

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 386  
3 entitled “An act relating to home health agency provider taxes” respectfully  
4 reports that it has considered the same and recommends that the Senate  
5 propose to the House that the bill be amended by striking out all after the  
6 enacting clause and inserting in lieu thereof the following:

7 Sec. 1. 18 V.S.A. § 4754 is added to read:

8 § 4754. SUBSTANCE USE DISORDER PREVENTION, TREATMENT,  
9 AND RECOVERY FUND

10 (a) The Substance Use Disorder Prevention, Treatment, and Recovery Fund  
11 is established as a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5.  
12 Into the Fund shall be deposited all revenue from the ratable shares assessed to  
13 manufacturers of prescription opioids dispensed in Vermont pursuant to  
14 32 V.S.A. chapter 221.

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

17 (1) preventing opioid addiction and other substance use disorders;  
18 (2) providing substance use disorder treatment to individuals with a  
19 dependency on or addiction to opioids, other controlled substances,  
20 prescription drugs, or a combination thereof; and

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

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

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

6           CHAPTER 221. ASSESSMENT ON MANUFACTURERS OF OPIOIDS

7                               DISPENSED IN VERMONT

8           § 9001. DEFINITIONS

9           As used in this chapter:

10           (1) “Manufacturer” means any entity that is engaged in the production,  
11           preparation, propagation, compounding, conversion, or processing of  
12           prescription opioids, or a combination thereof, whether directly or indirectly by  
13           extraction from substances of natural origin, independently by means of  
14           chemical synthesis, or by a combination of extraction and chemical synthesis,  
15           or any entity engaged in the packaging, repackaging, labeling, relabeling, or  
16           distribution of prescription opioids. The term does not include a wholesale  
17           distributor of prescription opioids, a retailer, or a pharmacist licensed under  
18           26 V.S.A. chapter 36.

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

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

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

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

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

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

15          § 9002. ASSESSMENT ON OPIOID MANUFACTURERS

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

18          (2) The annualized amount of revenue to be generated by the assessment  
19          each fiscal year shall be \$2,500,000.00, provided that that amount may be  
20          modified at any time by the General Assembly based on the State’s estimated

1 funding needs for substance use disorder prevention, treatment, and recovery  
2 programs and activities.

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

10 (2) The Department of Taxes shall send an invoice to each manufacturer  
11 for the assessment amount due pursuant to this section quarterly.  
12 Manufacturers of prescription opioids shall pay the assessment amount within  
13 30 days following the date of the invoice.

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

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

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

1           (2) any distribution if the State is prohibited from assessing that  
2           distribution by federal law, the U.S. Constitution, or the Vermont Constitution.

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

6           § 9003. ADMINISTRATION OF ASSESSMENT

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

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

16          § 9004. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR  
17          INTEREST

18          (a) Within 60 days after the mailing of a notice of deficiency, denial, or  
19          reduction of a refund claim, or assessment of penalty or interest, a  
20          manufacturer may petition the Commissioner in writing for a determination of  
21          that deficiency, refund, or assessment. The Commissioner shall thereafter

1 grant a hearing upon the matter and notify the manufacturer in writing of his or  
2 her determination concerning the deficiency, penalty, or interest. This is the  
3 exclusive remedy of a manufacturer with respect to these matters.

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

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

11 § 9005. MME DATA TO BE PROVIDED TO COMMISSIONER OF  
12 TAXES

13 (a) The Department of Health shall provide to the Commissioner of Taxes  
14 or designee reports of data available to the Department of Health through the  
15 Vermont Prescription Monitoring System that are necessary to determine the  
16 total amount of morphine milligram equivalents dispensed in this State during  
17 any specified time period, the amount of the dispensed morphine milligram  
18 equivalents attributable to each manufacturer of prescription opioids, and the  
19 ratable share of the total assessment amount owed by each manufacturer of  
20 prescription opioids pursuant to this chapter.



1           (1) \$188,000.00 to the Department for Children and Families to support  
2           and maintain mentoring and afterschool programs for children. It is the intent  
3           of the General Assembly to increase the funding for this purpose to  
4           \$376,000.00 in fiscal year 2020.

5           (2) \$215,000.00 to the Department of Health to support needle exchange  
6           programs and the distribution of naloxone. It is the intent of the General  
7           Assembly to increase the funding for this purpose to \$430,000.00 in fiscal year  
8           2020.

9           (3) \$137,500.00 to the Agency of Human Services to fund two positions  
10          and the operating costs of the Governor’s Opioid Coordination Council to  
11          support its efforts to reduce the demand for opioids, provide adequate and  
12          effective treatment and recovery opportunities, and reduce the supply of  
13          opioids through prevention of opioid abuse and diversion. In fiscal year 2019,  
14          the sum of \$137,500.00 in federal matching funds is also appropriated to the  
15          Agency of Human Services, providing a total funding level of \$275,000.00 for  
16          the Governor’s Opioid Coordination Council.

17          (4) \$400,000.00 to the Department of Corrections for expansion of  
18          medication-assisted treatment in correctional facilities. It is the intent of the  
19          General Assembly to increase the funding for this purpose to \$800,000.00 in  
20          fiscal year 2020.



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

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

16       Sec. 5. EFFECTIVE DATES

17       (a) Secs. 1 (18 V.S.A. § 4754), 3 (18 V.S.A. § 4284), and 4  
18       (appropriations) and this section shall take effect on July 1, 2018.

19       (b) Sec. 2 (32 V.S.A. chapter 221) shall take effect on January 1, 2019,  
20       provided that the Department of Taxes may begin the rulemaking process prior

1 to that date to ensure that on January 1, 2019 it is prepared to administer the  
2 assessment established in Sec. 2.

3 and that after passage the title of the bill be amended to read: “An act relating  
4 to an assessment on manufacturers of prescription opioids dispensed in  
5 Vermont”

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8 (Committee vote: \_\_\_\_\_)

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Senator \_\_\_\_\_

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FOR THE COMMITTEE