

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 922
3 entitled “An act relating to making numerous revenue changes” respectfully
4 reports that it has considered the same and recommends that the Senate
5 propose to the House that the bill be amended as follows:

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

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

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

11 § 4754. SUBSTANCE USE DISORDER PREVENTION, TREATMENT,
12 AND RECOVERY FUND

13 (a) The Substance Use Disorder Prevention, Treatment, and Recovery Fund
14 is established as a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5.
15 Into the Fund shall be deposited all revenue from the ratable shares assessed to
16 manufacturers of prescription opioids dispensed in Vermont pursuant to
17 32 V.S.A. chapter 221.

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

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

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

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

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

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

9 CHAPTER 221. ASSESSMENT ON MANUFACTURERS OF OPIOIDS

10 DISPENSED IN VERMONT

11 § 9001. DEFINITIONS

12 As used in this chapter:

13 (1) “Manufacturer” means any entity that is engaged in the production,
14 preparation, propagation, compounding, conversion, or processing of
15 prescription opioids, or a combination thereof, whether directly or indirectly by
16 extraction from substances of natural origin, independently by means of
17 chemical synthesis, or by a combination of extraction and chemical synthesis,
18 or any entity engaged in the packaging, repackaging, labeling, relabeling, or
19 distribution of prescription opioids. The term does not include a wholesale
20 distributor of prescription opioids, a retailer, or a pharmacist licensed under
21 26 V.S.A. chapter 36.

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

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

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

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

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

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

18 § 9002. ASSESSMENT ON OPIOID MANUFACTURERS

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

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

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

13 (2) The Department of Taxes shall send an invoice to each manufacturer
14 for the assessment amount due pursuant to this section quarterly.
15 Manufacturers of prescription opioids shall pay the assessment amount within
16 30 days following the date of the invoice.

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

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

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

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

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

8 § 9003. ADMINISTRATION OF ASSESSMENT

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

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

18 § 9004. DETERMINATION OF DEFICIENCY, REFUND, PENALTY, OR
19 INTEREST

20 (a) Within 60 days after the mailing of a notice of deficiency, denial, or
21 reduction of a refund claim, or assessment of penalty or interest, a

1 manufacturer may petition the Commissioner in writing for a determination of
2 that deficiency, refund, or assessment. The Commissioner shall thereafter
3 grant a hearing upon the matter and notify the manufacturer in writing of his or
4 her determination concerning the deficiency, penalty, or interest. This is the
5 exclusive remedy of a manufacturer with respect to these matters.

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

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

13 § 9005. MME DATA TO BE PROVIDED TO COMMISSIONER OF

14 TAXES

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

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

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

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

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

12 * * *

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

20 Sec. 2d. FISCAL YEAR 2019 APPROPRIATIONS; LEGISLATIVE

21 INTENT FOR FUTURE FUNDING

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

3 (1) \$188,000.00 to the Department for Children and Families to support
4 and maintain mentoring and afterschool programs for children. It is the intent
5 of the General Assembly to increase the funding for this purpose to
6 \$376,000.00 in fiscal year 2020.

7 (2) \$215,000.00 to the Department of Health to support needle exchange
8 programs and the distribution of naloxone. It is the intent of the General
9 Assembly to increase the funding for this purpose to \$430,000.00 in fiscal year
10 2020.

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

19 (4) \$400,000.00 to the Department of Corrections for expansion of
20 medication-assisted treatment in correctional facilities. It is the intent of the

1 General Assembly to increase the funding for this purpose to \$800,000.00 in
2 fiscal year 2020.

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

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

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

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

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

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

5 § 5824. ADOPTION OF FEDERAL INCOME TAX LAWS

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

10 Sec. 7b. FEDERAL TAX REFORM

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

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

19 “* * *

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

1 (I) served or furnished on the premises of a nonprofit
2 corporation or association organized and operated exclusively for religious or
3 charitable purposes, in furtherance of any of the purposes for which it was
4 organized; with the net proceeds of the food or beverage to be used exclusively
5 for the purposes of the corporation or association; provided, however, if the
6 organization or association is a fire department, as defined in 24 V.S.A.
7 § 1951, or provides emergency medical services or first responder services, as
8 defined under 24 V.S.A. § 2651, it is not necessary that the meal be served on
9 the premises of the organization to qualify as an exclusion from “taxable meal”
10 under this subdivision;”

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

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

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

15 (h)(1) Notwithstanding any provisions in this section, a publicly traded
16 partnership as defined in 26 U.S.C. § 7704(b); that is treated as a partnership
17 for the purposes of the Internal Revenue Code; is exempt from any income tax
18 liability and any compliance and payment obligations under subsection
19 subsections (b) and (c) of this section, if information required by the
20 Commissioner under subdivision (2) of this subsection is provided by the due
21 date of the partnership’s return. ~~This information includes the name, address,~~

1 ~~taxpayer identification number, and annual Vermont source of income greater~~
2 ~~than \$500.00 for each partner who had an interest in the partnership during the~~
3 ~~tax year. This information shall be provided to the Commissioner in an~~
4 ~~electronic format, according to rules or procedures adopted by the~~
5 ~~Commissioner.~~

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

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

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

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

20 (4) The Commissioner may request additional documentation before
21 granting an exemption to a lower-tier pass-through entity. As used in this

1 subsection, a “lower-tier pass-through entity” means a pass-through entity for
2 purposes of the Internal Revenue Code, which can include a partnership, S-
3 Corp, disregarded entity, or limited liability company and which allocates
4 income, directly or indirectly, to a publicly traded partnership. The exemption
5 under subdivision (3) of this subsection shall only apply to income allocated,
6 directly or indirectly, to a publicly traded partnership.

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

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

17 (20) To a publicly traded partnership as defined in subdivision
18 5920(h)(1) of this title and to lower-tier pass-through entities of a publicly
19 traded partnership as defined in subdivision 5920(h)(4) of this title for the
20 purpose of reviewing, granting, or denying exemption requests from the
21 requirements of section 5920 of this title.

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

3 Sec. 31. EFFECTIVE DATES

4 This act shall take effect on passage, except:

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

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

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

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

1 (5) Secs. 14–22 (property tax sections) shall take effect on July 1, 2018
2 and apply to grand lists lodged after that date.

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

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

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13 (Committee vote: _____)

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Senator _____

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FOR THE COMMITTEE