

House Calendar

Tuesday, May 14, 2019

126th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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ACTION CALENDAR

Third Reading

H. 547

An act relating to approval of an amendment to the charter of the City of Montpelier

Favorable with Amendment

S. 37

An act relating to medical monitoring

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Medical Monitoring * * *

Sec. 1. 12 V.S.A. chapter 219 is added to read:

CHAPTER 219. MEDICAL MONITORING

§ 7201. DEFINITIONS

As used in this chapter:

(1) “Disease” means any disease, illness, ailment, or adverse physiological or chemical change linked to exposure to a toxic substance.

(2) “Establishment” means any premises used for the purpose of carrying on or exercising any trade, business, profession, vocation, commercial or charitable activity, or governmental function.

(3) “Exposure” means ingestion, inhalation, or absorption through any body surface.

(4) “Facility” means all contiguous land, structures, other appurtenances, and improvements on the land where toxic substances are manufactured, processed, used, or stored. A facility may consist of several treatment, storage, or disposal operational units. A facility shall not include land, structures, other appurtenances, and improvements on the land owned by a municipality.

(5) “Large facility” means a facility:

(A) where an activity within a Standard Industrial Classification code of 10 through 14, 20 through 39, 40 through 42, 44 through 46, or 49 is conducted or was conducted; and

(B)(i) where 10 or more full-time employees have been employed at any one time; or

(ii) that is owned or operated by a person who, when all facilities or establishments that the person owns or controls are aggregated, has employed 500 employees at any one time.

(6) “Medical monitoring” means a program of medical tests or procedures for the purpose of early detection of signs or symptoms of a latent disease resulting from exposure.

(7) “Operator” means a person who manages, conducts, or directs the operations of a facility.

(8) “Owner” means a person who owns or controls a facility. “Owner” shall not mean a person who without participating in the management of the facility holds indicia of ownership primarily to protect a security interest.

(9) “Person” means any individual; partnership; company; corporation; association; unincorporated association; joint venture; trust; municipality; the State of Vermont or any agency, department, or subdivision of the State; federal agency; or any other legal or commercial entity.

(10) “Release” means any act or omission that allows a toxic substance to enter the air, land, surface water, or groundwater.

(11) “Tortious conduct” means negligence, trespass, nuisance, product liability, or common law liability for ultra-hazardous or abnormally dangerous activity.

(12)(A) “Toxic substance” means any substance, mixture, or compound that may cause personal injury or disease to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound;

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159; or

(vi) exposure to the substance is shown by expert testimony to increase the risk of developing a latent disease.

(B) "Toxic substance" shall not mean:

(i) a pesticide when applied consistent with good practice; in conformity with federal, State, and local laws, rules, and regulations; and according to the manufacturer's instructions; or

(ii) ammunition or components thereof, firearms, air rifles, discharge of firearms or air rifles, or hunting or fishing equipment or components thereof.

§ 7202. MEDICAL MONITORING FOR EXPOSURE TO TOXIC

SUBSTANCES

(a) A person without a present injury or disease shall have a cause of action for the remedy of medical monitoring against a person who is the owner or operator of a large facility from which a toxic substance was released if all of the following are demonstrated by a preponderance of the evidence:

(1) The person was exposed to the toxic substance as a result of tortious conduct by the owner or operator, or persons under the control of the owner or operator, who released the toxic substance.

(2) As a proximate result of the exposure, the person has a greater risk of contracting a latent disease.

(3) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if, shown by expert testimony, a physician would prescribe diagnostic testing because the person's increased risk of contracting the disease due to the exposure makes it reasonably necessary to undergo diagnostic testing different from what would normally be prescribed in the absence of the exposure.

(4) Medical tests or procedures exist to detect the latent disease.

(b) If the cost of medical monitoring is awarded, a court shall order the defendant found liable to pay the award to a court-supervised medical monitoring program administered by one or more appropriate health professionals, including professionals with expertise in exposure to toxic substances or expertise with treating or monitoring the relevant latent disease or diseases.

(c) Upon an award of medical monitoring under subsection (b) of this section, the court shall award to the plaintiff reasonable attorney's fees and other litigation costs reasonably incurred.

(d)(1) This chapter shall be the exclusive remedy for a person without a present injury to bring a cause of action to seek medical monitoring due to exposure to toxic substance.

(2) Except as provided under subdivision (1) of this subsection, nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy or defense available under statute or common law, including the right of any person to seek to recover for damages related to the manifestation of a latent disease. The remedies and defenses in this chapter are in addition to those provided by existing statutory or common law.

(e) This section shall not increase the rights and remedies available under 21 V.S.A. chapter 9 to an employee who suffers a personal injury by accident arising out of and in the course of employment, provided that 21 V.S.A. chapter 9 shall not limit the right of a person who has not suffered a personal injury by accident arising out of and in the course of employment to bring a cause of action for medical monitoring.

Sec. 2. APPLICATION TO EXPOSURES PRIOR TO EFFECTIVE DATE

Notwithstanding 1 V.S.A. § 214, the right of a person to bring a cause of action for medical monitoring under 12 V.S.A. chapter 219 shall apply retroactively to an exposure to a toxic substance that was discovered by the person in the six years prior to July 1, 2019, irrespective of any statute of limitations in effect at the time of the discovery of the exposure.

* * * Hazardous Material Releases * * *

Sec. 3. 10 V.S.A. § 6615 is amended to read:

§ 6615. LIABILITY

(a) Subject only to the defenses set forth in subsections (d) and (e) of this section, the following persons shall be liable for abating a release or threatened release of hazardous material and the costs of investigation, removal, and

remedial actions incurred by the State that are necessary to protect the public health or the environment:

(1) the owner or operator of a facility, or both;

(2) any person who at the time of release or threatened release of any hazardous material owned or operated any facility at which such hazardous materials were disposed of;

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous materials owned or possessed by such person, by any other person or entity, at any facility owned or operated by another person or entity and containing such hazardous materials; ~~and~~

(4) any person who accepts or accepted any hazardous materials for transport to disposal or treatment facilities selected by such persons, from which there is a release, or a threatened release of hazardous materials ~~shall be liable for;~~ and

~~(A) abating such release or threatened release; and~~

~~(B) costs of investigation, removal, and remedial actions incurred by the State which are necessary to protect the public health or the environment.~~

(5) any person who manufactured for commercial sale a hazardous material and who knew or should have known that the material presented a threat of harm to human health or the natural environment.

* * *

(d)(1) There shall be no liability under this section for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of hazardous material and the resulting damages were caused solely by any of the following:

(A) An act of God.

(B) An act of war.

(C) An act or omission of a third party other than an employee or agent of the defendant, or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant. If the sole contractual arrangement arises from a published tariff and acceptance for carriage by a common carrier by rail, for purposes of this section, there shall be considered to be no contractual relationship at all. This subdivision (d)(1)(C) shall only serve as a defense if the defendant establishes by a preponderance of the evidence:

(i) that the defendant exercised due care with respect to the hazardous material concerned, taking into consideration the characteristics of that hazardous material, in light of all relevant facts and circumstances; and

(ii) that the defendant took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeably result from those acts or omissions.

(D) Any combination of subdivisions (A)-(C) of this subdivision (1).

* * *

(5) A person shall not be liable under subdivision (a)(5) of this section provided that the person demonstrates that he or she provided an adequate warning of the harm posed by the hazardous material known or which should have been known at the time the hazardous material was manufactured.

* * *

(i) In an action brought by the Secretary under this section, a responsible person may implead, or in a separate action a responsible person may sue, another responsible person or persons and may obtain contribution or indemnification, except that a person who is solely liable pursuant to subdivision (a)(5) of this section shall not be able to implead or to sue a person pursuant to this subsection. A responsible person who has resolved its liability to the State under this section through a judicially approved settlement and a secured lender or fiduciary with whom the Secretary has entered into an agreement under subsection (h) of this section shall not be liable for claims for contribution or indemnification regarding matters addressed in the judicially approved settlement or in the agreement. Likewise, a person who has obtained a certificate of completion pursuant to subchapter 3 of this chapter shall not be liable for claims for contribution or indemnification regarding releases or threatened releases described in the approved corrective action plan, as amended. Such a settlement or agreement or certificate of completion does not discharge any other potentially responsible person unless its terms so provide, but it reduces the potential liability of other potentially responsible persons by the relief agreed upon. A secured lender or fiduciary with whom the Secretary has entered into an agreement under subsection (h) of this section may not seek contribution or indemnification on the basis of such agreement from any other potentially responsible person. In any action for contribution or indemnification, the rights of any person who has resolved its liability to the State shall be subordinate to the rights of the State.

Sec. 4. APPLICATION OF LIABILITY

Notwithstanding any contrary provision of 1 V.S.A. § 214, the amendment contained in 10 V.S.A. § 6615(a)(5) shall apply to any relevant release of a hazardous material regardless of the date of the relevant release, including releases that occurred prior to the effective date of 10 V.S.A. § 6615(a)(5).

* * * Effective Date * * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee vote: 10-0-1)

(For text see Senate Journal March 13, 2019)

Senate Proposal of Amendment

H. 460

An act relating to sealing and expungement of criminal history records

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

Sec. 1. 13 V.S.A. § 2658 is amended to read:

§ 2658. ~~PROSTITUTION CONVICTION;~~ MOTION TO VACATE BY VICTIM OF HUMAN TRAFFICKING

(a) As used in this section:

(1) “Qualifying crime” means a criminal offense in this State that is not listed in 33 V.S.A. § 5204(a).

(2) ~~“victim~~ Victim of human trafficking” means:

~~(1)(A)~~ a victim of a violation of section 2652 or 2653 of this title;
or

~~(2)(B)~~ “a victim of a severe form of trafficking” as defined by 22 U.S.C. § 7102(14) (federal Trafficking Victims Protection Act).

(b) A person convicted of ~~prostitution in violation of section 2632 of this title~~ a qualifying crime may file a motion to vacate the conviction if it was obtained as a result of the person having been a victim of human trafficking. The motion shall be in writing, describe the supporting evidence with particularity, and include copies of any documents showing that the moving party is entitled to relief under this section.

(c) The court shall hold a hearing on the motion, provided that the court may dismiss a motion without a hearing if the court finds that the motion fails to assert a claim for which relief may be granted.

(d)(1) The court shall grant the motion if it finds by a preponderance of the evidence that:

(A) the moving party was convicted of ~~prostitution in violation of section 2632 of this title~~ a qualifying crime; and

(B) the conviction was obtained as a result of the moving party's having been a victim of human trafficking.

(2) If the motion is granted, the court shall vacate the conviction, strike the adjudication of guilt, and expunge the record of the criminal proceedings. The court shall issue an order to expunge, or redact the moving party's name from, all records and files related to the moving party's arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation for the offense.

(e) Official documentation of a person's status as a victim of human trafficking provided by a federal, state, or local government agency shall create a presumption that the person's ~~prostitution~~ conviction was obtained as a result of having been a victim of human trafficking. Such documentation shall not be required to grant a motion under this section.

Sec. 2. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

(1) "Court" means the Criminal Division of the Superior Court.

(2) "Criminal history record" means all information documenting an individual's contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(3) "Predicate offense" means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of alcohol or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. "Predicate offense" shall not include misdemeanor possession of marijuana, ~~or~~ a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a).

(4) "Qualifying crime" means:

(A) a misdemeanor offense that is not:

- (i) a listed crime as defined in subdivision 5301(7) of this title;
 - (ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;
 - (iii) an offense involving violation of a protection order in violation of section 1030 of this title;
 - (iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or
 - (v) a predicate offense;
- (B) a violation of subsection 3701(a) of this title related to criminal mischief;
- (C) a violation of section 2501 of this title related to grand larceny;
- (D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title; ~~or~~
- (E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;
- (F) a violation of section 1802 of this title related to uttering a forged or counterfeited instrument;
- (G) a violation of 18 V.S.A. § 4230(a) related to possession of marijuana;
- (H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;
- (I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;
- (J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;
- (K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;
- (L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;
- (M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;
- (N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;
- (O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or

(P) any offense for which a person has been granted an unconditional pardon from the Governor.

Sec. 3. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE

(a)(1) A person may file a petition with the court requesting expungement or sealing of the criminal history record related to the conviction if:

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence; or

(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense;

(C) pursuant to the conditions set forth in subsection (g) of this section, the person was convicted of a violation of 23 V.S.A. § 1201(a) related to operating under the influence of alcohol or other substance, excluding a violation of that section resulting in serious bodily injury or death to any person other than the operator, or related to operating a school bus with a blood alcohol concentration of 0.02 or more or operating a commercial vehicle with a blood alcohol concentration of 0.04 or more; or

(D) pursuant to the conditions set forth in subsection (h) of this section, the person was convicted under 1201(c)(3)(A) of a violation of subdivision 1201(a) of this title related to burglary when the person was 25 years of age or younger, and the person did not carry a dangerous or deadly weapon during commission of the offense.

(2) The State's Attorney or Attorney General shall be the respondent in the matter.

(3) The court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the court, and the court shall issue the petitioner a ~~certificate~~ an order of expungement and provide notice of the order in accordance with this section.

(4) This section shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal or expunge a record of a conviction for a felony offense committed in a motor vehicle as defined in 23 V.S.A. § 4.

* * *

(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only

petitions to seal may be considered or granted by the court. This subsection shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be sealed in accordance with section 7607 of this title if the following conditions are met:

(1) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 10 years previously.

(2) At the time of the filing of the petition:

(A) the person has only one conviction of a violation of 23 V.S.A. § 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and

(B) the person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of a violation of 23 V.S.A. § 1201(a).

(3) Any restitution ordered by the court has been paid in full.

(4) The court finds that sealing of the criminal history record serves the interests of justice.

(h) For petitions filed pursuant to subdivision (a)(1)(D) of this section, unless the court finds that expungement or sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged or sealed in accordance with section 7606 or 7607 of this title if the following conditions are met:

(1) At least 15 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction, or the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 15 years previously.

(2) The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted of a violation of subdivision 1201(c)(3)(A) of this title.

(3) Any restitution ordered by the court has been paid in full.

(4) The court finds that expungement or sealing of the criminal history record serves the interests of justice.

Sec. 4. 13 V.S.A. § 7603 is amended to read:

§ 7603. EXPUNGEMENT AND SEALING OF RECORD, NO
CONVICTION; PROCEDURE

(a) Unless either party objects in the interests of justice, the court shall issue an order sealing the criminal history record related to the citation or arrest of a person:

(1) ~~12 months after the dismissal~~ within 60 days after the final disposition of the case if:

(A) the court does not make a determination of probable cause at the time of arraignment ~~or dismisses the charge at the time of arraignment;~~ or

(B) the charge is dismissed before trial without prejudice; or

(2) at any time if the prosecuting attorney and the defendant stipulate that the court may grant the petition to seal the record.

(b) If a party objects to sealing or expunging a record pursuant to this section, the court shall schedule a hearing to determine if sealing or expunging the record serves the interests of justice. The defendant and the prosecuting attorney shall be the only parties in the matter.

(c), (d) [Repealed.]

(e) Unless either party objects in the interests of justice, the court shall issue an order expunging a criminal history record related to the citation or arrest of a person:

(1) ~~not more than 45 days after~~ within 60 days after the final disposition of the case if:

(A) ~~acquittal~~ if the defendant is acquitted of the charges; or

(B) ~~dismissal~~ if the charge is dismissed with prejudice ~~before trial;~~

(2) at any time if the prosecuting attorney and the defendant stipulate that the court may grant the petition to expunge the record.

(f) Unless either party objects in the interests of justice, the court shall issue an order to expunge a record sealed pursuant to subsection (a) or (g) of this section ~~after the statute of limitations has expired~~ eight years after the date on which the record was sealed.

(g) A person may file a petition with the court requesting sealing or expungement of a criminal history record related to the citation or arrest of the person at any time. The court shall grant the petition and issue an order sealing or expunging the record if it finds that sealing or expunging the record

serves the interests of justice, or if the parties stipulate to sealing or expungement of the record.

(h) The court may expunge any records that were sealed pursuant to this section prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subsection, the court shall provide to the State's Attorney's office that prosecuted the case written notice of its intent to expunge the record.

Sec. 5. 13 V.S.A. § 7606 is amended to read:

§ 7606. EFFECT OF EXPUNGEMENT

~~(a) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. Order and notice. Upon finding that the requirements for expungement have been met, the court shall issue an order that shall include provisions that its effect is to annul the record of the arrest, conviction, and sentence and that such person shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.~~

(b) Effect.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged.

(3) The response to an inquiry from any person regarding an expunged record shall be that "NO CRIMINAL RECORD EXISTS."

(4) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

~~(c) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense~~ Process.

(1) The court shall remove the expunged offense from any accessible database that it maintains.

(2) Until all charges on a docket are expunged, the case file shall remain publicly accessible.

(3) When all charges on a docket have been expunged, the case file shall be destroyed pursuant to policies established by the Court Administrator.

(d) Special index.

(1) The court shall keep a special index of cases that have been expunged together with the expungement order ~~and the certificate issued pursuant to this chapter.~~ The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Inspection of the expungement order ~~and the certificate~~ may be permitted only upon petition by the person who is the subject of the case. The ~~Administrative Judge~~ Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

~~(4) All other court documents in a case that are subject to an expungement order shall be destroyed [Repealed].~~

(5) The Court Administrator shall establish policies for implementing this subsection.

~~(e) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that "NO RECORD EXISTS."~~

Sec. 6. 13 V.S.A. § 7607 is amended to read:

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. ~~The court shall issue the person a certificate stating that such person's behavior after the conviction has warranted the issuance of the order~~ and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the sealing to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to seal. The VCIC shall provide notice of the sealing to the Federal Bureau of Investigation's National Crime Information Center.

(b) Effect.

(1) Except as provided in subdivision (c) of this section, upon entry of a sealing order, the order shall be legally effective immediately and the person whose record is sealed shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense.

(2) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been sealed.

(3) The response to an inquiry from any member of the public regarding a sealed record shall be that "NO CRIMINAL RECORD EXISTS."

(c) Exceptions. Notwithstanding any other provision of law or a sealing order:

(1) An entity that possesses a sealed record may continue to use it for any litigation or claim arising out of the same incident or occurrence or involving the same defendant.

(2) ~~An entity~~ A criminal justice agency as defined in 20 V.S.A. § 2056a may use the criminal history record sealed in accordance with section 7602 or 7603 of this title, regarding a person who was cited or arrested, for future criminal investigations or prosecutions without limitation for criminal justice purposes as defined in 20 V.S.A. § 2056a. A sealed record of a prior violation of 23 V.S.A. § 1201(a) shall be admissible as a predicate offense for the purpose of imposing an enhanced penalty for a subsequent violation of that section, in accordance with the provisions of 23 V.S.A. § 1210.

(d) ~~Upon receiving a sealing order, an entity shall:~~ Process.

(1) ~~seal the investigation or prosecution record;~~ The court shall bar viewing of the sealed offense in any accessible database that it maintains.

(2) enter a copy of the sealing order into the record; Until all charges on a docket have been sealed, the case file shall remain publicly accessible.

(3) flag the record as "SEALED" to prevent inadvertent disclosure of sealed information; and When all charges on a docket have been sealed, the case file shall become exempt from public access.

(4) upon receiving an inquiry from any person regarding a sealed record, respond that "NO RECORD EXISTS."

(e) Special index.

(1) The court shall keep a special index of cases that have been sealed together with the sealing order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the sealing.

(2) The special index and related documents specified in subdivision (1) of this subsection shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) Except as provided in subsection (c) of this section, inspection of the sealing order may be permitted only upon petition by the person who is the subject of the case. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) The Court Administrator shall establish policies for implementing this subsection.

Sec. 7. 13 V.S.A. § 7610 is added to read:

§ 7610. CRIMINAL HISTORY RECORD SEALING SPECIAL FUND

There is established the Criminal History Record Sealing Special Fund, which shall be managed in accordance with 32 V.S.A. chapter 7, subchapter 5. Fees collected pursuant to 32 V.S.A. § 1431(e) for the filing of a petition to seal a criminal history record of a violation of 23 V.S.A. § 1201(a) shall be deposited into and credited to this Fund. This Fund shall be available to the Office of the Court Administrator, the Department of State's Attorneys and Sheriffs, the Department of Motor Vehicles, and the Vermont Crime Information Center to offset the administrative costs of sealing such records. Balances in the Fund at the end of the fiscal year shall be carried forward and remain in the Fund.

Sec. 8. 23 V.S.A. § 1205 is amended to read:

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(e) Effective date of suspension.

(1) First offense. Unless a hearing is requested, a suspension under this section of the license of a person who the officer has reasonable grounds to believe violated section 1201 of this title a first time becomes effective on the 11th day after the person receives notice or is deemed to have received notice under subsection (c) of this section. If a hearing is requested, a suspension shall not become effective unless the court orders a suspension after hearing as provided in this section.

(2) Second or subsequent offense. A suspension of a person's license under this section shall become effective on the 11th day after the person receives notice or is deemed to have received notice under subsection (c) of this section if:

(A) the officer has reasonable grounds to believe the person has violated section 1201 of this title; and

(B) ~~after July 1, 1991~~ within the last 20 years, the person has:

(i) had his or her operator's license suspended pursuant to this section; or

(ii) been convicted of a violation of section 1201 of this title.

* * *

Sec. 9. 23 V.S.A. § 1210 is amended to read:

§ 1210. PENALTIES

(a) Screening. Before sentencing a defendant under this section, the ~~Court~~ court may order that the defendant submit to an alcohol assessment screening. Such a screening report may be considered at sentencing in the same manner as a presentence report. At sentencing, the defendant may present relevant evidence, including the results of any independent alcohol assessment ~~which~~ that was conducted at the person's own expense. Evidence regarding any such screening or an alcohol assessment performed at the expense of the defendant shall not be admissible for any other purpose without the defendant's consent.

(b) First offense. A person who violates section 1201 of this title may be fined not more than \$750.00, or imprisoned for not more than two years, or both.

(c) Second offense. A person convicted of violating section 1201 of this

title who has been convicted of another violation of that section within the last 20 years shall be fined not more than \$1,500.00 or imprisoned not more than two years, or both. At least 200 hours of community service shall be performed, or 60 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.

(d) Third offense. A person convicted of violating section 1201 of this title who has previously been convicted two times of a violation of that section, including at least one violation within the last 20 years, shall be fined not more than \$2,500.00 or imprisoned not more than five years, or both. At least 96 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed. The ~~Court~~ court may impose a sentence that does not include a term of imprisonment or that does not require that the 96 hours of imprisonment be served consecutively only if the ~~Court~~ court makes written findings on the record that such a sentence will serve the interests of justice and public safety.

(e)(1) Fourth or subsequent offense. A person convicted of violating section 1201 of this title who has previously been convicted three or more times of a violation of that section, including at least one violation within the last 20 years, shall be fined not more than \$5,000.00 or imprisoned not more than 10 years, or both. At least 192 consecutive hours of the sentence of imprisonment shall be served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol treatment facility pursuant to sentence if the program is successfully completed. The ~~Court~~ court shall not impose a sentence that does not include a term of imprisonment unless the ~~Court~~ court makes written findings on the record that there are compelling reasons why such a sentence will serve the interests of justice and public safety.

(2) The Department of Corrections shall provide alcohol and substance abuse treatment, when appropriate, to any person convicted of a violation of this subsection.

* * *

Sec. 10. 32 V.S.A. § 1431 is amended to read:

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions ~~and motions for sealing or expungement in the Criminal Division pursuant to 13 V.S.A. § 7602,~~ or motions to reopen existing cases in the Probate Division of the Superior Court, there shall be paid to the clerk of the court for the benefit of the State a fee of \$90.00 except for small claims actions and estates. A filing fee of \$90.00 shall be paid to the clerk of the court for a civil petition for minor settlements. The \$90.00 filing fee shall apply for a motion to seal a criminal history record of a violation of 23 V.S.A. § 1201(a) pursuant to 13 V.S.A. § 7602(a)(1)(C), but shall not apply for any other motion to seal or expunge a criminal history record pursuant to 13 V.S.A. § 7602.

* * *

Sec. 11. VERMONT SENTENCING COMMISSION; COUNCIL OF STATE GOVERNMENTS; JUSTICE OVERSIGHT COMMITTEE; REPORTS ON EXPUNGEMENT AND SEALING

During the 2019 legislative interim:

(1) the Vermont Sentencing Commission, established under 13 V.S.A. § 5451, shall conduct a comprehensive assessment of the statutes governing the expungement and sealing of criminal history records in Vermont, including reviewing the crimes eligible for expungement or sealing, the process by which criminal history records are expunged or sealed, the mechanism by which expunged or sealed records are indexed, and the effect of sealing or expungement. As a part of its assessment, the Commission shall evaluate all Vermont civil offenses and the crime of negligent operation of a motor vehicle under 23 V.S.A. § 1091(a) for their suitability for expungement or sealing eligibility.

(2) on or before November 1, 2019, the Commission shall report to the Joint Legislative Justice Oversight Committee and the House and Senate Committees on Judiciary with recommendations regarding:

(A) improvements to the expungement and sealing process; and

(B) any additional crimes or civil offenses appropriate for expungement or sealing eligibility.

(3) the Joint Legislative Justice Oversight Committee, working with the Council of State Governments Justice Center, shall conduct a review of the Vermont statutes governing expungement and sealing of criminal history records and develop a comprehensive policy to help individuals with a

criminal record overcome barriers to employment and licensing through clearing their records. Any recommendations for reform of the expungement and sealing chapter and other relevant statutes shall be introduced in the form of proposed legislation for the 2020 legislative session.

Sec. 12. SURCHARGES STUDY GROUP

During the 2019 legislative interim, the Vermont Center for Crime Victim Services, the Office of the Court Administrator, Vermont Legal Aid, and a representative of the special investigative units created pursuant to 24 V.S.A. § 1940 shall examine the issue of requiring a petitioner to pay outstanding surcharges prior to a court granting an expungement or sealing petition. On or before October 15, 2019, the group shall report to the Joint Legislative Justice Oversight Committee with its findings and any recommendations for legislative action.

Sec. 13. REVIEW OF PROSTITUTION AND HUMAN TRAFFICKING LAWS

The Attorney General's Office, the Center for Crime Victim Services, and the Network Against Domestic and Sexual Violence, in consultation with other entities with expertise in these issues, shall review 13 V.S.A. chapter 59, subchapter 2 (prostitution) and 13 V.S.A. chapter 60 (human trafficking), 13 V.S.A. § 1311 (unlawful sheltering; aiding a runaway), and 33 V.S.A. § 5304 (designated shelters for runaway children) for the purpose of making recommendations to the General Assembly regarding modernization of these laws and employment of best practices in addressing the issue of prostitution and human trafficking. The group shall also make a recommendation as to whether 13 V.S.A. § 2658 (motion to vacate by victim of human trafficking) should be amended to allow a person to file a motion to vacate a conviction for any criminal offense if it was obtained as a result of the moving party's having been a victim of human trafficking. The group shall report its recommendations to the General Assembly not later than October 15, 2019. Recommendations may be made through proposed legislation and do not require a report.

Sec. 14. EFFECTIVE DATES

This act shall take effect on July 1, 2019, except that Sec. 3 (expungement and sealing of record; postconviction; procedure) shall take effect on October 1, 2019.

(For text see House Journal March 21, 2019)

H. 543

An act relating to capital construction and State bonding

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

* * * Capital Appropriations * * *

Sec. 1. LEGISLATIVE INTENT

(a) It is the intent of the General Assembly that of the \$123,180,000.00 authorized in this act, not more than \$62,125,628.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

(b) It is the intent of the General Assembly that in the second year of the biennium, any amendments to the appropriations or authorities granted in this act shall take the form of a Capital Construction and State Bonding Adjustment Bill. It is the intent of the General Assembly that unless otherwise indicated, all appropriations in this act are subject to capital budget adjustment.

Sec. 2. STATE BUILDINGS

(a) The following sums are appropriated to the Department of Buildings and General Services (BGS), and the Commissioner is authorized to direct funds appropriated in this section to the projects contained in this section; however, no project shall be canceled unless the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions are notified before that action is taken.

(b) The following sums are appropriated in FY 2020:

(1) Statewide, BGS engineering and architectural project costs:
\$3,583,423.00

(2) Statewide, physical security enhancements: \$275,000.00

(3) Statewide, major maintenance: \$6,500,000.00

(4) Statewide, planning, use, and contingency: \$500,000.00

(5) Burlington, 108 Cherry Street, parking garage repairs:
\$3,000,000.00

(6) Montpelier, 120 State Street, stair towers and rear entry:
\$3,500,000.00

(7) Montpelier, State House, new carpeting or carpeting repair near the Governor's ceremonial office, the Cedar Creek Room, and the Card Room:
\$45,000.00

<u>(8) Montpelier, Department of Labor, facilities modernization project:</u>	<u>\$120,000.00</u>
<u>(9) Newport, Northeast State Correctional Facility, direct digital HVAC control system replacement:</u>	<u>\$900,000.00</u>
<u>(10) Rutland, Asa Bloomer, major renovation:</u>	<u>\$250,000.00</u>
<u>(11) Southern State Correctional Facility, door control project:</u>	<u>\$1,450,000.00</u>

(c) The following sums are appropriated in FY 2021:

<u>(1) Statewide, BGS engineering and architectural project costs:</u>	<u>\$3,735,000.00</u>
<u>(2) Statewide, physical security enhancements:</u>	<u>\$275,000.00</u>
<u>(3) Statewide, major maintenance:</u>	<u>\$7,328,313.00</u>
<u>(4) Statewide, planning, use, and contingency:</u>	<u>\$500,000.00</u>
<u>(5) Burlington, 108 Cherry Street, parking garage repairs:</u>	<u>\$7,500,000.00</u>
<u>(6) Montpelier, State House, historical restorations:</u>	<u>\$75,000.00</u>
<u>(7) Montpelier, Department of Labor, facilities modernization project:</u>	<u>\$300,000.00</u>
<u>(8) Newport, Northeast State Correctional Facility, direct digital HVAC control system replacement:</u>	<u>\$900,000.00</u>
<u>(9) Rutland, Asa Bloomer, major renovation:</u>	<u>\$250,000.00</u>
<u>(10) Southern State Correctional Facility, door control project:</u>	<u>\$1,000,000.00</u>

<u>Appropriation – FY 2020</u>	<u>\$20,123,423.00</u>
<u>Appropriation – FY 2021</u>	<u>\$21,863,313.00</u>
<u>Total Appropriation – Section 2</u>	<u>\$41,986,736.00</u>

Sec. 3. HUMAN SERVICES

(a) The following sums are appropriated in FY 2020 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

<u>(1) Statewide, secure residential recovery facility, replacement, land acquisition, design, permitting, and construction documents:</u>	<u>\$3,000,000.00</u>
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(2) Statewide, correctional facility, life safety and security needs and enhancements: \$250,000.00

(3) Serenity House, residential treatment center, completion of addition and renovations: \$100,000.00

(b) The sum of \$4,750,000.00 is appropriated in FY 2020 to the Agency of Human Services for the Department of Vermont Health Access, Integrated Eligibility and Enrollment system.

(c) The following sums are appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Human Services for the following projects described in this subsection:

(1) Statewide, secure residential recovery facility, replacement, land acquisition, design, permitting, and construction: \$1,500,000.00

(2) Statewide, correctional facility, life safety and security needs and enhancements: \$225,000.00

(3) Statewide, correctional facility, justice reinvestment II: \$250,000.00

(d) The sum of \$3,900,000.00 is appropriated in FY 2021 to the Agency of Human Services for the Department of Vermont Health Access, Integrated Eligibility and Enrollment system.

(e) For the project described in subsection (b) of this section:

(1) Installments. The funds shall be appropriated in three installments, as follows:

(A) \$3,250,000.00 upon passage of the act, which shall include \$250,000 to be used as described in Sec. 32 of this act (First Installment);

(B) \$750,000.00 following Joint Fiscal Committee approval to release the funds at its September meeting (Second Installment); and

(C) \$750,000.00 following Joint Fiscal Committee approval to release the funds at its November meeting (Third Installment).

(2) Reports. On or before September 1 and November 1, the Secretary of Human Services and the Secretary of Digital Services shall submit a report on the status of the project. The September and November reports shall include status updates on the projects scheduled for completion in calendar year 2019, as described in the memo from the IT Consultant for the Joint Fiscal Office to the Legislative Joint Fiscal Office, dated April 5, 2019. The September and November reports shall be submitted to the Chair and Vice Chair of the Joint Information Technology Oversight Committee and the Chairs of the House Committees on Corrections and Institutions and on Health

Care and the Senate Committees on Health and Welfare and on Institutions. A copy of each report shall also be submitted to the Joint Fiscal Committee.

(3) Recommendations and approvals.

(A) Prior to the September meeting of the Joint Fiscal Committee, the Chair and Vice Chairs of the Joint Information Technology Oversight Committee and the Chairs of the House Committees on Corrections and Institutions and on Health Care and the Senate Committees on Health and Welfare and on Institutions shall provide recommendations to the Joint Fiscal Committee on whether to approve the Second Installment. The Joint Fiscal Committee at its September meeting shall review the report described in subdivision (2) of this subsection (f), consider the recommendations described in this subdivision (3)(A), and vote on whether to approve the Second Installment.

(B) Prior to the November meeting of the Joint Fiscal Committee, the Chair and Vice Chairs of the Joint Information Technology Oversight Committee, the Chairs of the House Committees on Corrections and Institutions and on Health Care, and the Senate Committees on Health and Welfare and on Institutions, shall provide recommendations to the Joint Fiscal Committee on whether to approve the Third Installment. The Joint Fiscal Committee shall review at its November meeting the report described in subdivision (2) of this subsection (f), consider the recommendations described in this subdivision (3)(B), and vote on whether to approve the Third Installment.

<u>Appropriation – FY 2020</u>	<u>\$8,828,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$5,875,000.00</u>
<u>Total Appropriation – Section 3</u>	<u>\$14,703,000.00</u>

Sec. 4. JUDICIARY

The sum of \$1,496,398.00 is appropriated in FY 2020 to the Judiciary for the case management IT system.

<u>Appropriation – FY 2020</u>	<u>\$1,496,398.00</u>
<u>Total Appropriation – Section 4</u>	<u>\$1,496,398.00</u>

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2020 to the Department of Buildings and General Services for the Agency of Commerce and Community Development:

<u>(1) Major maintenance at historic sites statewide:</u>	<u>\$250,000.00</u>
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<u>(2) Schooner Lois McClure, repairs and upgrades:</u>	<u>\$50,000.00</u>
<u>(3) Highgate Native American Cemetery, slope stabilization, Monument Road:</u>	<u>\$100,000.00</u>
<u>(4) Grand Isle, maintenance at historic county courthouse:</u>	<u>\$50,000.00</u>

(b) The following sums are appropriated in FY 2020 to the Agency of Commerce and Community Development for the following projects described in this subsection:

<u>(1) Underwater preserves:</u>	<u>\$25,000.00</u>
<u>(2) Placement and replacement of roadside historic markers:</u>	<u>\$25,000.00</u>

(c) The sum of \$250,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at statewide historic sites.

(d) The following sums are appropriated in FY 2021 to the Agency of Commerce and Community Development for the following projects described in this subsection:

<u>(1) Underwater preserves:</u>	<u>\$25,000.00</u>
<u>(2) Placement and replacement of roadside historic markers:</u>	<u>\$25,000.00</u>

<u>Appropriation – FY 2020</u>	<u>\$500,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$300,000.00</u>
<u>Total Appropriation – Section 5</u>	<u>\$800,000.00</u>

Sec. 6. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2020 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made

available from the National Endowment for the Arts, provided that all capital funds are made available to the Cultural Facilities Grant Program:

\$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program:

\$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services):

\$100,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education):

\$100,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program:

\$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program:

\$200,000.00

(9) To the Enhanced 911 Board for the Enhanced 911 Compliance Grants Program:

\$400,000.00

(b) The following sums are appropriated in FY 2021 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program:

\$200,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program:

\$200,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program:

\$200,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program:

\$200,000.00

(5) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Human Services):

\$100,000.00

(6) To the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program (Education):

\$100,000.00

(7) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$200,000.00

(8) To the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$200,000.00

(c) It is the intent of the General Assembly that the Enhanced 911 Compliance Grants Program shall cease to exist on June 30, 2021.

Appropriation – FY 2020 \$1,800,000.00

Appropriation – FY 2021 \$1,400,000.00

Total Appropriation – Section 6 \$3,200,000.00

Sec. 7. EDUCATION

(a) The sum of \$50,000.00 is appropriated in FY 2020 to the Agency of Education for emergency aid for school construction.

(b) The sum of \$50,000.00 is appropriated in FY 2021 to the Agency of Education for the project described in subsection (a) of this section.

Appropriation – FY 2020 \$50,000.00

Appropriation – FY 2021 \$50,000.00

Total Appropriation – Section 7 \$100,000.00

Sec. 8. UNIVERSITY OF VERMONT

(a) The sum of \$1,300,000.00 is appropriated in FY 2020 to the University of Vermont for construction, renovation, and major maintenance.

(b) The sum of \$1,000,000.00 is appropriated in FY 2021 to the University of Vermont for the projects described in subsection (a) of this section.

(c) The Vermont Division for Historic Preservation and Vermont Advisory Council on Historic Preservation shall be consulted on projects utilizing the funds appropriated in this section before the alteration or demolition of any property that is potentially of historical, architectural, archaeological, or cultural significance, including any property listed in or eligible for the State Register of Historic Places.

Appropriation – FY 2020 \$1,300,000.00

Appropriation – FY 2021 \$1,000,000.00

Total Appropriation – Section 8 \$2,300,000.00

Sec. 9. VERMONT STATE COLLEGES

(a) The sum of \$2,100,000.00 is appropriated in FY 2020 to the Vermont State Colleges for construction, renovation, and major maintenance.

(b) The sum of \$2,000,000.00 is appropriated in FY 2021 to the Vermont State Colleges for the projects described in subsection (a) of this section.

(c) The Vermont Division for Historic Preservation and Vermont Advisory Council on Historic Preservation shall be consulted on projects utilizing the funds appropriated in this section before the alteration or demolition of any property that is potentially of historical, architectural, archaeological, or cultural significance, including any property listed in or eligible for the State Register of Historic Places.

<u>Appropriation – FY 2020</u>	<u>\$2,100,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$2,000,000.00</u>
<u>Total Appropriation – Section 9</u>	<u>\$4,100,000.00</u>

Sec. 10. NATURAL RESOURCES

(a) The following sums are appropriated in FY 2020 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) Drinking Water Supply, Drinking Water State Revolving Fund:
\$3,308,508.00

(2) Dam safety and hydrology projects: \$150,000.00

(3) State’s share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine): \$59,713.00

(b) The following sums are appropriated in FY 2020 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for the following projects:

(1) Infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects: \$2,925,000.00

(2) Rustic Cabin Construction Program: \$797,586.00

(c) The following sums are appropriated in FY 2020 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including small-scale maintenance and rehabilitation of infrastructure: \$1,300,000.00

(2) Fish culture stations, address fish stocking impacts of Salisbury Fish Culture Station discharge issues, including analysis and design of treatments or other changes to Salisbury’s discharge, a feasibility study of State fish hatcheries to evaluate and design potential increases in capacity at those facilities, and implementing alterations at other fish hatcheries to allow the rearing of brood stock: \$280,000.00

(3) Lake Champlain Walleye Association Inc. to upgrade and repair the Walleye rearing, restoration, and stocking infrastructure: \$25,000.00

(d) The sum of \$130,000.00 is appropriated in FY 2020 to the Green Mountain Club Inc. for the procurement in fee simple or by easement of the Coddington Hollow properties (117.5 acres in the Town of Waterville and an abutting 49.6 acres in the Town of Johnson) containing the Long Trail tread way.

(e) The sum of \$50,000.00 is appropriated in FY 2020 to the Vermont Association of Snow Travelers, Inc. for the STP LVRT(7) project for improvements to the Lamoille Valley Rail Trail.

(f) The following sums are appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) Drinking Water Supply, Drinking Water State Revolving Fund: \$2,221,400.00

(2) Dam safety and hydrology projects: \$895,000.00

(g) The sum of \$2,900,000.00 is appropriated in FY 2021 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for infrastructure rehabilitation, including statewide small-scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects.

(h) The following sums are appropriated in FY 2021 to the Agency of Natural Resources for the Department of Fish and Wildlife for the projects described in this subsection:

(1) General infrastructure projects, including small-scale maintenance and rehabilitation of infrastructure: \$1,300,000.00

(2) Lake Champlain Walleye Association Inc. to upgrade and repair the Walleye rearing, restoration, and stocking infrastructure: \$25,000.00

Appropriation – FY 2020 \$9,025,807.00

Appropriation – FY 2021 \$7,341,400.00

Total Appropriation – Section 10 \$16,367,207.00

Sec. 11. CLEAN WATER INITIATIVES

(a) The sum of \$3,450,000.00 is appropriated in FY 2020 to the Agency of Agriculture, Food and Markets for water quality grants and contracts.

(b) The following sums are appropriated in FY 2020 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

(1) Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$2,500,000.00

(2) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies: \$3,300,000.00

(c)(1) The sum of \$50,000.00 is appropriated in FY 2020 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for a grant for forestry skidder bridges.

(2) An applicant for a grant awarded pursuant to subdivision (1) of this subsection shall pay at least 25 percent of the total cost of a wooden skidder bridge, and at least 20 percent of the cost of a steel skidder bridge.

(d)(1) The following sums are appropriated in FY 2020 to the Vermont Housing and Conservation Board for the following projects:

(A) Agricultural water quality projects: \$1,100,000.00

(B) Land conservation and water quality projects: \$1,700,000.00

(2) A grant issued under subdivision (1)(A) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost share requirements.

(e) The sum of \$13,900,000.00 is appropriated in FY 2021 to the Agency of Natural Resources for the Department of Environmental Conservation for clean water implementation projects.

(f) On or before December 1, 2019:

(1) the Clean Water Board shall review and recommend Clean Water Act implementation programs funded from subdivision (e) of this section pursuant to 10 V.S.A. § 1389(a)(B)(ii); and

(2) the Board shall submit the list of programs recommended for FY

2021 to the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and to the Governor for the FY 2021 capital budget adjustment report.

(g) In FY 2020 and FY 2021, any agency that receives funding from this section shall consult with the State Treasurer to ensure that the projects that are receiving funding under this section are capital eligible.

<u>Appropriation – FY 2020</u>	<u>\$12,100,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$13,900,000.00</u>
<u>Total Appropriation – Section 11</u>	<u>\$26,000,000.00</u>

Sec. 12. MILITARY

(a) The sum of \$700,000.00 is appropriated in FY 2020 to the Department of Military for maintenance and renovations at State armories. To the extent feasible, these funds shall be used to match federal funds.

(b) The sum of \$800,000.00 is appropriated in FY 2021 to the Department of Military for the projects described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$700,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$800,000.00</u>
<u>Total Appropriation – Section 12</u>	<u>\$1,500,000.00</u>

Sec. 13. PUBLIC SAFETY

(a) The sum of \$700,000.00 is appropriated in FY 2020 to the Department of Buildings and General Services for design documents for the relocation of the Middlesex Field Station.

(b) The sum of \$1,500,000.00 is appropriated in FY 2020 to the Department of Public Safety for the School Safety and Security Grant Program, as described in Sec. 38 of this act.

(c) The sum of \$5,400,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for construction of the Williston Public Safety Field Station.

<u>Appropriation – FY 2020</u>	<u>\$2,200,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$5,400,000.00</u>
<u>Appropriation – Section 13</u>	<u>\$7,600,000.00</u>

Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The sum of \$200,000.00 is appropriated in FY 2020 to the Department

of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance at the Vermont building of the Eastern States Exposition.

(b) The sum of \$100,000.00 is appropriated in FY 2020 to the Agency of Agriculture, Food and Markets for the Produce Safety Infrastructure Grant Improvement Program. To the extent federal funds are available, the amount appropriated in this subsection shall be used as a match to federal funds. It is the intent of the General Assembly that capital funds shall not be appropriated to this project after FY 2020.

(c) The sum of \$200,000.00 is appropriated in FY 2021 to the Department of Buildings and General Services for the Agency of Agriculture, Food and Markets for major maintenance at the Vermont building of the Eastern States Exposition.

<u>Appropriation – FY 2020</u>	<u>\$300,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$200,000.00</u>
<u>Total Appropriation – Section 14</u>	<u>\$500,000.00</u>

Sec. 15. VERMONT RURAL FIRE PROTECTION

(a) The sum of \$75,000.00 is appropriated in FY 2020 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the dry hydrant program.

(b) The sum of \$75,000.00 is appropriated in FY 2021 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the project described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$75,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$75,000.00</u>
<u>Total Appropriation – Section 15</u>	<u>\$150,000.00</u>

Sec. 16. DEPARTMENT OF LABOR

(a) The sum of \$300,000.00 is appropriated in FY 2020 to the Department of Labor to fund the Adult Career and Technical Education Equipment Grant Pilot Program to provide capital-eligible equipment to support adult tech programs.

(b) The sum of \$300,000.00 is appropriated in FY 2021 to the Department of Labor to fund the project described in subsection (a) of this section.

<u>Appropriation – FY 2020</u>	<u>\$300,000.00</u>
<u>Appropriation – FY 2021</u>	<u>\$300,000.00</u>

Total Appropriation – Section 15 \$600,000.00

Sec. 17. SERGEANT AT ARMS

The sum of \$30,000.00 is appropriated in FY 2020 to the Sergeant at Arms for chairs for Committee rooms.

Appropriation – FY 2020 \$30,000.00

Total Appropriation – Section 17 \$30,000.00

Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

(a) The sum of \$1,800,000.00 is appropriated in FY 2020 to the Vermont Housing and Conservation Board for housing projects.

(b) The sum of \$1,800,000.00 is appropriated in FY 2021 to the Vermont Housing and Conservation Board for the project described in subsection (a) of this section.

Appropriation – FY 2020 \$1,800,000.00

Appropriation – FY 2021 \$1,800,000.00

Total Appropriation – Section 18 \$3,600,000.00

Sec. 19. AGENCY OF DIGITAL SERVICES

(a) The sum of \$125,000.00 is appropriated in FY 2020 to the Agency of Digital Services for digital orthophotography mapping.

(b) The sum of \$125,000.00 is appropriated in FY 2021 to the Agency of Digital Services for the project described in subsection (a) of this section.

Appropriation – FY 2020 \$125,000.00

Appropriation – FY 2021 \$125,000.00

Total Appropriation – Section 19 \$250,000.00

* * * Financing this Act * * *

Sec. 20. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated in 2017 Acts and Resolves No. 160, Sec. 13(c) (Waterbury State Office Complex): \$33,404.00

(2) of the amount appropriated in 2017 Acts and Resolves No. 160, Sec. 5(d)(2) (Barre courthouse study): \$10,076.40

(b) Of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 8(a)(2) (school construction) to the Agency of Education, the amount of \$1,225,076.00 in unexpended funds reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act.

(c) Of the amount appropriated in 2018 Acts and Resolves No. 190, Sec. 5(d)(4) (Civil War Heritage Trail Sign) to the Agency of Commerce and Community Development, the amount of \$29,948.00 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(d) Of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 3 (cellular and broadband infrastructure) to the Vermont Telecommunications Authority for capital construction projects, the amount of \$76,836.66 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

Total Reallocations and Transfers – Section 20 \$1,375,341.06

Sec. 21. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

The State Treasurer is authorized to issue general obligation bonds in the amount of \$123,180,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

Total Revenues – Section 21 \$123,180,000.00

* * * Policy * * *
* * * Buildings and General Services * * *

Sec. 22. PROPERTY TRANSACTIONS; MISCELLANEOUS

(a)(1) The Commissioner of Buildings and General Services is authorized to sell the following five properties:

(A) Jay Peak Villages Townhouse V132, 236 South Village Road, Jay, Vermont;

(B) Parcel Number 17-0400027, Shallow Brook Road, TH 40, Jay, Vermont;

(C) Parcel Number 06-0040006, known as Okcha Land, 76.3 acres,

Jay, Vermont;

(D) Vermont Aquiros Farms, 1294 Loop Road, Troy, Vermont; and

(E) Parcel Number 7020043.000, 4452 Darling Hill Road, Burke, Vermont.

(2) Notwithstanding 29 V.S.A. § 166(d), the net proceeds of the sale of the properties described in subdivision (1) of this subsection (a) shall be transferred to the Newport Economic Development Settlement Fund at the Department of Economic Development (Dept ID 7120010481).

(b)(1) The Commissioner of Buildings and General Services is authorized to transfer a 20-by-20-foot parcel located on the Monocacy National Battlefield Park located at 5201 Urbana Pike, Frederick, Maryland, to the United States National Park Service.

(2) The Commissioner of Buildings and General Services, on behalf of the Division for Historic Preservation, is also authorized to enter into an agreement to transfer the 10th Vermont Volunteer Infantry Regiment Monument at the Monocacy National Battlefield Park in Frederick, Maryland, to the United States National Park Service. The transfer shall be subject to conditions that ensure rights of access, public visitation, and preservation of the Monument.

Sec. 23. 29 V.S.A. § 821(a) is amended to read:

(a) State buildings.

(1) “Asa Bloomer State Office Building” shall be the name of the building now known as the “Hulett” office building in the city of Rutland.

* * *

(14) “Francis B. McCaffrey Courthouse” shall be the name of the courthouse at 9 Merchants Row in Rutland.

Sec. 24. 2016 Acts and Resolves No. 88, Sec. 3a is amended to read:

Sec. 3a. REPEAL

2 V.S.A. chapter 30 (Capitol Complex Security Advisory Committee) is repealed on ~~June 30, 2019~~ June 30, 2021.

Sec. 25. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, 2015 Acts and Resolves No. 58, Sec. 113.1, 2017 Acts and Resolves No. 84, Sec. 29, and 2018 Acts and Resolves No. 190, Sec. 19 is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1,~~

2019 July 1, 2020.

Sec. 26. 32 V.S.A. § 310 is amended to read:

§ 310. FORM OF ANNUAL CAPITAL BUDGET AND 10-YEAR
CAPITAL PROGRAM PLAN

* * *

(b) The capital budget request for the following biennium shall be presented as the next increment of the 10-year plan. Elements of the plan shall include:

* * *

(C) ~~The capital~~ Capital needs and projections shall be for the current and the next nine fiscal years, with longer-term projections presented for programs with reasonably predictable longer-term needs.

(D) Capital needs and projections shall be presented independently of financing requirements or opportunities.

(E) Capital needs and projections shall include an estimated cost of deferred infrastructure maintenance in State buildings and facilities.

* * *

Sec. 26a. 32 V.S.A. § 1001 is amended to read:

§ 1001. CAPITAL DEBT AFFORDABILITY ADVISORY COMMITTEE

(a) Committee established. A Capital Debt Affordability Advisory Committee is hereby created with the duties and composition provided by this section.

* * *

(d) Committee composition.

(1) Committee membership shall consist of:

(A) As ex officio members:

(i) the State Treasurer;

(ii) the Secretary of Administration; and

(iii) a representative of the Vermont Municipal Bond Bank chosen by the directors of the Bank.

(B) Two individuals with experience in accounting or finance, who are not officials or employees of State government appointed by the Governor for six-year terms.

(C) The Auditor of Accounts who shall be a nonvoting ex officio member.

(D) One person who is not an official or employee of State government with experience in accounting or finance appointed by the State Treasurer for a six-year term.

(E) The Legislative Economist or other designee of the Joint Fiscal Office, who shall be a nonvoting ex officio member.

(2) The State Treasurer shall be the Chair of the Committee.

* * *

Sec. 27. STATE HOUSE SPACE; SHORT-TERM; ASSESSMENT

(a) On or before January 15, 2020, the Sergeant at Arms and the Commissioner of Buildings and General Services shall conduct an assessment of space needs that considers the following:

(1) repurposing Room 2 to serve as a committee room; and

(2) an assessment of space needs for legislative staff, the Sergeant at Arms, and the Capitol Police.

(b) The Sergeant at Arms and the Commissioner of Buildings and General Services shall report the findings of the assessment described in subsection (a) of this section with options for space reconfiguration to the Joint Legislative Management Committee and the Senate Committee on Institutions and the House Committee on Corrections and Institutions.

* * * Corrections * * *

Sec. 28. COUNCIL ON STATE GOVERNMENTS; CORRECTIONS; STUDY

The Legislative Branch shall contract with the Council on State Governments to work with the Executive, Legislative, and Judicial Branches and conduct a review of programming, transitional services, and population trends in Vermont's correctional facilities. The review may include an evaluation of the women's population in Vermont and the programming and services needed to meet their needs, the detention population, and barriers that exist to reducing the population.

* * * Human Services * * *

Sec. 29. 2017 Acts and Resolves No. 84, Sec. 3, as amended by 2018 Acts and Resolves No. 190, Sec. 2, is further amended to read:

Sec. 3. HUMAN SERVICES

* * *

(b) The following sums are appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services:

* * *

(2) Chittenden County Regional Correctional Facility and Northwest State Correctional Facility, renovations, beds for therapeutic placement and Southern State Correctional Facility, fit-up for one soft-cell at Chittenden County Regional Correctional Facility and one soft-cell at Southern State Correctional Facility: \$600,000.00

* * *

~~(c) For the amount appropriated in subdivision (b)(2) of this section:~~

~~(1) it is the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and in the Northwest State Correctional Facility for persons in the custody of the Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten or more beds in the Alpha Unit at the Northwest State Correctional Facility.~~

~~(2) the Commissioner of Buildings and General Services may use up to \$100,000.00 of the funds appropriated in subdivision (b)(1) of this section to support this project. [Repealed.]~~

* * *

Sec. 29a. WOODSIDE JUVENILE REHABILITATION CENTER;
REPORT

(a) The Secretary of Human Services shall develop an alternative proposal for secure beds for delinquent youth. The proposal shall take into account the report required pursuant to 2018 Acts and Resolves No. 201, Sec. 12 and how therapeutic needs can be met.

(b) On or before January 15, 2020, the Secretary of Human Services shall submit a copy of the proposal to the House Committees on Appropriations, on Corrections and Institutions, on Human Services, and on Judiciary, and the Senate Committees on Appropriations, on Health and Welfare, on Institutions, and on Judiciary.

Sec. 30. REPLACEMENT OF MIDDLESEX SECURE RESIDENTIAL
RECOVERY FACILITY; INTENT

(a) To the extent that the Department of Disabilities, Aging, and Independent Living amends its rules pertaining to therapeutic community residences to allow secure residential recovery facilities to utilize emergency involuntary procedures and that these rules are identical to the rules adopted by the Department of Mental Health governing the use of emergency involuntary procedures in psychiatric inpatient units, it is the intent of the General Assembly that the State shall replace the Middlesex Secure Residential Recovery Facility by:

(1) constructing a physically secure State-owned secure residential recovery facility for up to an additional 16 beds that meets the security standards currently used at the Middlesex Secure Residential Recovery Facility; and

(2) exploring the placement of interim secure residential recovery beds or permanent beds that could be flexible to meet other potential therapeutic community residential uses as determined by the Department of Mental Health.

(b) On or before December 15, 2019, the Department shall submit a report to the House Committees on Appropriations, on Corrections and Institutions, and on Health Care and to the Senate Committees on Appropriations, on Institutions, and on Health and Welfare containing an analysis of operating secure residential recovery beds at Rutland Regional Medical Center and Rutland Mental Health Services.

Sec. 31. DEPARTMENT OF DISABILITIES, AGING, AND
INDEPENDENT LIVING; RULEMAKING

The Department of Disabilities, Aging, and Independent Living shall amend its rules, pursuant to 3 V.S.A. chapter 25, pertaining to therapeutic community residences to allow secure residential recovery facilities to utilize emergency involuntary procedures so that those amended rules are finally adopted on or before June 1, 2020, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c). These rules shall be identical to the rules adopted by the Department of Mental Health that govern the use of emergency involuntary procedures in psychiatric inpatient units.

* * * Information Technology * * *

Sec. 32. INFORMATION TECHNOLOGY REVIEW

(a) The Executive Branch shall transfer, upon request, one vacant position for use in the Legislative Joint Fiscal Office (JFO) for a staff position, or the JFO may hire a consultant, to provide support to the General Assembly to

conduct independent reviews of State information technology projects and operations.

(b) The Secretary of Digital Services shall:

(1) provide to the JFO access to the reviews conducted by Independent Verification and Validation (IVV) firms hired to evaluate the State's current and planned information technology projects, as requested;

(2) ensure that IVV firms' contracts allow the JFO to make requests for information related to the projects that it is reviewing and that such requests are provided to the JFO in a confidential manner; and

(3) provide to the JFO access to all other documentation related to current and planned information technology projects and operations, as requested.

(c) The JFO shall maintain a memorandum of understanding with the Executive Branch relating to any documentation provided under subsection (b) of this section that shall protect security and confidentiality.

(d) In FY 2020 and FY 2021, the JFO is authorized to use up to \$250,000.00 of the amounts appropriated in Sec. 3(b) of this act to fund activities described in this section.

* * * Labor * * *

Sec. 33. 2018 Acts and Resolves No. 190, Sec. 21 is amended to read:

Sec. 33a. ADULT CAREER AND TECHNICAL EDUCATION
EQUIPMENT GRANT PILOT PROGRAM

(a) The General Assembly hereby establishes a pilot grant program to authorize the Department of Labor, in consultation with the State Workforce Development Board, to administer the Adult Career and Technical Education Equipment Grant Pilot Program to support the purchase of equipment necessary for the delivery of occupational training for students enrolled in a postsecondary course offered by Vermont's Career and Technical Education Centers.

(b) Career and Technical Education Centers are the only eligible applicants for grants awarded under the Program. Grants may only be awarded to applicants who demonstrate how use of the grant-funded equipment will be shared with at least one other Career and Technical Education Center, a State correctional facility, or an accredited post-secondary college or university located in Vermont.

(c) An applicant's training program shall qualify for a grant described in

subsection (a) of this section if it includes all of the following requirements:

(1) meets current occupational demand, as evidenced by current labor market information;

(2) aligns with a career pathway or set of stackable credentials involving a college or university accredited in Vermont;

~~(3) guarantees delivery of equipment to more than one region of the State;~~

~~(4) is supported with a business or industry partnership;~~

~~(5)~~(4) sets forth how equipment will be maintained, insured, shared, and transported, if applicable; and

~~(6)~~(5) is endorsed by the Adult Career and Technical Education Association.

~~(e)~~(d) Grants awarded under this program shall be used to purchase capital-eligible equipment. Grants shall not be used to support curriculum development, instruction, or program administration.

~~(d)~~(e) On or before July 15, 2018, the Department shall develop and publish a simplified grant application that meets the criteria described in subsection (b) of this section. The Department shall consult with the Agency of Education and the State Workforce Development Board in reviewing applications and selecting grantees.

~~(e)~~(f) Grantees shall have ownership over any share of equipment purchased with the use of these funds. Any equipment purchased from this program may also be used by secondary career technical education programs.

~~(f)~~(g) On or before February 15, 2019, the Department of Labor shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that includes the following:

(1) how the funds were used, expected outcomes, recommended performance metrics to ensure success of the program, and any other relevant information that would inform future decisions about the use of this program;

(2) assessment of the functionality and accessibility of shared-equipment agreements; and

(3) how, and the extent to which, the program shall be funded in the future.

* * * Sunset of Adult Career and Technical Education
Equipment Grant Program * * *

Sec. 33b. REPEAL OF ADULT CAREER AND TECHNICAL
EDUCATION EQUIPMENT GRANT PROGRAM

The Adult Career and Technical Education Equipment Grant Program established in Sec. 33a of this act shall be repealed on ~~July 1, 2019~~ July 1, 2021.

* * * Military * * *

Sec. 34. 2017 Acts and Resolves No. 84, Sec. 12, as amended by 2018 Acts and Resolves No. 190, Sec. 9, is further amended to read:

Sec. 12. MILITARY

* * *

(b) The following sums are appropriated in FY 2019 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: \$780,000.00

(2) Bennington Armory, site acquisition and permitting: \$60,000.00

* * *

* * * Natural Resources * * *

Sec. 35. 2017 Acts and Resolves No. 84, Sec. 11, as amended by 2018 Acts and Resolves No. 190, Sec. 8, is further amended to read:

Sec. 11. CLEAN WATER INITIATIVES

* * *

(l) The following sums are appropriated in FY 2019 to the Municipal Mitigation Assistance Program in the Agency of Transportation:

(1) Municipal Highway and Stormwater Mitigation Program:
\$1,000,000.00 \$359,860.00

(2) Better Roads Program: \$1,400,000.00 \$2,040,140.00

* * *

* * * Municipal Public Water Supply Systems * * *

Sec. 36. 24 V.S.A. § 4755 is amended to read:

§ 4755. LOAN; LOAN AGREEMENTS; GENERAL PROVISIONS

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

* * *

(3) The loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed ~~30~~ 40 years or the projected useful life of the project, whichever is less, except:

(A) there shall be no deferral of payment;

(B) the term of the loan shall not exceed ~~20~~ 30 years when required by section 4763c of this title; ~~and~~

(C) the loan may be evidenced by any other permitted debt instrument payable as permitted by chapter 53 of this title; and

(D) the term of the loan shall not exceed 30 years for clean water projects.

* * *

Sec. 37. 24 V.S.A. § 4763c is amended to read:

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

(a) The Secretary may certify to the Vermont Municipal Bond Bank established by section 4571 of this title the award of a loan to a municipality to assist with a public water supply system project, when the Secretary finds that:

(1) the project is necessary;

(2) the proposed type, size, and estimated cost of the project are suitable for its intended purpose; and

(3) the municipality will have the technical, financial, and managerial ability to operate the facility in compliance with federal and State law.

(b) The certification by the Secretary shall specify the interest rate, and indicate which of the following loan conditions concerning construction loans apply:

(1) The term shall not exceed ~~20~~ 30 years, and the annual interest rate, plus the administrative fee, shall be no more than three percent or less than zero percent, except that when the applicant municipality is disadvantaged as defined by subdivision 4752(12) of this title, the term shall not exceed ~~30~~ 40 years. When the applicant municipality is disadvantaged as defined in

subdivision 4752(12), the annual interest rate, plus the administrative fee, shall be no less than minus three percent.

* * *

(3) Loans awarded to a municipality that have not initiated repayment prior to January 1, 2019 may be extended as provided by subdivisions (b)(1) and (b)(2) of this section.

* * * School Safety and Security * * *

Sec. 38. 2017 Acts and Resolves No. 84, as amended by 2018 Acts and Resolves No. 190, Sec. 26, is further amended to read:

Sec. 36a. SCHOOL SAFETY AND SECURITY CAPITAL GRANT PROGRAM

(a) Creation. There is created the School Safety and Security Capital Grant Program to be administered by the Department of Public Safety to enhance safety and security in Vermont schools, ~~as defined in 16 V.S.A. § 3447.~~

(1) As used in this section, “school” means:

(A) public schools, as defined in 16 V.S.A. § 11;

(B) schools administered by regional career technical center school districts, as defined in 16 V.S.A. § 1571;

(C) joint contract schools, as described in 16 V.S.A. § 571; and

(D) approved independent schools, as defined in 16 V.S.A. § 166.

(2) The amount appropriated in ~~Sec. 10 of this act~~ 2018 Acts and Resolves No. 190, Sec. 10, adding 2017 Acts and Resolves No. 84, Sec. 13(c)(1), and in Sec. 13(b) of this act, shall be used to fund this Program.

* * *

(c) Guidelines. The following guidelines shall apply to capital grants for school safety measures:

* * *

(3) The Program is authorized to award one capital grants grant of up to \$25,000.00 per school. Each school shall be required to provide a 25 percent match to the grant amount. The required match shall be met through dollars raised and not in-kind services.

* * *

(f) FY 2020 Grant Awards. In FY 2020, the Program may award a grant to an eligible school that applied for but did not receive a grant award in

FY 2019.

* * * Sunset of School Security Grant Program * * *

Sec. 36b. REPEAL OF SCHOOL SECURITY GRANT PROGRAM

The School Safety and Security Grant Program established in Sec. 26 of this act shall be repealed on ~~July 1, 2019~~ June 30, 2020.

* * *

* * * Effective Date * * *

Sec. 39. EFFECTIVE DATE

This act shall take effect on passage, except that Sec. 22(a) (sale of Jay Peak properties) shall not take effect until the final disposition of *State of Vermont v. Quiros, et al.*, Docket No. 217-4-16 (Wncv), including all appeals, is determined, and shall not take effect at all if that final disposition holds that the State has not acquired the properties.

(For text see House Journal March 29, 2019)

Action Postponed Until May 15, 2019

Senate Proposal of Amendment

H. 13

An act relating to miscellaneous amendments to alcoholic beverage and tobacco laws

The Senate proposes to the House to amend the bill as follows:

First: In Sec. 3, 7 V.S.A. § 64, after “who intentionally removes or defaces the label attached to a keg shall be” by striking out “imprisoned not more than ~~two~~ years one year or”, and after “fined not more than \$1,000.00” by striking out “, or both”.

Second: By striking out Sec. 15, 7 V.S.A. § 1005, in its entirety and inserting in lieu thereof a new Sec. 15 to read as follows:

Sec. 15. [Deleted.]

Third: By striking out Sec. 45, effective date, and its reader assistance heading in their entirety and inserting in lieu thereof new Secs. 45–47 and their respective reader assistance headings to read as follows:

* * * Tax on Spirits and Fortified Wines * * *

Sec. 45. 7 V.S.A. § 422 is amended to read:

§ 422. TAX ON SPIRITS AND FORTIFIED WINES

(a) A tax of five percent is assessed on the gross revenue from the sale of spirits and fortified wines in the State of Vermont by the Board of Liquor and Lottery or the retail sale of spirits and fortified wines in Vermont by a manufacturer or rectifier of spirits or fortified wines, in accordance with the provisions of this title. ~~The tax shall be at the following rates based on the gross revenue of the retail sales by the seller in the current year:~~

~~(1) if the gross revenue of the seller is \$500,000.00 or lower, the rate of tax is five percent;~~

~~(2) if the gross revenue of the seller is between \$500,000.00 and \$750,000.00, the rate of tax is \$25,000.00 plus 10 percent of the gross revenues over \$500,000.00;~~

~~(3) if the gross revenue of the seller is \$750,000.00 or more, the rate of tax is 25 percent.~~

* * *

* * * Board of Liquor and Lottery; Duties * * *

Sec. 46. 7 V.S.A. § 104 is amended to read:

§ 104. DUTIES; AUTHORITY TO RESOLVE ALLEGED VIOLATIONS

The Board shall supervise and manage the sale of spirits and fortified wines within the State in accordance with the provisions of this title, and through the Commissioner of Liquor and Lottery shall:

* * *

(13) Set and periodically revise the prices for spirits and fortified wines sold in Vermont in a manner that is designed to ensure that the Department generates revenue for the State that is equal to or greater than the revenue generated by the Department during the prior fiscal year.

* * * Effective Date * * *

Sec. 47. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(For text see House Journal March 19, 2019)

Amendment to be offered by Rep. Walz of Barre City to H. 13

Concur in the Senate Proposal of Amendment with further amendment thereto by striking out Secs. 46–47 and their respective reader assistance headings in their entireties and inserting in lieu thereof Secs. 46–51 and their respective reader assistance headings to read as follows:

* * * Retail Licenses and Permits * * *

Sec. 46. 7 V.S.A. § 223 is amended to read:

§ 223. THIRD-CLASS LICENSES

(a)(1) The Board of Liquor and Lottery may grant to a person who operates a hotel, restaurant, club, boat, or railroad dining car, or who holds a manufacturer's or rectifier's license, a third-class license if:

(1) the person files an application accompanied by the fee provided in section 204 of this title for the premises in which the business of the hotel, restaurant, club, or manufacturer or rectifier is carried on or for the boat or railroad dining car;

(2) the local control commissioners have approved the application; and

~~(2)~~(3) The the applicant shall satisfy satisfies the Board that:

(A) the applicant is the bona fide owner or lessee of the premises, boat, or railroad dining car;

(B) except in the case of clubs, the premises, boat, or railroad dining car has adequate and sanitary space and equipment for preparing and serving meals to the public; and

(C) that it the premises, boat, or railroad dining car is operated for the purpose covered by the license.

* * *

(d)(1) Except as otherwise provided in ~~subdivision~~ subdivisions (2) and (3) of this subsection ~~and section 271 of this title~~, a person who holds a third-class license shall purchase from the Board of Liquor and Lottery all spirits and fortified wines dispensed in accordance with the provisions of the third-class license and this title.

(2) For a third-class license issued for a dining car or boat, the licensee may procure outside the State of Vermont spirits and fortified wines that are sold pursuant to the license.

(3) For a third-class license that is issued to a licensed manufacturer or rectifier of spirits or fortified wines, the licensee shall not be required to purchase from the Board of Liquor and Lottery spirits and fortified wines that it has manufactured or rectified before selling them pursuant to its third-class license.

* * *

* * * Tasting and Event Permits * * *

Sec. 47. 7 V.S.A. § 252 is amended to read:

§ 252. SPECIAL EVENT PERMITS

* * *

~~(c)(1)~~ A licensed manufacturer or rectifier may be issued ~~no~~ not more than 104 10 special event permits ~~during a~~ for the same physical location in a calendar year.

~~(2) Each manufacturer or rectifier planning to attend a single special event pursuant to this section may be listed on a single permit for the special event. However, each attendance at a special event shall count toward the manufacturer's or rectifier's annual limit of 104 special event permits.~~

Sec. 48. 7 V.S.A. § 253 is amended to read:

§ 253. FESTIVAL PERMITS

* * *

(b) A festival permit holder shall be permitted to conduct an event that is open to the public at which malt beverages, vinous beverages, fortified wines, spirits, or any combination of the four are served.

(c)(1) A festival permit holder shall require individuals attending the festival to pay an entry fee of at least \$5.00.

(2) Alcoholic beverages served pursuant to a festival permit shall be served in compliance with the following limitations:

(A) Malt beverages shall be served to individuals attending the festival in amounts equal to not more than 12 ounces at one time and not more than 60 ounces total at any one festival.

(B) Vinous beverages shall be served to individuals attending the festival in amounts equal to not more than five ounces at one time and not more than 25 ounces total at any one festival.

(C) Fortified wines shall be served to individuals attending the festival in amounts equal to not more than three ounces at one time and not more than 15 ounces total at any one festival.

(D) Spirits shall be served to individuals attending the festival in amounts equal to not more than one ounce at one time and not more than five ounces total at any one festival.

(E) For festivals at which a combination of malt beverages, vinous beverages, fortified wines, and spirits are served, an individual shall not be

served a combined total of more than six standard drinks. As used in this subdivision (E), a “standard drink” means an alcoholic beverage containing 0.6 fluid ounces or 14 grams of pure ethyl alcohol.

(3) A festival permit holder shall ensure that the festival complies with all applicable requirements of this title and the rules of the Board.

(d)(1) A festival permit holder may purchase invoiced volumes of malt or vinous beverages directly from a manufacturer or packager licensed in Vermont, or a manufacturer or packager that holds a federal Basic Permit or Brewers Notice or evidence of licensure in a foreign country that is satisfactory to the Board.

(2) The invoiced volumes of malt or vinous beverages may be transported to the site and sold by the glass to the public by the permit holder or its employees and volunteers only during the event.

~~(e)~~(e) A festival permit holder shall be subject to the provisions of this title, including section 214 of this title, and the rules of the Board regarding the sale of the alcoholic beverages and shall pay the tax on the malt or vinous beverages pursuant to section 421 of this title.

~~(d)~~(f) A person shall be granted ~~no~~ not more than ~~four~~ 10 festival permits per year, and each permit shall be valid for ~~no~~ not more than four consecutive days.

* * * Manufacturing and Distribution of Alcohol * * *

Sec. 49. 7 V.S.A. § 271 is amended to read:

§ 271. MANUFACTURER’S OR RECTIFIER’S LICENSE

(a)(1) The Board of Liquor and Lottery may grant a manufacturer’s or rectifier’s license upon application and payment of the fee provided in section 204 of this title that permits the license holder to operate a facility that manufacture manufactures or rectify rectifies:

~~(1)~~(A) malt beverages;

~~(2)~~(B) vinous beverages and fortified wines; or

~~(3)~~(C) spirits and fortified wines.

(2) A manufacturer or rectifier shall obtain a separate license for each facility at which it manufactures or rectifies alcoholic beverages.

* * *

(d)(1) The Board of Liquor and Lottery may grant to a licensed manufacturer or rectifier a first-class license or ~~a first- and~~ a third-class license,

or both, permitting the licensee to sell alcoholic beverages to the public at an establishment located at the manufacturer's premises or rectifier's licensed facility, provided the manufacturer or rectifier owns or has direct control over that establishment.

(2) ~~For a~~ A licensed manufacturer of malt beverages, ~~the premises of the manufacturer may include~~ may operate up to two licensed establishments pursuant to this subsection that are located at the licensed manufacturing facility or on the property that is owned by the licensee and is contiguous real estate of with the license holder parcel of land on which the licensed manufacturing facility is located, provided the manufacturer owns or has direct control over both establishments.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, a manufacturer or rectifier that, on July 1, 2019, is operating at a location separate from its licensed manufacturing facility an establishment for which it was granted a first-class license or a third-class license, or both, before July 1, 2019 may continue to operate that establishment, and the local control commissioners and the Board may annually renew the licenses in effect for that establishment on July 1, 2019.

(e) The Board of Liquor and Lottery may grant a licensed manufacturer of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the ~~manufacturer's~~ premises of the licensed manufacturing facility.

(f)(1) A licensed manufacturer or rectifier may serve alcoholic beverages with or without charge at an event held ~~on the premises of the licensee at the licensed manufacturing or rectifying facility~~ or at a location on the property that is owned by the licensee and is contiguous real estate of the licensee with the parcel of land on which the licensed facility is located, provided the licensee at least five days before the event gives the Division written notice of the event, including details required by the Division.

* * *

Sec. 50. 7 V.S.A. § 271 is amended to read:

§ 271. MANUFACTURER'S OR RECTIFIER'S LICENSE

* * *

(d)(1) The Board of Liquor and Lottery may grant to a licensed manufacturer or rectifier a first-class license or a third-class license, or both, permitting the licensee to sell alcoholic beverages to the public at an establishment located at the manufacturer's or rectifier's licensed facility,

provided the manufacturer or rectifier owns or has direct control over that establishment.

(2) A licensed manufacturer of malt beverages may operate up to two licensed establishments pursuant to this subsection that are located at the licensed manufacturing facility or on property that is owned by the licensee and is contiguous with the parcel of land on which the licensed manufacturing facility is located, provided the manufacturer owns or has direct control over both establishments.

~~(3) Notwithstanding subdivisions (1) and (2) of this subsection, a manufacturer or rectifier that, on July 1, 2019, is operating at a location separate from its licensed manufacturing facility an establishment for which it was granted a first-class license or a third-class license, or both, before July 1, 2019 may continue to operate that establishment, and the local control commissioners and the Board may annually renew the licenses in effect for that establishment on July 1, 2019. [Repealed.]~~

* * *

* * * Effective Dates * * *

Sec. 51. EFFECTIVE DATES

(a) Sec. 47 (special event permits) and Sec. 50 (repeal of manufacturer grandfather provision) shall take effect on July 1, 2020.

(b) All remaining sections shall take effect on July 1, 2019.

Amendment to be offered by Reps. Ancel of Calais, Anthony of Barre City, Beck of St. Johnsbury, Brennan of Colchester, Browning of Arlington, Canfield of Fair Haven, Donovan of Burlington, Masland of Thetford, Scheu of Middlebury, Till of Jericho and Young of Greensboro to H. 13

After Sec. 45, tax on spirits and fortified wines, by inserting a Sec. 45a to read as follows:

Sec. 45a. TRANSFER TO GENERAL FUND

(a) In fiscal year 2020, a minimum of \$18,370,000.00 shall be transferred from the Liquor Control Enterprise Fund to the General Fund. The amount transferred pursuant to this subsection shall include any amounts transferred pursuant to the fiscal year 2020 annual budget bill.

(b) In fiscal year 2021, a minimum of \$18,740,000.00 shall be transferred from the Liquor Control Enterprise Fund to the General Fund.

NOTICE CALENDAR
Favorable with Amendment

S. 23

An act relating to increasing the minimum wage

Rep. Troiano of Stannard, for the Committee on General; Housing; and Military Affairs, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 21 V.S.A. § 384 is amended to read:

§ 384. EMPLOYMENT; WAGES

(a)(1) ~~An employer shall not employ any employee at a rate of less than \$9.15. Beginning on January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning on January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and beginning \$10.78. Beginning on January 1, 2019 2020, an employer shall not employ any employee at a rate of less than \$11.50. Beginning on January 1, 2021, an employer shall not employ any employee at a rate of less than \$12.25. Beginning on January 1, 2022, an employer shall not employ any employee at a rate of less than \$13.10. Beginning on January 1, 2023, an employer shall not employ any employee at a rate of less than \$14.05. Beginning on January 1, 2024, an employer shall not employ any employee at a rate of less than \$15.00, and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01.~~

(2) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, “a service or tipped employee” means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service.

(3) If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.

* * *

(e)(1) A tip shall be the sole property of the employee or employees to whom it was paid, given, or left. An employer that permits patrons to pay tips by credit card shall pay an employee the full amount of the tip that the customer indicated, without any deductions for credit card processing fees or costs that may be charged to the employer by the credit card company.

(2) An employer shall not collect, deduct, or receive any portion of a tip left for an employee or credit any portion of a tip left for an employee against the wages due to the employee pursuant to subsection (a) of this section.

(3) This subsection shall not be construed to prohibit the pooling of tips among:

(A) service or tipped employees as defined pursuant to subsection (a) of this section; or

(B) service or tipped employees who are paid at least the federal minimum wage established pursuant to 29 U.S.C. § 206(a)(1) and non-supervisory employees who do not customarily and regularly receive more than \$120.00 per month in tips for direct and personal customer service.

Sec. 2. 21 V.S.A. § 383 is amended to read:

§ 383. DEFINITIONS

~~Terms used in this subchapter have the following meanings~~ As used in this subchapter, unless a different meaning is clearly apparent from the language or context:

(1) “Commissioner,” means the Commissioner of Labor or designee.

(2) “Employee,” means any individual employed or permitted to work by an employer except:

* * *

(G) ~~taxi-cab~~ taxicab drivers;

(H) outside salespersons; and

(I) secondary school students under 18 years of age working during all or any part of the school year or regular vacation periods. As used in this subdivision (2)(I), “regular vacation periods” does not include the period between two successive academic years.

(3) “Occupation;” means an industry, trade, or business or branch thereof, or a class of work in which workers are gainfully employed.

(4) “Tip” means a sum of money gratuitously and voluntarily left by a customer for service, or indicated on a bill or charge statement, to be paid to a service or tipped employee for directly and personally serving the customer in a hotel, motel, tourist place, or restaurant. An employer-mandated service charge shall not be considered a tip.

Sec. 3. CHILD CARE FINANCIAL ASSISTANCE PROGRAM

(a) It is the intent of the General Assembly that investments and initiatives set forth in this section and Sec. 4 of this act are meant to complement the anticipated redesign of the Child Care Financial Assistance Program, which shall be monitored by the General Assembly.

(b) In fiscal year 2020, of the funds appropriated from the General Fund to the Department for Children and Families’ Child Development Division, \$1,250,000.00 shall be used to restore the base for the Child Care Financial Assistance Program (CCFAP) and \$6,900,000.00 shall be used to adjust the sliding fee scale and reimbursement rates in CCFAP as follows:

(1) adjust the sliding fee scale of CCFAP to ensure that families whose gross income is up to 100 percent of the current federal poverty guidelines receive 100 percent of the available benefit and that families whose gross income is between 100 and 300 percent of the current federal poverty guidelines receive between 99 and 10 percent of the available financial assistance benefit, scaling between set eligibility levels as follows:

(A) 95 percent of the available financial assistance benefit for families at 125 percent of the current federal poverty guidelines;

(B) 75 percent of the available financial assistance benefit for families at 150 percent of the current federal poverty guidelines;

(C) 50 percent of the available financial assistance benefit for families at 200 percent of the current federal poverty guidelines; and

(D) 10 percent of the available financial assistance benefit for families at 300 percent of the current federal poverty guidelines; and

(2) align rates of reimbursement for preschool and school age children participating in CCFAP in fiscal year 2020 with the market rates reported on the 2015 Vermont Market Rate Survey and maintain rates of reimbursement for infants and toddlers participating in CCFAP in fiscal year 2020 with the market rates reported on the 2017 Vermont Market Rate Survey.

Sec. 4. 33 V.S.A. § 3512(a)(4) is added to read:

(4) Beginning on January 1, 2025 and each subsequent year the minimum wage is increased thereafter, the Commissioner for Children and Families shall amend the Department for Children and Families' Child Care Financial Assistance Program to:

(A) adjust the sliding fee scale to correspond with each minimum wage increase required pursuant to 21 V.S.A. § 384(a)(1) in order to ensure that the benefit percentage at each new minimum wage level is not lower than the percentage applied under the former minimum wage; and

(B) adjust the rate of reimbursement paid to providers on behalf of families participating in the Child Care Financial Assistance Program in a manner that offsets the estimated increased cost of child care in Vermont resulting from an increase in the minimum wage required pursuant to 21 V.S.A. § 384(a)(1).

Sec. 5. INCREASES FOR EMPLOYEES OF CERTAIN MEDICAID-
PARTICIPATING PROVIDERS; APPROPRIATION

(a) In order to increase Medicaid reimbursement rates to home health agencies, nursing homes, residential care homes, assisted living residences, and adult day agencies by \$3,305,646.00 in fiscal year 2020 to facilitate the payment of wages to their employees who are providing health care services pursuant to the State Medicaid Program that are equal to at least the minimum wage set forth in 21 V.S.A. § 384 and to mitigate wage compression for employees of those service providers who are in occupations with a starting wage rate within \$1.00 of the minimum wage:

(1) \$874,894.00 is appropriated in fiscal year 2020 from the General Fund to the Department of Vermont Health Access;

(2) \$1,021,691.00 is appropriated in fiscal year 2020 from federal funds to the Department of Vermont Health Access; and

(3) the Secretary of Human Services shall redirect to the Medicaid programs identified in this subsection an estimated \$650,000.00 of State funds and any related federal matching funds from savings experienced by programs within the Agency of Human Services as a result of the increase in the minimum wage on January 1, 2020.

(b) On or before November 15, 2019, the Department of Vermont Health Access shall submit a written report to the Joint Fiscal Committee regarding the adequacy of the funds appropriated pursuant to subsection (a) of this section, and any additional appropriation that may be necessary during fiscal year 2020.

Sec. 6. INCREASES FOR EMPLOYEES OF CERTAIN MEDICAID-
PARTICIPATING PROVIDERS; PROJECTIONS; REPORT

On or before December 1, 2019, the Secretary of Human Services, in consultation with the Joint Fiscal Office and relevant service providers, shall submit a written report to the House Committees on Appropriations, on General, Housing, and Military Affairs, on Health Care, and on Human Services and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Health and Welfare regarding the projected costs for fiscal years 2021, 2022, 2023, and 2024 of increasing Medicaid reimbursement rates to all Medicaid participating providers, including designated agencies, specialized service agencies, home health agencies, nursing homes, residential care homes, assisted living residences, and adult day agencies, by an amount necessary to facilitate the payment of wages to their employees who are providing services pursuant to the State Medicaid Program that are equal to at least the minimum wage set forth in 21 V.S.A. § 384 and to mitigate wage compression for employees providing services pursuant to the State Medicaid Program who are in occupations with a starting wage rate within \$1.00 of the minimum wage.

Sec. 7. MINIMUM WAGE; ADJUSTMENT FOR INFLATION; REPORT

On or before January 15, 2023, the Office of Legislative Council and the Joint Fiscal Office shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs regarding potential mechanisms for indexing the minimum wage established pursuant to 21 V.S.A. § 384 to inflation after 2024. In particular, the report shall:

(1) identify and examine mechanisms that other jurisdictions use to index their minimum wages to inflation and the potential benefits and disadvantages of each mechanism; and

(2) identify and examine any alternative mechanisms to index the minimum wage to inflation, including alternative measures of inflation, and the potential benefits and disadvantages of each mechanism.

Sec. 8. TIPPED AND STUDENT MINIMUM WAGE STUDY
COMMITTEE; REPORT

(a) Creation. There is created the tipped and student minimum wage study committee to examine the effects of altering or eliminating the basic wage rate for tipped employees in Vermont and of eliminating the subminimum wage for secondary school students during the school year.

(b) Membership. The Committee shall be composed of the following members:

(1) one member of the House appointed by the Speaker of the House;

(2) one member of the Senate appointed by the Committee on Committees;

(3) the Commissioner of Labor or designee;

(4) the Commissioner for Children and Families or designee;

(5) one member representing employers in the food service or hospitality industry, appointed by the Speaker of the House; and

(6) one member representing tipped workers in the food service or hospitality industry, appointed by the Committee on Committees.

(c) Powers and duties. The Committee shall study the effects of altering or eliminating the basic wage rate for tipped employees and of eliminating the subminimum wage for secondary school students during the school year, including the following issues:

(1) the impact in states that have eliminated their tipped wage on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(2) the impact in states that have increased their tipped wage during the last 10 years on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(3) the impact in states that have decoupled their tipped wage from the standard minimum wage during the last 10 years on:

(A) jobs, prices, and the state economy; and

(B) the welfare of tipped workers, women, and working families with children;

(4) the projected impact in Vermont of altering or eliminating the basic wage rate for tipped employees on:

(A) jobs, prices, and the State economy; and

(B) the welfare of tipped workers, women, and working families with children; and

(5) the projected impact in Vermont of eliminating the subminimum wage for secondary school students on jobs, prices, the State economy, and the welfare of individuals under 22 years of age.

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

(e) Report. On or before December 15, 2019, the Committee shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and recommendations, if any, for legislative action related to Vermont's basic wage for tipped employees and subminimum wage for secondary school students.

(f) Meetings.

(1) The Commissioner of Labor shall call the first meeting of the Committee to occur on or before September 15, 2019.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Committee shall cease to exist on January 30, 2020.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 9. MINIMUM WAGE FOR AGRICULTURAL WORKERS;

WORKING GROUP; REPORT

(a) Creation. There is created the Agricultural Minimum Wage Working Group to examine the wage and hour laws for agricultural workers.

(b) Membership. The Working Group shall be composed of the following members:

(1) one member of the House appointed by the Speaker of the House;

(2) one member of the Senate appointed by the Committee on Committees;

(3) The Secretary of Agriculture or designee; and

(4) The Commissioner of Labor or designee.

(c) Powers and duties. The Working Group shall study the wage and hour laws for agricultural workers, including the following issues:

(1) the overlapping legal requirements of the federal Fair Labor Standards Act and Vermont's wage and hour laws with respect to agricultural employees and employers;

(2) particular issues and challenges related to federal and State wage and hour laws that Vermont's agricultural employees and employers face; and

(3) how other states have addressed similar issues and challenges in their wage and hour laws.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(e) Report. On or before December 15, 2019, the Working Group shall submit a written report to the House Committees on Agriculture and on General, Housing, and Military Affairs and the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The member from the House shall call the first meeting of the Working Group to occur on or before September 15, 2019.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Working Group shall cease to exist on January 30, 2020.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working

Group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 10. LEGISLATIVE COUNCIL; DRAFT LEGISLATION

On or before January 15, 2020, the Office of Legislative Council shall prepare and submit a draft bill to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs that makes statutory amendments of a technical nature to modernize the statutory language of 21 V.S.A. chapter 5, subchapter 3. The draft bill shall also identify provisions of 21 V.S.A. chapter 5, subchapter 3 that may require amendment in order to eliminate out-of-date and obsolete provisions. The Office of Legislative Council shall consult with the Commissioner of Labor to identify language requiring modernization and provisions that are out-of-date or obsolete.

Sec. 11. EFFECTIVE DATES

(a) In Sec. 2, 21 V.S.A. § 383, the amendments to subdivisions (2)(G) and (I) shall take effect on January 1, 2020. The remaining provisions of Sec. 2 shall take effect on July 1, 2019.

(b) The remaining sections of this act shall take effect on July 1, 2019.

(Committee vote: 7-3-1)

(For text see Senate Journal February 22, 26, 2019)

Rep. Trieber of Rockingham, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on General; Housing; and Military Affairs and when further amended as follows:

First: In Sec. 1, 21 V.S.A. § 384, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a)(1) ~~An~~ Except as otherwise provided pursuant to subdivision (B) of this subdivision (a)(1), an employer shall not employ any employee at a rate of less than \$9.15. Beginning on January 1, 2016, an employer shall not employ any employee at a rate of less than \$9.60. Beginning on January 1, 2017, an employer shall not employ any employee at a rate of less than \$10.00. Beginning on January 1, 2018, an employer shall not employ any employee at a rate of less than \$10.50, and beginning \$10.78. Beginning on January 1, 2019 2020, the minimum wage rate shall be increased by two and one quarter times the percentage increase of the Consumer Price Index, CPI-U, U.S. city

average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, provided that the rate of increase shall not be more than five and one half percent, until the minimum wage is equal to or greater than \$15.00. On January 1 of the first year after the minimum wage rate reaches an amount that is equal to or greater than \$15.00 and on each subsequent January 1, the minimum wage rate shall be increased by five percent or the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous September 1, whichever is smaller, but in . In no event shall the minimum wage be decreased. The minimum wage shall be rounded off to the nearest \$0.01.

(2) An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service or tipped employee at a basic wage rate less than one-half the minimum wage. As used in this subsection, “a service or tipped employee” means an employee of a hotel, motel, tourist place, or restaurant who customarily and regularly receives more than \$120.00 per month in tips for direct and personal customer service.

(3) If the minimum wage rate established by the U.S. government is greater than the rate established for Vermont pursuant to subdivision (1) of this subsection for any year, the minimum wage rate for that year shall be the rate established by the U.S. government.

Second: In Sec. 1, 21 V.S.A. § 384, after subsection (e), by inserting a subsection (f) to read:

(f)(1) Notwithstanding 2 V.S.A. § 20(d), on or before December 1, 2019, and on or before each subsequent December 1 until the minimum wage established pursuant to subdivision (a)(1)(B) of this section reaches \$15.00, the Commissioner of Taxes shall submit a written report to the Governor and the General Assembly regarding whether the inflation-adjusted revenues from the sales tax imposed pursuant to 32 V.S.A. § 9771 and the use tax imposed pursuant to 32 V.S.A. § 9773 for the 12-month period ending on September 30 of that year have decreased by two percent or more relative to the revenues from the sales tax and use tax for the 12-month period ending on September 30 of the previous year.

(2) Notwithstanding subdivision (a)(1) of this section, the minimum wage rate established pursuant to subdivision (a)(1) shall be increased by the percentage increase of the Consumer Price Index, CPI-U, U.S. city average, not seasonally adjusted, or successor index, as calculated by the U.S.

Department of Labor or successor agency for the 12 months preceding the previous September 1 or by five percent, whichever is smaller, on January 1 of the next calendar year if both of the following occur:

(A) the Commissioner of Taxes' report indicates that the inflation-adjusted revenues from the sales tax imposed pursuant to 32 V.S.A. § 9771 and the use tax imposed pursuant to 32 V.S.A. § 9773 for the 12-month period ending on September 30 of that year have decreased by two percent or more relative to the revenues from the sales tax and use tax for the 12-month period ending on September 30 of the previous year; and

(B) the official State revenue estimate for the General Fund in the current or next fiscal year has been reduced by two percent or more.

Third: By striking out Secs. 5 and 6, Medicaid participating providers, and inserting in lieu thereof new Secs. 5 and 6 to read as follows:

Sec. 5. INCREASES FOR EMPLOYEES OF CERTAIN MEDICAID-
PARTICIPATING PROVIDERS; REPORT

(a) On or before December 15, 2019, the Secretary of Human Services, in consultation with the Joint Fiscal Office and relevant service providers, shall submit a written report to the House Committees on Appropriations, on General, Housing, and Military Affairs, on Health Care, and on Human Services and the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, and on Health and Welfare regarding the projected costs for fiscal years 2020 and 2021 of increasing Medicaid reimbursement rates to Medicaid participating providers, including designated agencies, specialized service agencies, home health agencies, nursing homes, residential care homes, assisted living residences, and adult day agencies, by an amount necessary to facilitate the payment of wages to their employees who are providing services pursuant to the State Medicaid Program that are equal to at least the minimum wage set forth in 21 V.S.A. § 384.

(b)(1) On or before August 15, 2019, the Secretary of Human Services shall request from Medicaid participating providers with employees who are providing services pursuant to the State Medicaid Program and earn wages that are at or near the minimum wage set forth in 21 V.S.A. § 384 any documentation of wages and related costs that the Secretary determines to be necessary to develop the projections required pursuant to subsection (a) of this section.

(2) Service providers shall, on or before October 15, 2019, provide to the Secretary the documentation requested pursuant to subdivision (1) of this subsection.

(3) Any service provider that fails to provide the information requested by the Secretary pursuant to this subsection shall forfeit the right in fiscal years 2020 and 2021 to any increase in Medicaid reimbursement rates that is proposed pursuant to subsection (a) of this section.

Sec. 6. MINIMUM WAGE FOR EMPLOYERS PROVIDING BENEFITS;
STUDY COMMITTEE; REPORT

(a) Creation. There is created the Minimum Wage for Employers Providing Benefits Study Committee to examine the possibility of creating a separate minimum wage rate for employers that provide certain benefits to their employees that would increase more slowly than the standard minimum wage.

(b) Membership. The Committee shall be composed of the following members:

(1) a current member of the House of Representatives, who shall be appointed by the Speaker of the House;

(2) a current member of the Senate, who shall be appointed by the Committee on Committees;

(3) a representative of employers, who shall be appointed by the Speaker of the House;

(4) a representative of employees earning wages that are at or near the minimum wage, who shall be appointed by the Committee on Committees; and

(5) the Commissioner of Labor or designee.

(c) Powers and duties. The Committee shall study the possibility of creating a separate minimum wage rate for employers that provide certain benefits to their employees that would increase more slowly than the standard minimum wage, including the following topics:

(1) the experience of jurisdictions that have created a second minimum wage rate for employers that provide certain benefits to their employees that would increase more slowly than the standard minimum wage;

(2) the advantages and drawbacks of permitting an employer to qualify for a minimum wage rate that increases more slowly than the standard minimum wage by providing certain types of benefits, including health

insurance, retirement, child care reimbursement, family and medical leave, and tuition reimbursement; and

(3) an appropriate minimum value of benefits that must be provided to qualify an employer for a second minimum wage rate that increases more slowly than the standard minimum wage.

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

(e) Report. On or before January 15, 2020, the Committee shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The member from the House shall call the first meeting of the Committee to occur on or before September 15, 2019.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Committee shall cease to exist on January 31, 2020.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Committee serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than four meetings.

(2) Other members of the Committee who are not otherwise compensated for their attendance at meetings shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than four meetings.

(3) Payments to members of the Committee authorized under this subsection shall be made from monies appropriated to the General Assembly.

(Committee Vote: 6-5-0)

S. 55

An act relating to the regulation of toxic substances and hazardous materials

Rep. Haas of Rochester, for the Committee on Human Services, recommends that the House propose to the Senate that the bill be amended as follows:

By striking out Secs. 3–5 and their reader assistance headings in their entireties and inserting in lieu thereof new Secs. 3–8 and their reader assistance headings to read as follows:

* * * Chemicals of High Concern to Children * * *

Sec. 3. 18 V.S.A. § 1774 is amended to read:

§ 1774. CHEMICALS OF HIGH CONCERN TO CHILDREN WORKING GROUP

(a) Creation. The Chemicals of High Concern to Children Working Group (Working Group) is created within the Department of Health for the purpose of providing the Commissioner of Health advice and recommendations regarding implementation of the requirements of this chapter.

* * *

(c) Powers and duties. The Working Group shall:

(1) ~~upon the request of the Chair of the Working Group~~, review proposed chemicals for listing as a chemical of high concern to children under section 1773 of this title; and

(2) recommend to the Commissioner of Health whether rules should be adopted under section 1776 of this title to regulate the sale or distribution of a children's product containing a chemical of high concern to children.

(d) Commissioner of Health recommendation; assistance.

(1) Beginning on July 1, 2017, and biennially thereafter, the Commissioner of Health shall recommend at least two chemicals of high concern to children in children's products for review by the Working Group. The Commissioner's recommendations shall be based on the degree of human health risks, exposure pathways, and impact on sensitive populations presented by a chemical of high concern to children.

(2) The Working Group shall have the administrative, technical, and legal assistance of the Department of Health and the Agency of Natural Resources.

(e) Meetings.

(1) The Chair of the Working Group may convene the Working Group at any time, but no less frequently than at least ~~once every other~~ twice a year.

(2) A majority of the members of the Working Group, including adjunct members when appointed, shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

(f) Reimbursement. Members of the Working Group, including adjunct members, whose participation is not supported through their employment or association shall receive per diem compensation pursuant to 32 V.S.A. § 1010 and reimbursement of travel expenses. A per diem authorized by this section shall be paid from the budget of the Department of Health.

Sec. 4. 18 V.S.A. § 1775 is amended to read:

§ 1775. DISCLOSURE OF INFORMATION ON CHEMICALS OF HIGH CONCERN

* * *

(b) Format for notice. The Commissioner shall specify the format for submission of the notice required by subsection (a) of this section, provided that the required format shall be generally consistent with the format for submission of notice in other states with requirements substantially similar to the requirements of this section. Any notice submitted under subsection (a) shall contain the following information:

(1) the name of the chemical used or produced and its chemical abstracts service registry number;

(2) a description of the product or product component containing the chemical, including the brand name, the product model, and the universal product code if the product has such a code;

(3) the amount of the chemical contained in each unit of the product or product component, reported by weight or parts per million as authorized by the Commissioner;

(4) the name and address of the manufacturer of the children's product and the name, address, and telephone number of a contact person for the manufacturer;

(5) any other information the manufacturer deems relevant to the appropriate use of the product; and

(6) any other information required by the Commissioner under rules adopted pursuant to 3 V.S.A. chapter 25.

* * *

(l) Submission of notice; dates. Unless the Commissioner adopts by rule a phased-in reporting requirement under section 1776 of this title, a manufacturer shall submit the notice required under subsection (a) of this section by:

~~(1) January 1, 2017; and~~

~~(2) August 31, 2018, and biennially on or before August 31, 2020 and annually thereafter.~~

Sec. 5. 18 V.S.A. § 1776 is amended to read:

§ 1776. RULEMAKING; ADDITIONAL CHEMICALS OF CONCERN TO CHILDREN; PROHIBITION OF SALE

* * *

(b) Additional chemicals of concern to children. The Commissioner may by rule add additional chemicals to the list of chemicals of high concern to children, provided that the Commissioner of Health, on the basis of ~~the weight~~ of credible, scientific evidence, including peer-reviewed studies, has determined that a chemical proposed for addition to the list meets both of the following criteria in subdivisions (1) and (2) of this subsection:

(1) The Commissioner of Health has determined that an authoritative governmental entity or accredited research university has demonstrated that the chemical:

(A) harms the normal development of a fetus or child or causes other developmental toxicity;

(B) causes cancer, genetic damage, or reproductive harm;

(C) disrupts the endocrine system;

(D) damages the nervous system, immune system, or organs or causes other systemic toxicity; or

(E) is a persistent bioaccumulative toxic.

(2) The chemical has been found through:

(A) biomonitoring to be present in human blood, umbilical cord blood, breast milk, urine, or other bodily tissues or fluids;

(B) sampling and analysis to be present in household dust, indoor air, drinking water, or elsewhere in the home environment; or

(C) monitoring to be present in fish, wildlife, or the natural environment.

* * *

(d) Rule to regulate sale or distribution.

(1) The Commissioner, ~~upon the recommendation of~~ after consultation with the Chemicals of High Concern to Children Working Group, may adopt a rule to regulate the sale or distribution of a children's product containing a chemical of high concern to children upon a determination that:

(A) children ~~will~~ may be exposed to a chemical of high concern to children in the children's product; and

(B) there is a ~~probability~~ possibility that, due to the degree of exposure or frequency of exposure of a child to a chemical of high concern to children in a children's product, exposure could cause or contribute to one or more of the adverse health impacts listed under subdivision (b)(1) of this section.

(2) In determining whether children ~~will~~ may be exposed to a chemical of high concern in a children's product, the Commissioner shall review available, credible information regarding:

(A) the market presence of the children's product in the State;

(B) the type or occurrence of exposures to the relevant chemical of high concern to children in the children's product;

(C) the household and workplace presence of the children's product; or

(D) the potential and ~~frequency~~ likelihood of exposure of children to the chemical of high concern to children in the children's product.

(3) A rule adopted under this section may:

(A) prohibit the children's product containing the chemical of high concern to children from sale, offer for sale, or distribution in the State; or

(B) require that the children's product containing the chemical of high concern to children be labeled prior to sale, offer for sale, or distribution in the State.

(4) In any rule adopted under this subsection, the Commissioner shall adopt reasonable time frames for manufacturers, distributors, and retailers to comply with the requirements of the rules. No prohibition on sale or manufacture of a children's product in the State shall take effect sooner than

two years after the adoption of a rule adopted under this section unless the Commissioner determines that an earlier effective date is required to protect human health and the new effective date is established by rule.

(5) The Chemicals of High Concern to Children Working Group may, at its discretion, submit to the House Committees on Natural Resources, Fish, and Wildlife and on Human Services and the Senate Committees on Natural Resources and Energy and on Health and Welfare the recommendations or information from a consultation provided to the Commissioner under subdivision (1) of this subsection.

* * *

(f) Additional rules.

(1) ~~On or before July 1, 2017, the~~ The Commissioner of Health shall adopt by rule the process and procedure to be required when the Commissioner of Health adopts a rule under subsection (b), (c), or (d) of this section. The rule shall provide:

(A) all relevant criteria for evaluation of the chemical;

(B) criteria by which a chemical, due to its presence in the environment or risk of harm, shall be prioritized for addition or removal from the list of chemicals of high concern to children or for regulation under subsection (d) of this section;

(C) time frames for labeling or phasing out sale or distribution; ~~and~~

(D) requirements for when and how a manufacturer of a children's product that contains a chemical of high concern to children provides the notice required under subsection 1775(a) of this title when the manufacturer intends to introduce the children's product for sale between the required dates for reporting; and

(E) other information or process determined as necessary by the Commissioner for implementation of this chapter.

* * *

Sec. 6. DEPARTMENT OF HEALTH; RULEMAKING DATE

On or before January 1, 2020, the Commissioner of Health shall adopt the rule required under 18 V.S.A. § 1776(f)(1)(D) (notice by manufacturer of children's product containing a chemical of high concern to children between reporting dates).

Sec. 7. DEPARTMENT OF HEALTH REPORT ON CHEMICAL OF HIGH

CONCERN TO CHILDREN PROGRAM; PUBLIC INFORMATION

On or before January 15, 2020, the Commissioner of Health shall submit to the House Committee on Human Services and the Senate Committee on Health and Welfare a report regarding the implementation of the Chemicals of High Concern to Children Program under 18 V.S.A. chapter 38A. The report shall include:

(1) a summary of the status of the Program;

(2) a recommendation on how to make information submitted under the Program more publicly available and more consumer-centric; and

(3) an evaluation of the feasibility of the Department of Health reviewing and approving the safety of a children's product that contains a chemical of high concern to children prior to sale of the children's product, including:

(A) an estimate of the additional staff or resources that would be required to conduct presale safety review of children's products sold in the State;

(B) the estimated time for review of a children's product; and

(C) an estimate of the effect that presale review of children's products would have on the availability of children's products in the State.

* * * Effective Dates * * *

Sec. 8. EFFECTIVE DATES

(a) This section, Secs. 1 and 2 (the Interagency Committee on Chemical Management; transition), and in Sec. 5, the rulemaking under 18 V.S.A. § 1776(f)(reporting) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2019.

(Committee vote: 10-1-0)

(For text see Senate Journal March 21, 2019)

S. 146

An act relating to substance misuse prevention

Rep. Pajala of Londonderry, for the Committee on Human Services, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

(1) prevention efforts focus on social and environmental factors to ensure that all Vermonters have opportunities to be active, engaged, connected, and heard throughout their lifetimes;

(2) substance misuse prevention efforts are consolidated and coordinated across State government to improve the health of all Vermonters;

(3) a significant portion of any new revenue generated by taxation of substances at risk of misuse, including cannabis, tobacco, tobacco substitutes, alcohol, and opioids, be directed to fund substance misuse prevention initiatives throughout the State in accordance with the advice of the Substance Misuse Prevention Oversight and Advisory Council established in 18 V.S.A. § 4803; and

(4) funds designated for the Opioid Coordination Council be redirected to fund the Chief Prevention Officer pursuant to 3 V.S.A. § 2321 and the Manager of Substance Misuse Prevention pursuant to 18 V.S.A. § 4804.

* * * Chief Prevention Officer * * *

Sec. 2. 3 V.S.A. chapter 45, subchapter 6 is added to read:

Subchapter 6. Chief Prevention Officer

§ 2321. CHIEF PREVENTION OFFICER

(a) There is created the permanent position of Chief Prevention Officer within the Office of the Secretary in the Agency of Administration for the purpose of coordinating, across State government and in collaboration with community partners, policies, programs, and budgets to support and improve the well-being of all Vermonters through prevention efforts. The Chief Prevention Officer shall:

(1) identify and coordinate initiatives across State government and among community stakeholder groups that improve well-being;

(2) examine promising prevention practices in other jurisdictions that may be replicated in Vermont; and

(3) improve the well-being of all Vermonters by considering population prevention measures in relation to all policy determinations.

(b) The Chief Prevention Officer shall have a master's-level degree or bachelor's-level degree in a human services field, public health, or public administration and professional-level experience in prevention, substance use disorders, public health, or a closely related field.

* * * Substance Misuse Prevention * * *

Sec. 3. 18 V.S.A. chapter 94 is amended to read:

~~CHAPTER 94. DIVISION OF ALCOHOL AND DRUG ABUSE
PROGRAMS~~ SUBSTANCE USE DISORDERS

* * *

~~§ 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS;
PER-DIEM~~ SUBSTANCE MISUSE PREVENTION OVERSIGHT
AND ADVISORY COUNCIL

~~(a) The Alcohol and Drug Abuse Council is established within the Agency of Human Services to promote the dual purposes of reducing problems arising from alcohol and drug abuse and improving prevention, intervention, treatment, and recovery services by advising the Secretary on policy areas that can inform Agency programs.~~

~~(b) The Council shall consist of 12 members:~~

- ~~(1) the Secretary of Human Services or designee;~~
- ~~(2) the Commissioner of Public Safety or designee;~~
- ~~(3) the Commissioner of Mental Health or designee;~~
- ~~(4) the Deputy Commissioner of Health for the Division of Alcohol and Drug Abuse Programs;~~
- ~~(5) the Director of the Blueprint for Health or designee;~~
- ~~(6) a representative of an approved provider or preferred provider, appointed by the Governor;~~
- ~~(7) a licensed alcohol and drug abuse counselor, appointed by the Governor;~~
- ~~(8) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;~~
- ~~(9) an educator involved in substance abuse prevention services, appointed by the Governor;~~

~~(10) a youth substance abuse prevention specialist, appointed by the Governor;~~

~~(11) a community prevention coalition member, appointed by the Governor; and~~

~~(12) a member of the peer community involved in recovery services, appointed by the Governor.~~

~~(c) The term of office of members appointed pursuant to subsection (b) of this section shall be three years.~~

~~(d) The Council membership shall annually elect a member to serve as chair.~~

~~(e) All members shall be voting members.~~

~~(f) At the expiration of the term of an appointed member or in the event of a vacancy during an unexpired term, the new member shall be appointed in the same manner as his or her predecessor. Members of the Council may be reappointed.~~

~~(g)(1) The Council may submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.~~

~~(2) The report shall include the following:~~

~~(A) measurable goals for the State's substance abuse system of care; and~~

~~(B) three to five performance measures that demonstrate the system's results.~~

~~(3) The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required to be made under this subsection.~~

~~(h) Each member of the Council not otherwise receiving compensation from the State of Vermont or any political subdivision thereof shall be entitled to receive per diem compensation as provided in 32 V.S.A. § 1010(b) for not more than six meetings annually. Each member shall be entitled to his or her actual and necessary expenses.~~

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to

ensure that population prevention measures are at the forefront of all policy determinations. The Advisory Council's prevention initiatives shall encompass all substances at risk of misuse, including:

(1) alcohol;

(2) cannabis;

(3) controlled substances, such as opioids, cocaine, and methamphetamines; and

(4) tobacco products and tobacco substitutes as defined in 7 V.S.A. § 1001 and substances containing nicotine or that are otherwise intended for use with a tobacco substitute.

(b)(1) Membership. The agenda of the Council shall be determined by an executive committee composed of the following members:

(A) the Commissioner of Health or designee, who shall serve as co-chair;

(B) a community leader in the field of substance misuse prevention, appointed by the Governor, who shall serve as co-chair;

(C) the Secretary of Education or designee;

(D) the Commissioner of Public Safety or designee; and

(E) the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321.

(2) The members of the executive committee jointly shall appoint members to the Council with demographic and regional diversity and who collectively offer expertise and experience in the following:

(A) at least two people with lived substance use disorder experience, including a person in recovery and a family member of a person in recovery;

(B) one or more youth less than 18 years of age;

(C) one or more young adults between 18 and 25 years of age; and

(D) the Director of Trauma Prevention and Resilience Development established pursuant to 33 V.S.A. § 3403; and

(E) persons with expertise in the following disciplines:

(i) substance misuse prevention in a professional setting;

(ii) pediatric care specific to substance misuse prevention or substance use disorder;

(iii) academic research pertaining to substance misuse prevention or behavioral addiction treatment;

(iv) education in a public school setting specific to substance misuse prevention;

(v) law enforcement with expertise in drug enforcement, addressing impaired driving, and community policing;

(vi) community outreach or collaboration in the field of substance misuse prevention;

(vii) the criminal justice system;

(viii) treatment of substance use disorder;

(ix) recovery from substance use disorder in a community setting;

(x) municipalities;

(xi) substance use disorder or substance misuse prevention within the youth population;

(xii) substance use disorder or substance misuse prevention within the older Vermonter population; and

(xiii) comprehensive communications and media campaigns.

(c) Powers and duties. The Council shall strengthen the State's response to the substance use disorder crisis by advancing evidence-based and evidence-informed substance misuse prevention initiatives. The Council's duties shall include:

(1) reviewing and making recommendations on best practices to assist communities and schools to significantly reduce the demand for substances through prevention and education;

(2) reviewing substance misuse prevention program evaluations and making specific recommendations for modification based on the results, including recommendations to address gaps in both services and populations served;

(3) reviewing existing State laws, rules, policies, and programs and proposing changes to eliminate redundancy and to eliminate barriers experienced by communities and schools in coordinating preventative action with State government;

(4) reviewing existing community-based youth programming, including recreation, municipal programs, parent-child center programs, and afterschool

and year-round programs, to determine a foundation of connection and support for all Vermont children and youth;

(5) reviewing community-based programs for older Vermonters for the purpose of identifying gaps in services, including geographic disparities, eliminating barriers, and coordinating prevention services;

(6) recommending strategies to integrate substance misuse prevention programming across the State, including between State agencies and in public-private partnerships;

(7) development of a statewide media campaign for substance misuse prevention; and

(8) holding a minimum of two public meetings to receive public input and advice for setting program priorities for substances at risk of misuse.

(d) Committees. The Council shall have the ability to create issue-specific committees for the purpose of carrying out its duties, such as a youth committee. Any committees created may draw on the expertise of any individual regardless of whether that individual is a member of the Council.

(e) Assistance. The Council shall have administrative, technical, and communications assistance from the Manager of Substance Misuse Prevention established pursuant to section 4804 of this title.

(f) Report. Annually on or before January 1, the Council shall submit a written report to the Governor, the House Committees on Appropriations and on Human Services, and the Senate Committees on Appropriations and on Health and Welfare with its findings and any recommendations for legislative action. The report shall also include the following:

(1) measurable goals for the effectiveness of prevention programming statewide;

(2) three to five performance measures for all substances at risk of misuse that demonstrate the system's results;

(3) the results of evaluations of State-funded programs; and

(4) an explanation of State-funded program budgets.

(g) Organization.

(1) Members of the Council shall serve two-year terms and may be reappointed. Any vacancy on the Council shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term. Any individual interested in serving on the

Council may submit a letter of interest or resume to the Manager of Substance Misuse Prevention.

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

(h) Compensation and reimbursement. Members of the Council who are not employed by the State or whose participation is not supported through their employment or association shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings per year, unless further authorized by the Commissioner of Health. Payments to members of the Council authorized under this subsection shall be made from monies appropriated to the Department of Health.

§ 4804. ADMINISTRATIVE SUPPORT MANAGER OF SUBSTANCE MISUSE PREVENTION

~~The Agency of Human Services shall provide the Council with such administrative support as is necessary for it to accomplish the purposes of this chapter. There is created the permanent position of the Manager of Substance Misuse Prevention within the Department of Health for the purpose of:~~

(1) coordinating the work of the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title; and

(2) coordinating regional planning.

§ 4805. DUTIES

~~The Council shall:~~

~~(1) advise the Governor as to the nature and extent of alcohol and drug abuse problems and the programs necessary to understand, prevent, and alleviate those problems;~~

~~(2) make recommendations to the Governor and General Assembly for developing:~~

~~(A) a comprehensive and coordinated system for delivering effective programs, including any appropriate reassignment of responsibility for such programs; and~~

~~(B) a substance abuse system of care that integrates substance abuse services with health care reform initiatives, such as pay-for-performance methodologies;~~

~~(3) provide for coordination and communication among the regional alcohol and drug abuse councils, State agencies and departments, providers, consumers, consumer advocates, and interested citizens;~~

~~(4) jointly, with the State Board of Education, develop educational and preventive programs;~~

~~(5) assess substance abuse services and service delivery in the State, including the following:~~

~~(A) the effectiveness of existing substance abuse services in Vermont and opportunities for improved treatment; and~~

~~(B) strategies for enhancing the coordination and integration of substance abuse services across the system of care; and~~

~~(6) provide recommendations to the General Assembly regarding State policy and programs for individuals experiencing public inebriation. [Repealed.]~~

* * *

* * * Repealing the Tobacco Evaluation and Review Board * * *

Sec. 4. 18 V.S.A. chapter 225 is amended to read:

Chapter 225. Tobacco Prevention, Cessation, and Control

§ 9501. DEFINITIONS

As used in this chapter:

(1) “Board” means the Vermont Tobacco Evaluation and Review Board established by this chapter. [Repealed.]

* * *

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

(a) Except as otherwise specifically provided, the tobacco prevention and treatment program shall be administered and coordinated statewide by the Department of Health and the Vermont Tobacco Evaluation and Review Board, pursuant to the provisions of this chapter. The program shall be comprehensive and research-based, and shall include the following components:

~~(1) community-based programs;~~

~~(2) school-based programs;~~

~~(3) tobacco cessation programs;~~

- ~~(4) countermarketing activities;~~
- ~~(5) enforcement activities;~~
- ~~(6) surveillance and evaluation activities;~~
- ~~(7) policy initiatives; and~~
- ~~(8) any other activities determined by the Commissioner or the Board to be necessary to implement the provisions of this section.~~

~~(b) By June 1, 2001, the Department and the Board shall jointly establish a plan that includes goals for each program component listed in subsection (a) of this section, for reducing adult and youth smoking rates by 50 percent in the following 10 years. By June 1 of each year, the The Department and the Board shall jointly establish goals for reducing adult and youth smoking rates in the following two years, including goals for each program component listed in subsection (a) of this section, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon his or her consent, who is a smoker or user of tobacco products as defined in 7 V.S.A. § 1001.~~

~~* * *~~

~~(f) The Board shall be represented on all tobacco program advisory committees, including the youth working group, Community Grants Advisory Board, and the Scientific Advisory Board. The Board's representative on any such advisory committee shall include at least one member other than the Commissioner of Health. [Repealed.]~~

~~§ 9504. CREATION OF THE VERMONT TOBACCO EVALUATION AND REVIEW BOARD~~

~~(a) There is created and established, within the Office of the Secretary, a body to be known as the Vermont Tobacco Evaluation and Review Board, an independent State board created to work in partnership with the Agency of Human Services and the Department of Health in establishing the annual budget, program criteria and policy development, and review and evaluation of the tobacco prevention and treatment program.~~

~~(b) The Board shall consist of 14 members, including ex officio the Commissioner of Health and the Secretary of Education or their designees; the Commissioner of Liquor Control or designee; the Attorney General or designee; a member of the House of Representatives appointed by the Speaker of the House; a member of the Senate appointed by the Committee on~~

~~Committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco activities appointed by the Speaker of the House; a member representing the low-income community appointed by the Senate Committee on Committees; two persons under the age of 30, one appointed by the Speaker of the House and one appointed by the Committee on Committees; and four members appointed by the Governor with the advice and consent of the Senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the Governor to the Board shall be appointed, two for a term of two years, one for a term of three years, and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

~~(c) The Governor shall appoint a chair from among the Board's public members. The Chair shall serve for a term of two years. The Chair may be removed for good cause by a two-thirds, voting majority of the Board. The Board may elect such other officers as it may determine. The Board may appoint committees or subcommittees for the purpose of providing advice on community-based programs, countermarketing activities, and independent program evaluations. Meetings shall be held at the call of the Chair or at the request of three members; however, the Board shall meet no fewer than four times a year. A majority of the sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting. Actions taken by the Board to approve, authorize, award, grant, or otherwise expend money appropriated to the Board or the Department shall require authorization from a majority of members of the entire Board.~~

~~(d) Public members other than ex officio members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and members shall be reimbursed from the Fund for reasonable expenses incurred in carrying out their duties under this chapter. Legislative members shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406.~~

~~(e) The Board may employ staff, through the Agency of Human Services, to assist the Board in planning, administering, and executing its functions under this chapter, subject to the policies, control, and direction of its members and the powers and duties of the Board under this chapter. The Board may employ technical experts and contractors as necessary to effect the purposes of~~

~~this chapter. The Board shall use the Office of the Attorney General for legal services. The Board shall receive additional staff assistance from the Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.~~

~~(f) The Agency of Human Services shall provide administrative support to the Board for the purposes of this chapter.~~

~~(g) No member of the Board shall have any direct or knowing affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries, or its parent company. Each Board member shall file a conflict of interest statement, stating that he or she has no such affiliation or contractual relationship. [Repealed.]~~

§ 9505. GENERAL POWERS AND DUTIES

The Board Department shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:

~~(1) Establish jointly with the Department of Health the selection criteria for community grants and review and recommend the grants to be funded.~~

~~(2) Select, upon the advice of the Commissioner, a contractor responsible for countermarketing activities. The Department shall pay the fees and costs of any such contractor. The Board and Commissioner shall jointly approve any final countermarketing campaign.~~

~~(3) Review and advise the Department selection criteria for grantees and contracts funded by the Program in conformity with the goals established by the Department and Board.~~

~~(4) Establish jointly with the Department an application process, criteria, and components for an independent evaluation. The Board shall select an independent contractor to perform an independent evaluation, and oversee the independent contractor's evaluation of the tobacco prevention, treatment, and control program Perform ongoing evaluations of tobacco cessation efforts and publish the evaluation measures on the Department's website.~~

~~(5)(4) Review and make recommendations regarding the overall plan and any Execute a memorandum of understanding developed jointly by the Department of Health and with the Agency of Education for school-based programs funded through the Tobacco Program Fund.~~

~~(6)(5) Review and make recommendations regarding Consult with the Department of Liquor and Lottery concerning enforcement activities~~

administered by the Department of Liquor Control in accordance with the provisions of this chapter.

~~(7) Review and advise any State agency on applications for funds contributed from any outside sources that are designated for purposes of reducing tobacco use.~~

~~(8) In collaboration with the Agency and Department, organize a minimum of two public meetings, by September 15 of each year, to receive public input and advice for setting program priorities and establishing an annual program budget.~~

~~(9) Conduct jointly with the Secretary a review of the Department's proposed annual budget for the program, including funds contributed from any outside sources that are designated for purposes of reducing tobacco use, and submit independent recommendations to the Governor, Joint Fiscal Committee, and House and Senate Committees on Appropriations by October 1 of each year.~~

(10)(6) Propose to the Department strategies for program coordination and collaboration with other State agencies, health care providers and organizations, community and school groups, nonprofit organizations dedicated to anti-tobacco activities, and other nonprofit organizations.

~~(11) Adopt a conflict of interest policy within 30 days of the appointment of the full Board and include this policy in the annual report required under this chapter.~~

§ 9506. ALLOCATION SYSTEM

(a) In determining the allocation of funds available for the purposes of this chapter, the Department and the Board shall consider all relevant factors, including:

(1) the level of funding or other participation by private or public sources in the activity being considered for funding;

(2) what resources will be required in the future to sustain the program;

(3) geographic distribution of funds; and

(4) the extent to which the goals of the project can be measured by reductions in adult or youth smoking rates.

~~(b) The Department's and Board's allocation system shall include a method, developed jointly, that evaluates the need for and impact and quality of the activities proposed by eligible applicants, including, if appropriate,~~

~~measuring the results of the project through reductions in adult and youth smoking rates.~~

§ 9507. ANNUAL REPORT

~~(a) On or before January 15 of each year, the Board shall submit a report concerning its activities under this chapter to the Governor and the General Assembly. The report shall include, to the extent possible, the following:~~

~~(1) the results of the independent program evaluation, beginning with the report filed on January 15, 2003, and then each year thereafter;~~

~~(2) a full financial report of the activities of the Departments of Health and of Liquor Control, the Agency of Education, and the Board, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;~~

~~(3) a recommended budget for the program; and~~

~~(4) an explanation of the results of approved programs, measured through reductions in adult and youth smoking rates. [Repealed.]~~

~~(b) [Repealed.]~~

* * * Substance Misuse Prevention Inventory * * *

Sec. 5. INVENTORY; SUBSTANCE MISUSE PREVENTION SERVICES

(a) On or before January 1, 2021, the Manager of Substance Misuse Prevention established pursuant to 18 V.S.A. § 4804, in consultation with the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321, shall develop and submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare an inventory of substance misuse prevention programs in the State. The Manager shall include in the inventory:

(1) the estimated cost and funding source of each program;

(2) the geographic reach of each program;

(3) the effectiveness of each program; and

(4) any identified gaps in services.

(b) On or before January 1, 2020, the Manager shall submit an interim report to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding its progress and findings related to subsection (a) of this section.

* * * Vermont Prescription Drug Advisory Council * * *

Sec. 6. 18 V.S.A. § 4255 is amended to read:

§ 4255. ~~CONTROLLED SUBSTANCES AND PAIN MANAGEMENT~~

VERMONT PRESCRIPTION DRUG ADVISORY COUNCIL

(a) There is hereby created the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The ~~Controlled Substances and Pain Management~~ Advisory Council shall consist of the following members:

* * *

Sec. 7. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

(g) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

* * *

Sec. 8. 18 V.S.A. § 4289 is amended to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE
PROVIDERS AND DISPENSERS

* * *

(e) The Commissioner of Health shall, after consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled

substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

* * *

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee vote: 11-0-0)

(For text see Senate Journal March 26, 2019)

Rep. Fagan of Rutland City, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Human Services.

(Committee Vote: 10-1-0)

Favorable

S. 169

An act relating to firearms procedures

Rep. LaLonde of South Burlington, for the Committee on Judiciary, recommends that the bill ought to pass in concurrence.

(Committee Vote: 7-4-0)

(For text see Senate Journal March 21, 22, 2019)

Senate Proposal of Amendment

H. 16

An act relating to boards and commissions

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

* * * Vermont State Archives and Records Administration; State Boards and Commissions Registry * * *

Sec. 1. 3 V.S.A. § 116a is amended to read:

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

(a)(1) ~~The Secretary of State~~ Vermont State Archives and Records Administration shall maintain and make available on ~~his or her official~~ its

website ~~an inventory~~ a registry of the State boards and commissions, and shall update that ~~inventory~~ registry when changes are made that affect the information provided in the ~~inventory~~ registry.

(2)(A) The ~~inventory~~ registry 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~~ Vermont State Archives and Records Administration this ~~inventory~~ registry information and any updates to it in a manner prescribed by the State Archivist.

(3) The registry shall track the dates of the initial creation of State boards and commissions created by State law and of any amendments to those laws for the purpose of the intended five-year expiration of those State boards and commissions described in subsection (b) of this section.

(b)(1) It is the intent of the General Assembly that, except for State boards and commissions required by interstate compact and except as otherwise provided by law, a State board or commission created by State law shall cease to exist after five years from the date of its initial creation, five years from the last date that the statutory or session law containing the State board or commission was amended, or on January 1, 2025, whichever date is latest.

(2)(A) In each biennial session beginning in the year 2025, the Office of Legislative Council, in consultation with the Vermont State Archives and Records Administration and based on the registry's date tracking described in subdivision (a)(3) of this section, shall prepare for the General Assembly's review a list of the State boards and commissions subject to expiration under this subsection.

(B) A State board or commission shall only expire pursuant to legislative enactment.

(c) As used in this section, "~~State boards and commissions~~ board or commission" means a professional or occupational licensing ~~boards~~ board or ~~commissions~~ commission, advisory ~~boards~~ board or ~~commissions~~ commission, appeals ~~boards~~ board, promotional ~~boards~~ board, interstate ~~boards~~ board, supervisory ~~boards and councils~~ board or council, and or any other boards or commissions of the State similar entity that:

(1) is created by State law, by federal law and contains State appointees, or by executive order;

(2) is established as or is attached to an Executive Branch entity;

(3) has statewide jurisdiction or carries out a State function; and

(4) is not composed of members appointed exclusively by regional, county, or municipal entities.

Sec. 2. 2018 (Sp. Sess.) Acts and Resolves No. 2, Sec. 15 is amended to read:

Sec. 15. EFFECTIVE DATES

This act shall take effect on July 1, 2018, except that Sec. 12, 3 V.S.A. § 116a (~~Secretary of State VSARA; maintenance of inventory of State boards and commissions registry~~), shall take effect on January 1, ~~2019~~ 2023.

Sec. 3. [Deleted.]

* * * Standard Per Diem and Expense Reimbursement * * *

Sec. 4. 32 V.S.A. § 1010 is amended to read:

§ 1010. MEMBERS OF CERTAIN BOARDS

(a) Except for those members serving ex officio or otherwise regularly employed by the State, the ~~compensation of the~~ members of the following ~~Boards~~ boards shall be entitled to receive \$50.00 in per diem compensation:

- (1) Board of Bar Examiners
- (2) Board of Libraries
- (3) Vermont Milk Commission
- (4) Board of Education
- (5) State Board of Health
- (6) Emergency Board
- (7) Board of Liquor and Lottery
- (8) Human Services Board
- (9) State Fish and Wildlife Board
- (10) State Board of Mental Health
- (11) Vermont Employment Security Board
- (12) Capitol Complex Commission
- (13) Natural Gas and Oil Resources Board
- (14) Transportation Board
- (15) Vermont Veterans' Home Board of Trustees
- (16) Advisory Council on Historic Preservation

- (17) The Electricians' Licensing Board
- (18) Offender Work Programs Board
- (19) Emergency Personnel Survivors Benefit Review Board
- (20) Community High School of Vermont Board

(b)(1) Notwithstanding any other provision of law, members of professional or occupational licensing boards or commissions, advisory boards or commissions, appeals boards, promotional boards, interstate boards, supervisory boards and councils, or any other boards, ~~or commissions, or~~ similar entities that are not listed in subsection (a) of this section but are otherwise entitled by act of the General Assembly to receive per diem compensation, shall be entitled to receive per diem compensation in the amount of \$50.00 per day for each day devoted to official duties. This subsection shall not reduce the amount of per diem compensation ~~heretofore~~ provided by act of the General Assembly to members of boards or commissions entitled to receive more than \$50.00 per day.

(2) "Per diem" means the amount of compensation to which a member of a statutory board or commission is entitled for:

~~(1)~~(A) attendance at a regular or special meeting of such board or commission or any committee thereof; or

~~(2)~~(B) performance of other duties directly related to the efficient conduct of necessary board business as assigned and approved by the chairperson, provided that payment for such duties shall be at the per diem rate prorated for actual time spent performing duties. Proration shall be calculated based on an eight-hour day. Under no circumstances shall the daily payment exceed the per diem amount.

(c) The members of the boards and ~~departments~~ commissions, including those members serving ex officio or otherwise regularly employed by the State, shall be entitled to receive their actual and necessary expenses when away from home or office upon their official duties.

(d) Notwithstanding the provisions of subsections (a) and (b) of this section, a member shall not be entitled to receive State per diem compensation for any meeting or other official duty for which specific compensation is provided by another source.

(e) The Governor may authorize per diem compensation and expense reimbursement in accordance with this section for members of boards and commissions, including temporary study commissions, created by Executive Order.

(f) Members of the Parole Board shall be entitled to receive \$100.00 per diem for each day of official duties together with reimbursement of reasonable expenses incurred in the performance of their duties.

* * * Travel Information Council * * *

Sec. 5. 10 V.S.A. § 484 is amended to read:

§ 484. TRAVEL INFORMATION COUNCIL; CREATION, MEMBERSHIP, TERMS

(a) The Travel Information Council is created to administer the provisions of this chapter.

(1) The Agency of Transportation shall be responsible for the administration and maintenance of the official business directional sign program, information plazas, and other tourist information facilities deemed appropriate by the Council.

(2) The Agency of Commerce and Community Development shall be responsible for the collection and distribution of travel information, as deemed appropriate by the Council.

(b)(1) The ~~Travel Information~~ Council may ~~make~~ adopt rules, consistent with this chapter relating to the determination of locations for official business directional signs and to all other matters necessary and appropriate to the administration of this chapter. In ~~making~~ adopting those rules it shall give consideration to the adequacy of information provided by highway directional signs and the preservation of scenic and aesthetic values and shall consult with the Agency of Transportation as to matters of highway safety.

(2) It shall determine whether official business directional signs at a particular location shall be displayed in tiers or upon panels.

(3) It shall advise the Agency of Commerce and Community Development on policies and matters pertaining to collection and distribution of tourist information.

(c)(1) The ~~Travel Information~~ Council shall have seven members, comprising the Secretary of Commerce and Community Development or designee, who shall chair the ~~council~~ Council, and six appointed members as follows: one representing the lodging industry, one the restaurant industry, one the recreation industry, one the Agency of Transportation, one the general public, and one agriculture.

(2) The six appointed members shall be appointed by the Governor with the advice and consent of the Senate ~~with the six initially appointed members appointed as of the effective date of this chapter, with three initial members~~

~~appointed for one year terms, and three for two year terms. Three appointed in two-year staggered terms so that three members shall be are appointed biennially thereafter annually.~~ The members are eligible for reappointment.

(3) Members of the Council shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010, which shall be paid by the Agency of Transportation.

(d)(1) ~~The Travel Information Council shall designate, in each State transportation district, a person to represent business, a person to represent the public, and a person to represent the district planning or development agencies as a committee to act for it in those districts in considering applications for signs and the location thereof.~~

(2) The members of the committee shall serve at the pleasure of the Council, and a majority of a committee shall constitute a quorum for the conduct of any business.

(3) A person aggrieved by a decision of a committee may ask for and shall be granted a hearing before the ~~Travel Information Council~~ and may appeal on questions of law to the Superior Court under V.R.C.P. 74 from a decision of the Council.

* * * Travel and Recreation Council * * *

Sec. 6. 10 V.S.A. § 652 is amended to read:

§ 652. TRAVEL AND RECREATION COUNCIL; MEMBERSHIP

(a) ~~A travel and recreation council~~ The Travel and Recreation Council is created. It shall comprise the following members:

(1) the Secretary of Commerce and Community Development, or designee;

(2) the Secretary of Natural Resources, or designee;

(3) the Secretary of Transportation, or designee;

(4) the Secretary of Agriculture, Food and Markets, or designee;

(5) the Commissioner of Tourism and Marketing, or designee; and

(6) ten members from the private sector appointed by the Governor.

(b)(1) The ten members appointed by the Governor shall serve a term of three years, beginning July 1, or the unexpired portion thereof. For the initial appointments, the Governor shall appoint three for one year, four for two years, and three for three years.

(2) When appointing members, the Governor shall consider persons who have understanding of the travel and recreation industry and who will adequately represent the various interests in the State.

(c) The Council shall elect its chair annually from among its members.

(d) The Council shall meet at least quarterly at the call of the ~~chair~~ Chair or the agency secretary.

(e) Members of the Council shall be entitled to receive per diem compensation and reimbursement for of expenses in accordance with as permitted under 32 V.S.A. § 1010, which shall be paid by the Agency of Commerce and Community Development.

* * * Vermont Community Development Board * * *

Sec. 7. 10 V.S.A. § 685 is amended to read:

§ 685. THE VERMONT COMMUNITY DEVELOPMENT BOARD

(a) There ~~shall be~~ is created within the Agency of Commerce and Community Development the Vermont Community Development Board consisting of nine members who shall be residents of the State.

(b)(1) The members shall be appointed by the Governor for a term of three years, or for the unexpired portion thereof. For the initial appointments, the Governor shall appoint three for one year, three for two years, and three for three years.

(2) In the appointment of the members, consideration shall be given to the selection of such persons as shall adequately represent the interests of various sections of the State and the principal beneficiaries of the program.

(c) The Chair shall be appointed annually by the Governor from among the members.

(d) Members of the Board shall be ~~compensated at the rate of \$30.00 per day for time spent in the performance of their duties, and they shall be reimbursed for necessary expenses incurred therein~~ entitled to receive per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010, which shall be paid by the Agency.

(e) No person who receives a significant portion of his or her income directly or indirectly from the community development activities governed by this subchapter shall be a member of the Board.

(f) The Agency shall provide staff assistance and administrative support to the Board.

(g) Prior to January 15 of each year, the Board shall submit a report of its activities and grants for the preceding year to the Governor and General Assembly.

* * * State and Regional Economic Development and Planning Services
Oversight Panel * * *

Sec. 8. REPEAL

2010 Acts and Resolves No. 146, Sec. G.6 (State and Regional Economic Development and Planning Services; Oversight Panel) is repealed.

* * * Development Cabinet * * *

Sec. 9. 3 V.S.A. § 2293 is amended to read:

§ 2293. ~~DEVELOPMENT CABINET~~

~~(a) Legislative purpose. The General Assembly deems it prudent to establish a permanent and formal mechanism to assure collaboration and consultation among State agencies and departments, in order to support and encourage Vermont's economic development, while at the same time conserving and promoting Vermont's traditional settlement patterns, its working and rural landscape, its strong communities, and its healthy environment, all in a manner set forth in this section.~~

~~(b) Development Cabinet.~~

~~(1) A Development Cabinet is created, to consist of the Secretaries of the Agencies of Administration, of Agriculture, Food and Markets, of Commerce and Community Development, of Education, of Natural Resources, and of Transportation. The Governor or the Governor's designee shall chair the Development Cabinet.~~

~~(2) The Development Cabinet shall advise the Governor on how best to implement the purposes of this section, and shall recommend changes as appropriate to improve implementation of those purposes.~~

~~(3) The Development Cabinet may establish interagency work groups to support its mission, drawing membership from any agency or department of State government. Any interagency work groups established under this subsection shall evaluate, test the feasibility of, and suggest alternatives to economic development proposals, including proposals for public-private partnerships, submitted to them for consideration. The Development Cabinet shall refer to appropriate interagency workgroups any economic development proposal that has a significant impact on the inventory or use of State land or buildings.~~

~~(c) Implementation. All State agencies that have programs or take actions affecting land use, including those identified under 3 V.S.A. chapter 67, shall, through or in conjunction with the members of the Development Cabinet:~~

~~(1) Support conservation of working lands and open spaces.~~

~~(2) Strengthen agricultural and forest product economies, and encourage the diversification of these industries.~~

~~(3) Develop and implement plans to educate the public by encouraging discussion at the local level about the impacts of poorly designed growth, and support local efforts to enhance and encourage development and economic growth in the State's existing towns and villages.~~

~~(4) Administer tax credits, loans, and grants for water, sewer, housing, schools, transportation, and other community or industrial infrastructure, in a manner consistent with the purposes of this section.~~

~~(5) To the extent possible, endeavor to make the expenditure of State appropriations consistent with the purposes of this section.~~

~~(6) Encourage development in, and work to revitalize, land and buildings in existing village and urban centers, including "brownfields," housing stock, and vacant or underutilized development zones. Each agency is to set meaningful and quantifiable benchmarks.~~

~~(7) Encourage communities to approve settlement patterns based on maintaining the State's compact villages, open spaces, working landscapes, and rural countryside.~~

~~(8) Encourage relatively intensive residential development close to resources such as schools, shops, and community centers and make infrastructure investments to support this pattern.~~

~~(9) Support recreational opportunities that build on Vermont's outstanding natural resources, and encourage public access for activities such as boating, hiking, fishing, skiing, hunting, and snowmobiling. Support and work collaboratively to make possible sound development and well-planned growth in existing recreational infrastructure.~~

~~(10) Provide means and opportunity for downtown housing for mixed social and income groups in each community.~~

~~(11) [Repealed.]~~

~~(12) Encourage timely and efficient processing of permit applications affecting land use, including 10 V.S.A. chapter 151 and the subdivision regulations adopted under 18 V.S.A. § 1218, in order to encourage the~~

~~development of affordable housing and small business expansion, while protecting Vermont's natural resources.~~

~~(13) Participate in creating a long-term economic development plan, including making available the members of any agency or department of State government as necessary and appropriate to support the mission of an interagency work group established under subsection (b) of this section.~~

~~(d) Interagency work group.~~

~~(1) Pursuant to the recommendations of the Oversight Panel on Economic Development created in 2010 Acts and Resolves No. 146, Sec. G6, the Development Cabinet shall create an interagency work group as provided in subsection (b) of this section with the Secretary of Commerce and Community Development serving as its chair.~~

~~(2) The mission of the work group shall be to develop a long-term economic development plan for the State, which shall identify goals and recommend actions to be taken over 10 years, and which shall be consistent with the four principles of economic development identified in 10 V.S.A. § 3 and the relevant population-level outcomes for economic development set forth in 3 V.S.A. § 2311.~~

~~(e) Long-term economic development plan.~~

~~(1) On or before January 15, 2014, and every two years thereafter, the Development Cabinet or its work group shall complete a long-term economic development plan as required under subsection (d) of this section and recommend it to the Governor.~~

~~(2) Commencing with the plan due on or before January 15, 2016, the Development Cabinet or its work group may elect only to prepare and recommend to the Governor an update of the long-term economic development plan.~~

~~(3) Administrative support for the economic development planning efforts of the Development Cabinet or its work group shall be provided by the Agency of Commerce and Community Development.~~

~~(f) Limitations. This Cabinet is strictly an information gathering and coordinating cabinet and confers no additional enforcement powers. [Repealed.]~~

~~Sec. 10. [Deleted.]~~

~~* * * Film and New Media Advisory Board * * *~~

~~Sec. 11. 3 V.S.A. § 2471d is amended to read:~~

§ 2471d. VERMONT FILM AND NEW MEDIA ADVISORY BOARD

~~The Secretary of Commerce and Community Development shall appoint a Film and New Media Advisory Board to make recommendations to the Secretary on promoting Vermont as a location for commercial film and television production and facilitating the participation of local individuals and companies in such productions. The primary function of the Advisory Board is to recommend to the Secretary strategies to link Vermonters employed in the film and new media, video, or other creative arts, to economic opportunities in their trades in Vermont. [Repealed.]~~

~~* * * Vermont Rehabilitation Corporation * * *~~

Sec. 12. 10 V.S.A. chapter 12, subchapter 6 is amended to read:

Subchapter 6. Family Farm Assistance

§ 271. PURPOSES

~~It is the intention of the General Assembly in enacting this subchapter to provide a limited source of loan funds to family farmers or prospective family farmers under terms and conditions that will reduce their investment costs to an extent that offers them a reasonable chance to succeed. [Repealed.]~~

§ 272. DEFINITIONS

As used in this subchapter:

(1) ~~“Authority” means the Vermont Economic Development Authority.~~

(2) ~~“Family farmer” means a person who is a resident of this State and who is, or will become, engaged in farming on his or her own behalf managing and operating the farm on a full-time basis and whose net worth (including his or her dependents and spouse) does not exceed \$150,000.00.~~

(3) ~~“Farming” shall mean the cultivation of land or other uses of land for the production of food, fiber, horticultural, orchard, or forest crops, or the raising of livestock, poultry, equines, fish, or bees. Farming also includes the storage, preparation, retail sale, and transportation of agricultural commodities accessory to the cultivation or use of such land.~~

(4) ~~“Vermont Rehabilitation Corporation” means the nonprofit quasi-public corporation for which articles of association have been filed with the Secretary of State on April 26, 1935. [Repealed.]~~

§ 273. FARMERS LOAN PROGRAM; ELIGIBILITY; APPLICATION

~~(a) The Vermont Rehabilitation Corporation shall establish a family farm assistance loan program to: strengthen existing farms, encourage~~

~~diversification and innovative farming techniques, increase energy efficiency and reduce energy consumption, and assist beginning farmers to start new farms, provided that beginning farmers will not produce commodities that are already in surplus.~~

~~(b) In order to be eligible an applicant shall be:~~

~~(1) a family farmer who is a resident of this State;~~

~~(2) an owner or prospective purchaser of agricultural land in the State or depreciable farm machinery, equipment, or livestock to be used in the State;~~

~~(3) a person of sufficient education, training, or experience in the type of farming for which the applicant requests the loan;~~

~~(4) an operator or proposed operator of a farm for whom the loan reduces investment costs to an extent that offers him or her a reasonable chance to succeed;~~

~~(5) a credit-worthy person under such standards as the Vermont Rehabilitation Corporation may, in its discretion, establish; and~~

~~(6) in compliance with the requirements of subdivisions 262(2) through (4) and subdivisions (6) through (10) of this title. For purposes of this subchapter, the terms "eligible facility" and "facility" as used in section 262 shall be defined to include all farming operations.~~

~~(c) Applicants for the family farmer assistance loan program under this subchapter shall apply to the Vermont Rehabilitation Corporation, which shall review proposed farm projects, and the applicant's qualifications and grant loans under the provisions of this subchapter, subject to such reasonable terms and conditions as the Vermont Rehabilitation Corporation deems appropriate.~~

~~(d) Any person who obtains a loan under this subchapter shall not be eligible for loan assistance under subchapter 5 of this chapter during the period in which the subchapter 6 loan is outstanding.~~

~~(e) All meetings of the Vermont Rehabilitation Corporation board of directors that concern the family farm assistance program shall be subject to 1 V.S.A. chapter 5, subchapter 5. [Repealed.]~~

§ 274. LOAN TERMS AND CONDITIONS

~~(a) Within the limits of funds available, the Vermont Rehabilitation Corporation may make loans to eligible applicants upon such terms and conditions as may reasonably be expected to be fulfilled by the applicant. In no event shall the total principal obligation of all Vermont Economic~~

~~Development authority loans granted under this subchapter to any family farmer exceed \$50,000.00.~~

~~(b) The Vermont Rehabilitation Corporation shall require the farmer to execute a note, loan agreement, security agreement, mortgage, or other evidence of indebtedness in favor of the Authority sufficient to protect reasonably the security of the mortgage or secured loan. All payments shall be made to the Authority for the use of section 234 of this title. The Vermont Economic Development Authority shall service all loans made by the Vermont Rehabilitation Corporation under this subchapter. In the event of default by a loan recipient under this subchapter, the Authority shall consult with the Vermont Rehabilitation Corporation prior to commencing any collection or foreclosure action. [Repealed.]~~

~~§ 275. FUNDING~~

~~In fiscal year 1986, the Vermont Rehabilitation Corporation, in its discretion, may loan up to \$400,000.00 of the Vermont Jobs Fund established by section 234 of this title for the purposes of this subchapter. Depending on its assessment of the progress of the family farm assistance program, the General Assembly may adjust the loan limits from those established for fiscal year 1986 and may establish appropriate loan limits in fiscal years 1987 and 1988. [Repealed.]~~

~~§ 277. PERSONNEL AND ADMINISTRATIVE SUPPORT~~

~~(a) The Secretary of Agriculture, Food and Markets, with the consent of the Vermont Rehabilitation Corporation, may use a portion of the funds provided under section 275 of this title, not to exceed \$20,000.00 in any fiscal year, to contract for assistance in reviewing loan applications, making recommendations to the board, reviewing compliance with loan conditions, and carrying out such other activities as the Secretary of Agriculture, Food and Markets may direct.~~

~~(b) The Secretary of Agriculture, Food and Markets may provide the Vermont Rehabilitation Corporation with additional personnel and other support as he or she deems necessary to carry out the purposes of this subchapter. [Repealed.]~~

~~* * * State Natural Resources Conservation Council
Board of Adjustment * * *~~

~~Sec. 13. 10 V.S.A. chapter 31, subchapter 1 is amended to read:~~

~~Subchapter 1. Conservation, Development, and Use of Natural Resources~~

~~* * *~~

§ 731. FAILURE TO OBSERVE LAND-USE ORDINANCE;
CONFERENCES

(a) In the event that the supervisors of a district find that the provisions of a land-use ordinance adopted according to the provisions of this chapter are not being observed on particular lands, and that such nonobservance tends substantially to increase erosion on such lands and substantially interferes with the prevention or control of erosion or conservation of natural resources on other lands within the district, the supervisors may summon the owner of the land to appear before them to discuss the failure of the owner to observe the regulations, and to perform particular work, operations, or avoidances as required by ordinance of the district, when the nonobservance tends substantially to increase erosion on the lands and substantially interferes with the prevention or control of erosion or conservation of natural resources on other lands within the district.

(b) By conference thus convoked, the supervisors and the owner of land not observing the ordinance adopted by the district, shall together make and sign a finding as to the issues ~~which~~ that are involved in the failure of the owner to observe the ordinance of the district.

(c)(1) Upon the basis of such findings and if, after conference, it appears to the supervisors that there are great practical difficulties or unnecessary hardship involved in the full observance of the ordinance of the district, the ~~supervisor~~ supervisors shall endeavor to work out a program with the owner, as shall be acceptable to the owner and shall enable the owner to comply with the ordinance.

(2)(A) Alternatively, upon the basis of their findings, the supervisors may authorize such variance from the ordinances in their application to the lands of the owner who has not complied with the ordinance of the district, when such variance will relieve practical difficulties or unnecessary hardship to that owner and when such variance is not contrary to public interest and is in accordance with the purpose of land use regulations.

(B) The supervisors may request the landowner not complying with an ordinance to sign a stipulation setting forth the conditions agreed upon by the landowner and supervisors so that the practical difficulties or unnecessary hardship may be overcome and the work proceed by the consent of such landowner upon the land.

(d) Nothing in this chapter shall be construed so as to make ineffective any remedies available under the laws of the State.

§ 732. NONCOMPLIANCE; REFERENCE TO BOARD OF

~~ADJUSTMENT; COMPOSITION OF BOARD; TERMS,
COMPENSATION, CONDUCT~~

~~(a) When by conference the supervisors and the landowner not complying with the ordinances of the district are unable to agree on the conditions under which compliance may be effected, the supervisors shall refer the matter to a board of adjustment which shall be appointed by the State Council upon request of the supervisors.~~

~~(b) The board of adjustment shall consist of three members appointed for a term of one year. The board shall elect its own chair. Vacancies in the board of adjustment shall be filled in the same manner as original appointments. The members of the board shall receive compensation for their services at a rate not to exceed the per diem rate as defined by 32 V.S.A. § 1010(b) in addition to expenses incurred in the discharge of their duties. The State Council shall pay the necessary administrative and other expenses of operation incurred by the board upon vouchers signed by the chair of the board. The board shall adopt rules to govern its procedure, which rules shall be in accordance with the provisions of this chapter and with the provisions of any recommendations made by the State Council. Any two members of the board shall constitute a quorum. The chair, or in the chair's absence such other member of the board as the chair may designate to serve as acting chair, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep an accurate record of its proceedings, and shall file all documents and memoranda of proceedings with the state council, when each grievance has been adjusted. [Repealed.]~~

~~§ 733. POWERS OF BOARD~~

~~Upon the basis of such inquiry as it deems it necessary to conduct, and upon the basis of findings resulting therefrom, the board of adjustment shall have authority by order to authorize such variance from the ordinances in their application to the lands of the owner who has not complied with the ordinance of the district, when such variance will relieve practical difficulties or unnecessary hardship to such owner and when such variance is not contrary to public interest and is in accordance with the purpose of land-use regulations. The board of adjustment may request the landowner not complying with an ordinance to sign a stipulation setting forth the conditions agreed upon by the landowner and supervisors so that the practical difficulties or unnecessary hardship may be overcome and work proceed by the consent of such landowner upon his land. However, nothing in this chapter shall be construed so as to make ineffective any remedies available under the laws of the state. [Repealed.]~~

§ 734. SUPERVISORS MAY PETITION SUPERIOR COURT, ~~WHEN~~

If a landowner does not sign such stipulation, the supervisors may petition the Superior Court to require such landowner to bring his or her land into conformity with the ordinance, and the ~~Court~~ court shall order such relief as it may deem necessary in the interest of public health, safety, and welfare. However, no landowner shall by ordinance or otherwise be required to pay any money or perform any act that shall not be for the protection of his or her own land nor shall he or she be required to pay any money, perform any act, or carry out any practice that shall not be in just proportion to the benefits that he or she will receive and further provided that he or she shall not be required to pay any money, perform any act, or carry out any practice that shall not be deemed to be necessary for the public good.

* * *

* * * Pesticide Advisory Council * * *

Sec. 14. 6 V.S.A. § 1102 is amended to read:

§ 1102. PESTICIDE ADVISORY COUNCIL ESTABLISHED

* * *

(d) The functions of the Council are:

* * *

(6) To recommend targets with respect to the State goal of achieving an overall reduction in the use of pesticides consistent with sound pest or vegetative management practices and to ~~issue an annual report to the General Assembly, detailing~~ measure the State's progress in reaching those targets and attaining that goal. The targets should be designed to enable evaluation of multiple measures of pesticide usage, use patterns, and associated risks. Targets should take into consideration at a minimum the following:

- (A) reducing the amount of acreage where pesticides are used;
- (B) reducing the risks associated with the use of pesticides;
- (C) increasing the acreage managed by means of integrated pest management techniques;
- (D) decreasing, within each level of comparable risk, the quantity of pesticides applied per acre; and
- (E) making recommendations regarding the implementation of other management practices that result in decreased pesticide use.

* * *

* * * Vermont Milk Commission * * *

Sec. 15. 6 V.S.A. § 2937 is amended to read:

§ 2937. ANNUAL PERIODIC REPORT

The Commission ~~shall~~ may report ~~annually~~ as needed on its activities to the House and Senate Committees on Agriculture ~~on or before January 15,~~ beginning in 2009.

* * * Sustainable Agriculture Council * * *

Sec. 16. 6 V.S.A. § 4701 is amended to read:

§ 4701. SUSTAINABLE AGRICULTURE RESEARCH AND EDUCATION PROGRAM

(a) The purpose of this section is to promote research and education that will encourage the development and use of economically and ecologically sound sustainable agriculture practices such as organic methods, biological control, integrated pest management, soil improvement, cultivation, harvesting and irrigation techniques, and transportation and marketing innovations, through:

(1) ~~The~~ the control of pests and diseases of agricultural importance through alternatives that reduce or eliminate the use of pesticides and petrochemicals;

(2) ~~The~~ the production, processing, and distribution of food and fiber in ways that consider the interactions among soils, plants, water, air, animals, tillage, machinery, labor, energy, and transportation to enhance the viability of agricultural soils, public health, and resource conservation;

(3) ~~The~~ the expansion of marketing opportunities and promotion of products produced through the practice of sustainable agriculture ~~which~~ that will encourage the purchase of Vermont grown foods and promote regional food security; and

(4) ~~The~~ the coordination of research and education activities on sustainable agriculture among private and public agencies and individuals within Vermont.

(b) ~~A Sustainable Agriculture Council is established, to be chaired by the Secretary of Agriculture, Food and Markets. The Council shall include the Secretary of Education and representatives, appointed by the Secretary of Agriculture, Food and Markets, of the College of Agriculture at the University of Vermont, University of Vermont Extension, Vermont Technical College and farm organizations, and a representative of the low input sustainable~~

~~agriculture program of the U.S. Department of Agriculture. The Council shall meet on call of the Secretary and shall make recommendations regarding:~~

~~(1) Goals and priorities for ongoing public and private research of particular relevance to Vermont agriculture, and for the coordination of research and demonstration projects on sustainable agriculture.~~

~~(2) The dissemination of research results, the identification of future research needs and other useful information on sustainable agriculture.~~

~~(3) The use of State-owned lands, participating farmer managed land, and land owned by the University of Vermont and State Colleges System for continuing research on sustainable agriculture practices.~~

~~(4) Techniques for financing the integration of sustainable agriculture practices into farming operations.~~

~~(5) The teaching of sustainable agriculture practices in schools at the elementary, secondary, and postsecondary levels. [Repealed.]~~

(c) The Secretary of Agriculture, Food and Markets is authorized to apply for, accept, and make use of grants from public and private sources to achieve the objectives of this section, in accordance with the provisions of 32 V.S.A. § 5. In awarding grants, preference shall be given to individuals, especially farmers, conducting on-farm research.

~~(d) By January 15, annually, the Council shall prepare a report for distribution to participating organizations and the public summarizing developments in sustainable agriculture in Vermont and nationally. The report shall also make recommendations for future activities that will promote the objectives of this section. [Repealed.]~~

* * * Vermont Transportation Authority * * *

Sec. 17. REPEAL

29 V.S.A. chapter 16 (Vermont Transportation Authority) is repealed.

* * * Capitol Complex Commission * * *

Sec. 18. 29 V.S.A. § 182 is amended to read:

§ 182. DEFINITIONS

As used in this chapter:

* * *

(2) “~~Capitol complex commission~~ Complex Commission” means a commission consisting of ~~five~~ seven members.

(A) Four members shall be appointed by the ~~governor~~ Governor, with the advice and consent of the ~~senate~~ Senate, for a term of three years. One member shall be appointed by the Speaker of the House, and one member shall be appointed by the Senate Committee on Committees, each for a term of two years. The ~~fifth~~ seventh member shall be appointed by the Montpelier ~~city council~~ City Council for a term of two years.

(B) The ~~chair~~ Chair of the ~~capitol-complex-commission~~ Capitol Complex Commission shall be designated by the ~~governor~~ Governor.

(C) ~~No more~~ Not fewer than two members of the ~~commission~~ Commission shall be residents of the ~~city~~ City of Montpelier, and ~~no a~~ a member ~~may shall not be~~ an exempt employee of the ~~state~~ State of Vermont or a State legislator.

(D) The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall be the executive secretary of the ~~board~~ Commission and shall have no vote.

* * *

(For text see House Journal May 10, 13, 2019)

H. 330

An act relating to repealing the statute of limitations for civil actions based on childhood sexual abuse

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

Sec. 1. 12 V.S.A. § 522 is amended to read:

§ 522. ACTIONS BASED ON CHILDHOOD SEXUAL ABUSE

(a) A civil action brought by any person for recovery of damages for injury suffered as a result of childhood sexual abuse ~~shall~~ may be commenced ~~within six years of~~ at any time after the act alleged to have caused the injury or condition, ~~or six years of the time the victim discovered that the injury or condition was caused by that act, whichever period expires later.~~ The victim need not establish which act in a series of continuing sexual abuse or exploitation incidents caused the injury.

(b) If a complaint is filed alleging an act of childhood sexual abuse ~~which occurred more than six years prior to the date the action is commenced,~~ the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until the answer is served or, if the defendant files a motion to dismiss under Rule 12(b) of the Vermont Rules of Civil

Procedure, until the court rules on that motion. If the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed. Any hearing held in connection with the motion to dismiss shall be in camera.

(c) As used in this section, “childhood sexual abuse” means any act committed by the defendant against a complainant who was less than 18 years of age at the time of the act and which act would have constituted a violation of a statute prohibiting lewd and lascivious conduct, lewd or lascivious conduct with a child, felony sexual exploitation of a minor in violation of 13 V.S.A. § 3258(c), sexual assault, or aggravated sexual assault in effect at the time the act was committed.

(d) Notwithstanding 1 V.S.A. § 214, this section shall apply retroactively to childhood sexual abuse that occurred prior to the effective date of this act, irrespective of any statute of limitations in effect at the time the abuse occurred. In an action based on childhood sexual abuse that would have been barred by any statute of limitations in effect on June 30, 2019, damages may be awarded against an entity that employed, supervised, or had responsibility for the person allegedly committing the sexual abuse only if there is a finding of gross negligence on the part of the entity.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(For text see House Journal May 10, 13, 2019)