formulation of policy, including recommended statutory and regulatory changes, regarding the proper installation and maintenance of water wells, licensing of well drillers, and groundwater issues impacted by well-drilling activities. The committee shall promote and encourage cooperation and~~

~~communication between governmental agencies, licensed well drillers, and members of the general public.~~

~~(c) Members shall be appointed for terms of five years, with the initial appointments of the public members made for lesser terms, so that the appointments do not all expire simultaneously. Vacancies shall be filled by the governor for the length of an unexpired term.~~

~~(d) The committee shall elect a chair and a secretary, and shall meet from time to time as may be necessary, but not less than quarterly.~~

~~(e) The public members of the committee shall be volunteers, and will serve without compensation. [Repealed.]~~

Sec. 3. IMPLEMENTATION

~~(a) The terms of the members of the Vermont Water Well Advisory Committee shall expire on the effective date of this act.~~

~~(b) The Secretary of Natural Resources may provide those members with the opportunity to serve on the groundwater coordinating committee.~~

* * * Repeal of Valuation Appeal Board * * *

Sec. 4. 32 V.S.A. § 5407 is amended to read:

§ 5407. VALUATION APPEAL BOARD

~~(a) There is established a Valuation Appeal Board to consist of five members. The members shall be appointed by the Governor with the advice and consent of the Senate, for three-year terms beginning February 1 of the year in which the appointment is made, except that one of the initial appointments shall be for a term of one year and two of the initial appointments shall be for a term of two years. A vacancy in the Board shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

~~(b) Persons serving on the Appeal Board shall be knowledgeable and experienced in at least one of the following fields: agriculture, business management, law, taxation, appraisal and valuation techniques, municipal affairs, or related areas. No member of the Valuation Appeal Board shall be otherwise employed by the State or be a lister. In making appointments, attention shall be given to the desirability of providing geographical balance to the degree reasonably practical.~~

~~(c) A Chair shall be designated biennially by the Governor from among the members of the Board and any vacancy in the Office of the Chair shall be filled by designation of the Governor.~~

~~(d) Members of the Valuation Appeal Board shall receive a sum not to exceed \$80.00 per diem for each day of official duties of the Board together with reimbursement of reasonable expenses incurred in the performance of their duties, as determined by the Director of Property Valuation and Review.~~

~~(e) The Board shall be attached for administrative purposes to the Division of Property Valuation and Review of the Department of Taxes of the Agency of Administration. [Repealed.]~~

Sec. 5. 32 V.S.A. § 5408 is amended to read:

§ 5408. PETITION FOR REDETERMINATION

(a) Not later than 35 days after mailing of a notice under section 5406 of this title, a municipality may petition the Director of Property Valuation and Review for a redetermination of the municipality's equalized education property value and coefficient of dispersion. ~~Such~~ The petition shall be in writing and shall be signed by the chair of the legislative body of the municipality or ~~his or her~~ designee.

(b)(1) Upon receipt of a petition for redetermination under subsection (a) of this section, the Director shall, after written notice, grant a hearing upon the petition to the aggrieved town.

(2) The Director shall thereafter notify the town and the Secretary of Education of his or her redetermination of the equalized education property value and coefficient of dispersion of the town or district, in the manner provided for notices of original determinations under section 5406 of this title.

(c)(1) A municipality, within 30 days ~~of~~ after the Director's redetermination, may appeal the redetermination to the ~~Valuation Appeal Board. The Board shall notify the appellee of the filing of the appeal. The appeal shall be heard de novo in the manner provided by 3 V.S.A. chapter 25 for the hearing of contested cases.~~

~~(d) A municipality or the Division of Property Valuation and Review may appeal from a decision of the Valuation Appeal Board to the Superior Court of the county in which the municipality is located. The Superior Court shall hear the matter de novo in the manner provided by V.R.C.P. Rule 74 of the Vermont Rules of Civil Procedure.~~

(2) An appeal from the decision of the Superior Court shall be to the Supreme Court under the Vermont Rules of Appellate Procedure.

* * * Permitting Per Diems Currently Prohibited * * *

Sec. 6. 3 V.S.A. § 22 is amended to read:

§ 22. THE COMMISSION ON WOMEN

(a)(1) The Commission on Women is created as the successor to the Governor's Commission on Women established by Executive Order No. 20-86. The Commission shall be organized and have the duties and responsibilities as provided in this section.

(2) The Commission shall be an independent agency of the government of Vermont and shall not be subject to the control of any other department or agency.

(3) Members of the Commission shall be drawn from throughout the State and from diverse racial, ethnic, religious, age, sexual orientation, and socioeconomic backgrounds, and shall have had experience working toward the improvement of the status of women in society.

(b) The Commission shall consist of 16 members, appointed as follows:

(1) Eight members shall be appointed by the Governor; ~~no~~ not more than four of whom shall be from one political party.

(2)(A) ~~Six~~ Eight members shall be appointed by the legislature General Assembly, ~~three~~ four by the Senate Committee on Committees, and ~~three~~ four by the Speaker of the House; ~~no~~.

(B) Not more than two appointees shall be members of the legislature. ~~Each~~ General Assembly, and ~~each~~ appointing authority shall appoint ~~no~~ not more than two members from the same political party.

(3) ~~Two members, one each from the two major political parties.~~

(c) The terms of members shall be four years. ~~Members of the Commission currently appointed and serving pursuant to Executive Order No. 20-86 on July 1, 2002 may continue to serve for the duration of the four year term to which they were appointed. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of subsection (b) of this section, and made in the following order:~~

(1) ~~For terms expiring on June 30, 2002, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the speaker.~~

(2) ~~For terms expiring on June 30, 2003, two shall be made by the Governor, and one each shall be made by the two major political parties.~~

(3) ~~For terms expiring on June 30, 2004, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the speaker.~~

(4) ~~For terms expiring on June 30, 2005, two shall be made by the Governor, one shall be made by the Committee on Committees and one shall be made by the Speaker. Thereafter, appointments~~ Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term.

(d)(1) Members of the Commission shall elect biennially by majority vote a the Chair of the Commission.

(2) Members of the Commission shall ~~receive~~ no ~~be entitled to receive~~ per diem compensation for their services, but shall be entitled to and reimbursement for of expenses in the manner and amount provided to employees of the State as permitted under 32 V.S.A. § 1010, which shall be paid by the Commission.

* * *

(i)(1) No part of any funds appropriated to the Commission by the ~~legislature~~ General Assembly shall, in the absence of express authorization by the ~~Legislature~~ General Assembly, be used directly or indirectly for legislative or administrative advocacy. The Commission shall review and amend as necessary all existing contracts and grants to ensure compliance with this subsection.

(2) ~~For purposes of~~ As used in this subsection, legislative or administrative advocacy means employment of a lobbyist as defined in 2 V.S.A. chapter 11, or employment of, or establishment of, or maintenance of, a lobbyist position whose primary function is to influence legislators or State officials with respect to pending legislation or ~~regulations~~ rules.

Sec. 7. COMMISSION ON WOMEN; CURRENT TERMS

A member of the Commission on Women on the effective date of this act whose appointing authority is repealed under the provisions of Sec. 6 of this act may serve the remainder of her or his term.

Sec. 8. 10 V.S.A. § 1372 is amended to read:

§ 1372. MEMBERS₂; APPOINTMENT₂; TERM

(a) Within 30 days after he or she has executed the ~~compact~~ Compact with any or all of the states legally joined therein, the ~~governor~~ Governor shall appoint three persons to serve as commissioners to the New England Interstate Water Pollution Control Commission. The ~~commissioner of environmental conservation~~ Commissioner of Environmental Conservation and the ~~commissioner of health~~ Commissioner of Health shall serve as ex officio commissioners ~~thereon~~ on the Commission.

(b) The commissioners so appointed shall hold office for six years. ~~Vacancies~~ A vacancy occurring in the office of the ~~commissioners~~ a commissioner shall be filled by the ~~governor~~ Governor for the unexpired portion of the term.

(c) The commissioners shall ~~serve without~~ be entitled to per diem compensation ~~but shall be paid for their actual and reimbursement of expenses incurred in and incident to the performance of their duties as permitted under 32 V.S.A. § 1010.~~

(d) The commissioners shall have the powers and duties and be subject to limitations as set forth in the ~~compact~~ Compact.

* * * Joint Information Technology Oversight Committee * * *

Sec. 9. 2 V.S.A. chapter 18 is added to read:

CHAPTER 18. JOINT INFORMATION TECHNOLOGY OVERSIGHT COMMITTEE

* * *

§ 614. JOINT INFORMATION TECHNOLOGY OVERSIGHT
COMMITTEE

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

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

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

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

(c) Powers and duties. The Committee shall oversee, evaluate, and make recommendations on the following:

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

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

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

(4) cybersecurity.

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

(e) Meetings.

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

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

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

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

* * * Sunset Advisory Commission * * *

Sec. 10. 3 V.S.A. § 268 is added to read:

§ 268. BOARDS AND COMMISSIONS; SUNSET ADVISORY COMMISSION

(a) Creation.

(1) There is created the Sunset Advisory Commission to review existing State boards and commissions, to recommend the elimination of any board or commission that it deems no longer necessary or the revision of any of the powers and duties of a board or commission, and to recommend whether members of the boards and commissions should be entitled to receive per diem compensation.

(2) As used in this section, "State boards and commissions" means professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, and any other boards or commissions of the State.

(b) Membership.

(1) The Commission shall be composed of the following six members:

(A) two current members of the House of Representatives who shall not both be from the same political party and one of whom shall be appointed co-chair, who shall be appointed by the Speaker of the House;

(B) two current members of the Senate, who shall not both be from the same political party and one of whom shall be appointed co-chair, who shall be appointed by the Committee on Committees; and

(C) two persons appointed by the Governor.

(2) Members shall be appointed at the beginning of each biennium. A member shall serve biennially and until his or her successor is appointed, except that a legislative member's term on the Commission shall expire on the date he or she ceases to be a member of the General Assembly.

(c) Powers and duties. The Commission shall have the following powers and duties:

(1) Inventory; group; review schedule.

(A)(i) The Commission shall inventory all of the State boards and commissions, organize them into groups, and establish a schedule to conduct a review of one group each biennium.

(ii) The inventory shall include the names of the members of the State boards and commissions, their term length and expiration, and their appointing authority.

(B) The Commission shall provide its inventory of the State boards and commissions to the Secretary of State for the Secretary to maintain as set forth in section 116a of this title.

(2) Biennial review.

(A) Each biennium, the Commission shall review all of the State boards and commissions within one of its inventoried groups and shall take testimony regarding whether each of those boards and commissions should continue to operate or be eliminated and whether the powers and duties of any of those boards and commissions should be revised.

(B) In its review of each State board and commission, the Commission shall consider:

(i) the purpose of the board or commission and whether that purpose is still needed;

(ii) how well the board or commission performs in executing that purpose; and

(iii) if the purpose is still needed, whether State government would be more effective and efficient if the purpose were executed in a different manner.

(C) Each board and commission shall have the burden of justifying its continued operation.

(D) For any board or commission that the Commission determines should continue to operate, the Commission shall also determine whether members of that board or commission should be entitled to receive per diem compensation and if so, the amount of that compensation.

(3) Biennial report. On or before the end of the biennium during which it reviews a group, the Commission shall submit to the House and Senate Committees on Government Operations its findings, any recommendation to eliminate a State board or commission within that group or to revise the powers and duties of a board or commission within the group, its recommendations regarding board or commission member per diem compensation, and any other recommendations for legislative action. The Commission shall also specifically recommend whether there should be changes to the information the Secretary of State provides in his or her inventory of the State boards and commissions as set forth in 3 V.S.A. § 116a. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

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

(e) Compensation and expense reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than five meetings per year. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Commission shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings per year. These payments shall be made from monies appropriated to the Agency of Administration.

Sec. 11. TRANSITIONAL PROVISION; INITIAL SUNSET ADVISORY COMMISSION

The members of the initial Sunset Advisory Commission established in 3 V.S.A. § 268 in Sec. 10 of this act shall be appointed on or before October 1, 2018 and shall meet prior to the 2019-2020 biennium in order to inventory all of the State boards and commissions and organize them into groups as described in Sec. 10 of this act in 3 V.S.A. § 268(c) so as to be able to review all groups within two bienniums, and during the 2019-2020 biennium those members shall conduct the first biennial review of a group in accordance with that subsection.

Sec. 12. SUNSET OF THE SUNSET ADVISORY COMMISSION

3 V.S.A. § 268 (boards and commissions; Sunset Advisory Commission) is repealed on January 4, 2023.

* * * Secretary of State; Inventory of Boards and Commissions * * *

Sec. 13. 3 V.S.A. § 116a is added to read:

§ 116a. MAINTENANCE OF INVENTORY OF STATE BOARDS AND COMMISSIONS

(a)(1) The Secretary of State shall maintain and make available on his or her official website an inventory of the State boards and commissions, and shall update that inventory when changes are made that affect the information provided in the inventory.

(2)(A) The inventory shall include the names of the members of each State board and commission, their term length and expiration, and their appointing authority.

(B) Each State board and commission shall be responsible for providing to the Secretary of State this inventory information and any updates to it.

(b) As used in this section, "State boards and commissions" means professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, and any other boards or commissions of the State.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except that Sec. 13, 3 V.S.A. § 116a (Secretary of State; maintenance of inventory of State boards and commissions) shall take effect on January 1, 2019.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

Thereupon, the bill was read the second time by title only pursuant to Rule 43.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations?, Senator White moved to amend the proposal of amendment of the Committee on Government Operations, in Sec. 14 after the words “except that” by inserting the following: Sec. 9. 2 V.S.A. chapter 18 shall take effect on passage and

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Government Operations, as amended?, Senators Ayer, Clarkson, Collamore, Pearson and White moved to amend the proposal of amendment of the Committee on Government Operations, as amended, by adding a reader assistance heading and a new section to be Sec. 13a to read as follows:

* * * Membership of Health Reform Oversight Committee * * *

Sec. 13a. 2 V.S.A. § 691 is amended to read:

§ 691. COMMITTEE CREATION

There is created the legislative Health Reform Oversight Committee. The Committee shall be composed of the following eight members:

* * *

~~(8) the Chair of the Senate Committee on Economic Development, Housing and General Affairs~~ one member of the Senate appointed by the Committee on Committees.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Government Operations, as amended was agreed to and third reading of the bill was ordered.

Rules Suspended; House Proposal of Amendment Concurred in With an Amendment

H. 25.

Appearing on the Calendar for notice, on motion of Senator Sears, the rules were suspended and House proposal of amendment to Senate bill entitled:

An act relating to sexual assault survivors' rights.

Was taken up for immediate consideration.

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

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

Sec. 1. 13 V.S.A. § 4003 is amended to read:

§ 4003. CARRYING DANGEROUS WEAPONS

A person who carries a dangerous or deadly weapon, ~~openly or concealed,~~ with the intent ~~or avowed purpose of injuring a fellow man, or who carries a dangerous or deadly weapon within any state institution or upon the grounds or lands owned or leased for the use of such institution, without the approval of the warden or superintendent of the institution,~~ to injure another in violation of the criminal laws of this State shall be imprisoned for not more than two years or fined not more than ~~\$200.00~~ \$2,000.00, or both. It shall be a felony punishable by not more than 10 years of imprisonment or a fine of \$25,000.00, or both, if the person intends to injure multiple persons.

Sec. 2. 13 V.S.A. § 1703 is added to read:

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

(1) "Domestic terrorism" means engaging in or taking a substantial step to commit a violation of the criminal laws of this State with the intent to:

(A) cause death or serious bodily injury to multiple persons; or

(B) place any civilian population in reasonable apprehension of death or serious bodily injury.

(2) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(3) “Substantial step” shall mean conduct that is strongly corroborative of the actor’s criminal purpose. Without negating the sufficiency of other conduct, the following, if strongly corroborative of the actor’s criminal purpose, shall not be held insufficient as a matter of law:

(A) lying in wait, searching for, or following the contemplated victim of the crime;

(B) enticing or seeking to entice the contemplated victim of the crime to go to the place contemplated for the commission of the crime;

(C) reconnoitering the place contemplated for the commission of the crime;

(D) unlawfully entering a structure, vehicle, or enclosure contemplated for the commission of the crime;

(E) possessing materials to be employed in the commission of the crime that are:

(i) specially designed for such unlawful use; or

(ii) that can serve no lawful purpose under the circumstances;

(F) possessing, collecting, or fabricating materials to be employed in the commission of the crime, at or near the place contemplated for its commission, if such possession, collection, or fabrication serves no lawful purpose of the actor under the circumstances; or

(G) soliciting an innocent agent to engage in conduct constituting an element of the crime.

(b) A person who willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

(c) It shall be an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the crime or otherwise prevented its commission under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose. The establishment of such a defense does not affect the liability of an accomplice who did not join in such abandonment or prevention. Renunciation of criminal purpose is not voluntary if it is motivated, in whole or in part, by circumstances, not present or apparent at the inception of the actor’s course of conduct, that increase the probability of detection or apprehension or that make more difficult the accomplishment of the criminal purpose. Renunciation is not complete if it is motivated by a decision to postpone the criminal conduct until a more advantageous time or to transfer the criminal effort to another but similar objective or victim or group of victims.

Sec. 3. 13 V.S.A. § 4004 is amended to read:

§ 4004. POSSESSION OF DANGEROUS OR DEADLY WEAPON IN A SCHOOL BUS OR SCHOOL BUILDING OR ON SCHOOL PROPERTY

(a) No person shall knowingly possess a firearm or a dangerous or deadly weapon while within a school building or on a school bus. A person who violates this section shall, for the first offense, be imprisoned for not more than one year or fined not more than \$1,000.00, or both, and for a second or subsequent offense shall be imprisoned for not more than three years or fined not more than \$5,000.00, or both.

(b) No person shall knowingly possess a firearm or a dangerous or deadly weapon on any school property with the intent to injure another person. A person who violates this section shall, for the first offense, be imprisoned for not more than ~~two~~ three years or fined not more than \$1,000.00, or both, and for a second or subsequent offense shall be imprisoned for not more than ~~three~~ five years or fined not more than \$5,000.00, or both.

(c) This section shall not apply to:

(1) A law enforcement officer while engaged in law enforcement duties.

(2) Possession and use of firearms or dangerous or deadly weapons if the board of school directors, or the superintendent or principal if delegated authority to do so by the board, authorizes possession or use for specific occasions or for instructional or other specific purposes.

(d) As used in this section:

(1) "School property" means any property owned by a school, including motor vehicles.

(2) "Owned by the school" means owned, leased, controlled, or subcontracted by the school.

(3) "Dangerous or deadly weapon" ~~has~~ shall have the same meaning defined as in section 4016 of this title.

(4) "Firearm" ~~has~~ shall have the same meaning defined as in section 4016 of this title.

(5) "Law enforcement officer" ~~has~~ shall have the same meaning defined as in section 4016 of this title.

(e) The provisions of this section shall not limit or restrict any prosecution for any other offense, including simple assault or aggravated assault.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to domestic terrorism”

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Sears moved that the Senate concur in the House proposal of amendment with an amendment, as follows:

First: In Sec. 1, 13 V.S.A. § 4003, in the first sentence, by striking out the words “in violation of the criminal laws of this State”

Second: By striking out Sec. 2 in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 13 V.S.A. § 1703 is added to read:

§ 1703. DOMESTIC TERRORISM

(a) As used in this section:

(1) “Domestic terrorism” means engaging in or taking a substantial step to commit a violation of the criminal laws of this State with the intent to:

(A) cause death or serious bodily injury to multiple persons; or

(B) threaten any civilian population with mass destruction, mass killings, or kidnapping.

(2) “Serious bodily injury” shall have the same meaning as in section 1021 of this title.

(3) “Substantial step” shall mean conduct that is strongly corroborative of the actor’s intent to complete the commission of the offense.

(b) A person who willfully engages in an act of domestic terrorism shall be imprisoned for not more than 20 years or fined not more than \$50,000.00, or both.

(c) It shall be an affirmative defense to a charge under this section that the actor abandoned his or her effort to commit the crime or otherwise prevented its commission under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose.

Which was agreed to, Yeas 27, Nays 0.

Senator Ashe having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Benning, Branagan, Bray, Brock, Brooks, Campion, Clarkson, Collamore, Cummings, Flory, Ingram, Kitchel, Lyons, MacDonald, Mazza, Nitka, Pearson, Pollina, Rodgers, Sears, Sirotkin, Soucy, White.

Those Senators who voted in the negative were: None.

Those Senators absent and not voting were: McCormack, Starr, Westman.

Rules Suspended; Bills Messaged

On motion of Senator Ashe, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

S.166, H. 25, H. 874, H. 908, H. 910.

Rules Suspended; Bill Committed**H. 196.**

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

An act relating to paid family leave.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Economic Development, Housing and General Affairs, Senator Ashe moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Economic Development, Housing and General Affairs and the Committee on Finance *intact*,

Which was agreed to.

Rules Suspended; Bill Committed**H. 917.**

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and House bill entitled:

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

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Transportation, Senator Ashe moved that Senate Rule 49 be suspended in

order to commit the bill to the Committee on Appropriations with the reports of the Committee on Transportation and the Committee on Finance *intact*,

Which was agreed to.

Committee of Conference Appointed

H. 924.

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

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Kitchel
Senator Sears
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

Message from the Governor

A message was received from His Excellency, the Governor, by Ms. Brittney L. Wilson, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the third day of May, 2018 he approved and signed a bill originating in the Senate of the following title:

S. 182. An act relating to the investment authority of municipal trustees of public funds.

Adjournment

On motion of Senator Ashe, the Senate adjourned until eleven o'clock and thirty minutes in the morning.