

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 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 \$2,500,000.00, 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 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: After Sec. 13, by inserting a reader assistance heading and new  
18 sections to be Secs. 13a and 13b to read as follows:

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

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

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

13           (2) Publicly traded partnerships shall provide to the Commissioner in an  
14 electronic format, according to rules or procedures adopted by the  
15 Commissioner, an annual information return that includes the name, address,  
16 taxpayer identification number, and other information requested by the  
17 Commissioner for each partner with Vermont source income in excess of  
18 \$500.00.

19           (3) A lower-tier pass-through entity of a publicly traded partnership may  
20 request from the Commissioner an exemption from the compliance and

1 payment obligations specified in subsections (b) and (c) of this section. The  
2 request for the exemption must be in writing and contain:

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

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

8 (4) The Commissioner may request additional documentation before  
9 granting an exemption to a lower-tier pass-through entity. For purposes of this  
10 subsection, a “lower-tier pass-through entity” means a pass-through entity for  
11 purposes of the Internal Revenue Code, which can include a partnership, S-  
12 Corp, disregarded entity, or limited liability company and which allocates  
13 income, directly or indirectly, to a publicly traded partnership. The exemption  
14 under subdivision (3) of this subsection shall only apply to income allocated,  
15 directly or indirectly, to a publicly traded partnership.

16 (5) If granted, the exemption for the lower-tier pass-through entity shall  
17 be effective for three years from the date the exemption is granted. At the end  
18 of the three-year period, the lower-tier pass-through entity of a publicly traded  
19 partnership must submit a new exemption request to continue the exemption.  
20 The Commissioner may revoke the exemption for the lower-tier pass-through  
21 entity if the Commissioner determines that the lower-tier pass-through entity is

1 not satisfying its tax payment and reporting obligations to the State with  
2 respect to income allocated, directly or indirectly, to nonresident partners or  
3 members that are not publicly traded partnerships.

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

5 (20) To a publicly traded partnership as defined in subdivision  
6 5920(h)(1) of this title and to lower-tier pass-through entities of a publicly  
7 traded partnership, as defined in subdivision 5920(h)(4) of this title for the  
8 purpose of reviewing, granting or denying exemption requests from the  
9 requirements of section 5920 of this title.

10 Fifth: In Sec. 31, Effective Dates, after subdivision (1), by inserting a  
11 subdivision (2) to read as follows:

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

15 and by renumbering the remaining subdivisions to be numerically correct

16 Sixth: In Sec. 31, Effective Dates, in renumbered subdivision (4), after the  
17 words “(Green Mountain Care Board billback formula)” by inserting the  
18 following: , 2a (18 V.S.A. § 4754), 2c (18 V.S.A. § 4284), 2d (Substance Use  
19 Disorder Prevention, Treatment, and Recovery Fund appropriations), 7b (tax  
20 reform report)

1        Seventh: In Sec. 31, Effective Dates, in renumbered subdivision (5), after  
2        the words “(property tax sections)” by striking out “and 30(1) (repeal of land  
3        use change tax lien subordination)”

4        Eighth: In Sec. 31, Effective Dates, after renumbered subdivision (5), by  
5        inserting subdivisions (6) and (7) to read as follows:

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

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

12

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14        (Committee vote: \_\_\_\_\_)

15

\_\_\_\_\_

16

Senator \_\_\_\_\_

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FOR THE COMMITTEE