

# Senate Calendar

FRIDAY, MAY 17, 2019

SENATE CONVENES AT: 11:00 A.M.

## TABLE OF CONTENTS

Page No.

### ACTION CALENDAR

#### UNFINISHED BUSINESS OF MAY 14, 2019

##### House Proposal of Amendment

**S. 96** An act relating to the provision of water quality services.....2929

#### UNFINISHED BUSINESS OF MAY 16, 2019

##### Third Reading

**H. 107** An act relating to paid family and medical leave.....2950

##### Second Reading

##### Favorable with Proposal of Amendment

**H. 351** An act relating to workers' compensation, unemployment insurance, and ski tramway amendments

Econ. Dev., Housing and General Affairs Report - Sen. Sirotkin ..... 2950

Appropriations Report - Sen. McCormack ..... 2951

#### NEW BUSINESS

##### Third Reading

**H. 63** An act relating to the time frame for return of unclaimed beverage container deposits..... 2951

Amendment - Sen. Perchlik ..... 2951

**H. 292** An act relating to town banners over highway rights-of-way.....2951

**H. 513** An act relating to broadband deployment throughout Vermont.....2952

Amendment - Sens. Hooker and Collamore ..... 2952

##### Second Reading

##### Favorable

**H. 547** An act relating to approval of an amendment to the charter of the City of Montpelier.....2952

Government Operations Report - Sen. Pollina .....2952

**Favorable with Recommendation of Amendment**

**S.R. 5** Senate resolution strongly opposing the basing of any nuclear  
weapon delivery system in the State of Vermont  
Government Operations Report - Sen. Pollina .....2952

**Report of Committee of Conference**

**S. 511** An act relating to criminal statutes of limitations..... 2954

**NOTICE CALENDAR**

**Second Reading**

**Favorable**

**H. 508** An act relating to approval of amendments to the charter of  
the Town of Bennington  
Government Operations Report - Sen. Collamore ..... 2955  
Finance Report - Sen. Campion ..... 2955

**House Proposals of Amendment**

**S. 30** An act relating to the regulation of hydrofluorocarbons..... 2956  
**S. 31** An act relating to informed health care financial decision making... 2958  
**S. 73** An act relating to licensure of ambulatory surgical centers.....2959  
**S. 105** An act relating to miscellaneous judiciary procedures.....2960

**Report of Committee of Conference**

**S. 95** An act relating to municipal utility capital investment..... 2977

**CONCURRENT RESOLUTIONS FOR ACTION**

**S.C.R. 13** (For text of Resolutions, see Addendum to Senate Calendar  
for May 16, 2019).....2983  
**H.C.R. 176 - 190** (For text of Resolutions, see Addendum to House  
Calendar for May 16, 2019).....2983

---

---

**ORDERS OF THE DAY**

---

---

**ACTION CALENDAR**

**UNFINISHED BUSINESS OF TUESDAY, MAY 14, 2019**

**House Proposal of Amendment**

**S. 96**

An act relating to the provision of water quality services.

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

Sec. 1. 10 V.S.A. chapter 37, subchapter 5 is amended to read:

Subchapter 5. ~~Aquatic Nuisance Control~~ Water Quality Restoration and Improvement

§ 921. DEFINITIONS

As used in this subchapter:

(1) “Administrative cost” means program and project costs incurred by a clean water service provider or a grantee, including costs to conduct procurement, contract preparation, and monitoring, reporting, and invoicing.

(2) “Basin” means a watershed basin designated by the Secretary for use as a planning unit under subsection 1253(d) of this title.

(3) “Best management practice” or “BMP” means a schedule of activities, prohibitions, practices, maintenance procedures, green infrastructure, or other management practices to prevent or reduce water pollution.

(4) “Clean water project” means a best management practice or other program designed to improve water quality to achieve a target established under section 922 of this title that:

(A) is not subject to a permit under chapter 47 of this title, is not subject to the requirements of 6 V.S.A. chapter 215, exceeds the requirements of a permit issued under chapter 47 of this title, or exceeds the requirements of 6 V.S.A chapter 215; and

(B) is within the following activities:

(i) developed lands, sub-jurisdictional practices related to developed lands including municipal separate storm sewers, operational stormwater discharges, municipal roads, and other developed lands discharges;

(ii) natural resource protection and restoration, including river corridor and floodplain restoration and protection, wetland protection and restoration, riparian and lakeshore corridor protection and restoration, and natural woody buffers associated with riparian, lakeshore, and wetland protection and restoration;

(iii) forestry; or

(iv) agriculture.

(5) “Co-benefit” means the additional benefit to local governments and the public provided by or associated with a clean water project, including flood resilience, ecosystem improvement, and local pollution prevention.

(6) “Design life” means the period of time that a clean water project is designed to operate according to its intended purpose.

(7) “Maintenance” means ensuring that a clean water project continues to achieve its designed pollution reduction value for its design life.

(8) “Standard cost” means the projected cost of achieving a pollutant load reduction per unit or per best management practice in a basin.

#### § 922. WATER QUALITY IMPLEMENTATION PLANNING AND TARGETS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall include in the implementation plan for the water a strategy for returning the water to compliance with the Vermont Water Quality Standards. With respect to a water that is impaired due to sources outside the State or if there is insufficient data or no data available to quantify reductions required by this subchapter, the Secretary shall not be required to implement the requirements of this subchapter; however, the Secretary shall provide an alternate strategy for attaining water quality standards in the implementation plan for the water. For waters determined to be subject to this subchapter, the Secretary shall include the following in an implementation plan:

(1) An evaluation of whether implementation of existing regulatory programs will achieve water quality standards in the impaired water. If the Secretary determines that existing regulatory programs will not achieve water quality standards, the Secretary shall determine the amount of additional pollutant reduction necessary to achieve water quality standards in that water. When making this determination, the Secretary may express the pollutant reduction in a numeric reduction or through defining a clean water project that must be implemented to achieve water quality standards.

(2) An allocation of the pollutant reduction identified under subdivision (a)(1) of this section to each basin and the clean water service provider assigned to that basin pursuant to subsection 924(a) of this title. When making this allocation, the Secretary shall consider the sectors contributing to the water quality impairment in the impaired water's boundaries and the contribution of the pollutant from regulated and nonregulated sources within the basin. Those allocations shall be expressed in annual pollution reduction goals and five-year pollution reduction targets as checkpoints to gauge progress and adapt or modify as necessary.

(3) A determination of the standard cost per unit of pollutant reduction. The Secretary shall publish a methodology for determining standard cost pollutant reductions. The standard cost shall include the costs of project identification, project design, and project construction.

(b)(1) The Secretary shall conduct the analysis required by subsection (a) of this section for previously listed waters as follows:

(A) For phosphorous in the Lake Champlain watershed, not later than November 1, 2021.

(B) For phosphorous in the Lake Memphremagog watershed, not later than November 1, 2022.

(2) By not later than November 1, 2023, the Secretary shall adopt a schedule for implementing the requirements of this subchapter in all other previously listed impaired waters, including Lake Carmi, not set forth in subdivision (1) of this subsection.

(c) When implementing the requirements of this section, the Secretary shall follow the type 3 notice process established in section 7714 of this title.

#### § 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN WATER PROJECTS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for calculating pollution reduction values associated with a clean water project in that water. When establishing a pollutant reduction value, the Secretary shall consider pollution reduction values established in the TMDL; pollution reduction values established by other jurisdictions; pollution reduction values recommended by organizations that develop pollutant reduction values for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Pollution reduction values established by the Secretary shall be the exclusive method for determining the pollutant reduction value of a clean water project.

(b) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for establishing a design life associated with a clean water project. The design life of a clean water project shall be determined based on a review of values established in other jurisdictions, values recommended by organizations that regularly estimate the design life of clean water projects, actual data documenting the design life of a practice, or a comparison to other similar practices if no other data exists. A design life adopted by the Secretary shall be the exclusive method for determining the design life of a best management practice or other control.

(c)(1) If a person is proposing a clean water project for which no pollution reduction value or design life exists for a listed water, the Secretary shall establish a pollution reduction value or design life for that clean water project within 60 days following a request from the person proposing the clean water project. A pollution reduction value or design life established under this subdivision shall be based on a review of pollution reduction values established in the TMDL; pollution reduction values or design lives established by other jurisdictions; pollution reduction values or design lives recommended by organizations that develop pollutant reduction values or design lives for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; actual data documenting the design life of a clean water project; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Any estimate developed under this subsection by the Secretary shall be posted on the Agency of Natural Resources' website.

(2) Upon the request of a clean water service provider, the Secretary shall evaluate a proposed clean water project and issue a determination as to whether the proposed clean water project is eligible to receive funding as a part of a Water Quality Restoration Formula Grant awarded by the State pursuant to section 925 of this title.

(d)(1) The Secretary shall conduct the analysis required by subsections (a) and (b) of this section for clean water projects and design lives related to phosphorous not later than November 1, 2021.

(2) By not later than November 1, 2023, the Secretary shall adopt a schedule for implementing the requirements of subsections (a) and (b) of this section for clean water projects and design lives related to all other impairments not listed under subdivision (1) of this subsection.

(e) The Secretary shall periodically review pollution reduction values and design lives established under this section at least every five years to determine the adequacy or accuracy of a pollution reduction value or design life.

(f)(1) When implementing the requirements of subsections (a) and (b) of this section, the Secretary shall follow the type 3 notice process established in section 7714 of this title.

(2) When implementing the requirements of subsection (c) of this section, the Secretary shall follow the type 4 notice process in section 7715 of this title.

§ 924. CLEAN WATER SERVICE PROVIDER; RESPONSIBILITY FOR  
CLEAN WATER PROJECTS

(a) Clean water service providers; establishment.

(1) On or before November 1, 2020, the Secretary shall adopt rules that assign a clean water service provider to each basin in the Lake Champlain and Lake Memphremagog watersheds for the purposes of achieving pollutant reduction values established by the Secretary for the basin and for identification, design, construction, operation, and maintenance of clean water projects within the basin. For all other impaired waters, the Secretary shall assign clean water service provider no later than six months prior to the implementation of the requirements of this subchapter scheduled by the Secretary under subdivision 922(b)(2) of this title. The rulemaking shall be done in consultation with regional planning commissions, natural resource conservation districts, watershed organizations, and municipalities located within each basin.

(2) An entity designated as a clean water service provider shall be required to identify, prioritize, develop, construct, verify, inspect, operate, and maintain clean water projects in accordance with the requirements of this subchapter.

(3) The Secretary shall adopt guidance on a clean water service provider's obligation with respect to implementation of this chapter. The Secretary shall provide notice to the public of the proposed guidance and a comment period of not less than 30 days. At a minimum, the guidance shall address the following:

(A) how the clean water service provider integrates prioritizes and selects projects consistent with the applicable basin plan, including how to account for the co-benefits provided by a project;

(B) minimum requirements with respect to selection and agreements with subgrantees;

(C) requirements associated with the distribution of administrative costs to the clean water service provider and subgrantees;

(D) Secretary's assistance to clean water service providers with respect to their maintenance obligations pursuant to subsection (c) of this section; and

(E) the Secretary's strategy with respect to accountability pursuant to subsection (f) of this section.

(4) In carrying out its duties, a clean water service provider shall adopt guidance for subgrants consistent with the guidance from the Secretary developed pursuant to subdivision (a)(3) of this section that establishes a policy for how the clean water service provider will issue subgrants to other organizations in the basin, giving due consideration to the expertise of those organizations and other requirements for the administration of the grant program. The subgrant guidance shall include how the clean water service provider will allocate administrative costs to subgrantees for project implementation and for the administrative costs of the basin water quality council. The subgrant guidance shall be subject to the approval of the Secretary and basin water quality council.

(5) When selecting clean water projects for implementation or funding, a clean water service provider shall prioritize projects identified in the basin plan for the area where the project is located and shall consider the pollutant targets provided by the Secretary and the recommendations of the basin water quality council.

(b) Project identification, prioritization, selection. When identifying, prioritizing, and selecting a clean water project to meet a pollutant reduction value, the clean water service provider shall consider the pollution reduction value associated with the clean water project, the co-benefits provided by the project, operation, and maintenance of the project, conformance with the tactical basin plan, and other water quality benefits beyond pollution reduction associated with that clean water project. All selected projects shall be entered into the watershed projects database.

(c) Maintenance responsibility. A clean water service provider shall be responsible for maintaining a clean water project or ensuring the maintenance for at least the design life of that clean water project. The Secretary shall provide funding for maintenance consistent with subdivision 1389(e)(1)(A) of this title.

(d) Water quality improvement work. If a clean water service provider achieves a greater level of pollutant reduction than a pollutant reduction goal or five-year target established by the Secretary, the clean water service provider may carry those reductions forward into a future year. If a clean water service provider achieves its pollutant reduction goal or five-year target and has excess grant funding available, a clean water service provider may:



- (1) carry those funds forward into the next program year;
- (2) use those funds for other eligible project;
- (3) use those funds for operation and maintenance responsibilities for existing constructed projects;
- (4) use those funds for projects within the basin that are required by federal or State law; or
- (5) use those funds for other work that improves water quality within the geographic area of the basin, including protecting river corridors, aquatic species passage, and other similar projects.

(e) Reporting. A clean water service provider shall report annually to the Secretary. The report from clean water service providers shall be integrated into the annual clean water investment report, including outcomes from the work performed by clean water service providers. The report shall contain the following:

- (1) a summary of all clean water projects completed that year in the basin;
- (2) a summary of any inspections of previously implemented clean water projects and whether those clean water projects continue to operate in accordance with their design;
- (3) all administrative costs incurred by the clean water service provider;
- (4) a list of all of the subgrants awarded by the clean water service provider in the basin; and
- (5) all data necessary for the Secretary to determine the pollutant reduction achieved by the clean water service provider during the prior year.

(f) Accountability for pollution reduction goals. If a clean water service provider fails to meet its allocated pollution reduction goals or its five-year target or fails to maintain previously implemented clean water projects the Secretary shall take appropriate steps to hold the clean water service provider accountable for the failure to meet pollution reduction goals or its five-year target. The Secretary may take the following steps:

- (1) enter a plan to ensure that the clean water service provider meets current and future year pollution reduction goals and five-year targets; or
- (2) initiate rulemaking to designate an alternate clean water service provider as accountable for the basin.

(g) Basin water quality council.

(1) A clean water service provider designated under this section shall establish a basin water quality council for each assigned basin. The purpose of a basin water quality council is to establish policy and make decisions for the clean water service provider regarding the most significant water quality impairments that exist in the basin and prioritizing the projects that will address those impairments based on the basin plan. A basin water quality council shall also participate in the basin planning process.

(2) A basin water quality council shall include, at a minimum, the following:

(A) two persons representing natural resource conservation districts in that basin, selected by the applicable natural resource conservation districts;

(B) two persons representing regional planning commissions in that basin, selected by the applicable regional planning commission;

(C) two persons representing local watershed protection organizations operating in that basin, selected by the applicable watershed protection organizations;

(D) one representative from an applicable local or statewide land conservation organization selected by the conservation organization in consultation with the clean water service provider; and

(E) two persons representing from each municipality within the basin, selected by the clean water service provider in consultation with municipalities in the basin.

(3) The designated clean water service provider and the Agency of Natural Resources shall provide technical staff support to the basin water quality council. The clean water service provider may invite support from persons with specialized expertise to address matters before a basin water quality council, including support from the University of Vermont Extension, staff of the Agency of Natural Resources, staff of the Agency of Agriculture, Food and Markets, staff of the Agency of Transportation, staff from the Agency of Commerce and Community Development, the Natural Resource Conservation Service, U.S. Department of Fish and Wildlife, and U.S. Forest Service.

#### § 925. CLEAN WATER SERVICE PROVIDER; WATER QUALITY RESTORATION FORMULA GRANT PROGRAM

The Secretary shall administer a Water Quality Restoration Formula Grant Program to award grants to clean water service providers to meet the pollutant reduction requirements under this subchapter. The grant amount shall be based on the annual pollutant reduction goal established for the clean water service

provider multiplied by the standard cost for pollutant reduction including the costs of administration and reporting. Not more than 15 percent of the total grant amount awarded to a clean water service provider shall be used for administrative costs.

#### § 926. WATER QUALITY ENHANCEMENT GRANT PROGRAM

The Secretary shall administer a Water Quality Enhancement Grant Program. This program shall be a competitive grant program to fund projects that protect high quality waters, maintain or improve water quality in all waters, restore degraded or stressed waters, create resilient watersheds and communities, and support the public's use and enjoyment of the State's waters. When making awards under this program, the Secretary shall consider the geographic distribution of these funds. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

#### § 927. DEVELOPED LANDS IMPLEMENTATION GRANT PROGRAM

The Secretary shall administer a Developed Lands Implementation Grant Program to provide grants or financing to persons who are required to obtain a permit to implement regulatory requirements that are necessary to achieve water quality standards. The grant or financing program shall only be available in basins where a clean water service provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals. This grant program shall fund or provide financing for projects related to the permitting of impervious surface of three acres or more under subdivision 1264(g)(3) of this title. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

#### § 928. MUNICIPAL STORMWATER IMPLEMENTATION GRANT PROGRAM

The Secretary shall administer a Municipal Stormwater Implementation Grant Program to provide grants to any municipality required under section 1264 of this title to obtain or seek coverage under the municipal roads general permit, the municipal separate storm sewer systems permit, a permit for impervious surface of three acres or more, or a permit required by the Secretary to reduce the adverse impacts to water quality of a discharge or stormwater runoff. The grant program shall only be available in basins where a clean water service provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

§ 929. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

The Secretary shall provide technical assistance upon the request of any person who, under this chapter, receives a grant or is a subgrantee of funds to implement a clean water project.

§ 930. RULEMAKING

The Secretary may adopt rules to implement the requirements of this subchapter.

Sec. 2. 10 V.S.A. § 1253(d)(2) and (3) are amended to read:

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) review the evaluations performed by the Secretary under subdivisions 922(a)(1) and (2) of this title and update those findings based on any new data collected as part of a basin plan;

(E) for projects in the basin that will result in enhancement of resources, including those that protect high quality waters of significant natural resources, the Secretary shall identify the funding needs beyond those currently funded by the Clean Water Fund;

(F) ensure that municipal officials, citizens, natural resources conservation districts, regional planning commissions, watershed groups, and other interested groups and individuals are involved in the basin planning process;

~~(E)~~(G) ensure regional and local input in State water quality policy development and planning processes;

~~(F)~~(H) provide education to municipal officials and citizens regarding the basin planning process;

~~(G)~~(I) develop, in consultation with the regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

~~(H)~~(J) provide for public notice of a draft basin plan; and

~~(I)~~(K) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, negotiate and issue performance grants to the Vermont Association of Planning and Development Agencies or its designee, ~~and~~ the Natural Resources Conservation Council or its designee, and to Watersheds United Vermont or its designee to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection in a manner consistent with the authority of regional planning commissions under 24 V.S.A. chapter 117 and the authority of the natural resources conservation districts under chapter 31 of this title. When negotiating a scope of work with the Vermont Association of Planning and Development Agencies or its designee, ~~and~~ the Natural Resources Conservation Council or its designee, and Watersheds United Vermont or its designee to assist in or produce a basin plan, the Secretary may require the Vermont Association of Planning and Development Agencies, ~~or~~ the Natural Resources Conservation Council, or Watersheds United Vermont to:

(A) conduct any of the activities required under subdivision (2) of this subsection (d);

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations better to meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to ensure cost-effective use of State and federal funds.

Sec. 3. 10 V.S.A. § 1387 is amended to read:

§ 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

(a)(1) The State has committed to implementing a long-term Clean Water Initiative to provide mechanisms, staffing, and financing necessary to achieve and maintain compliance with the Vermont Water Quality Standards for all State waters.

(2) Success in implementing the Clean Water Initiative will depend largely on providing sustained and adequate funding to support the implementation of all of the following:

(A) the requirements of 2015 Acts and Resolves No. 64;

(B) federal or State required cleanup plans for individual waters or water segments, such as total maximum daily load plans;

(C) the Agency of Natural Resources' Combined Sewer Overflow Rule;

(D) the operations of clean water service providers under chapter 37, subchapter 5 of this title; and

(E) the permanent protection of land and waters from future development and impairment through conservation and water quality projects funded by the Vermont Housing and Conservation Trust Fund authorized by chapter 15 of this title.

(3) To ensure success in implementing the Clean Water Initiative, the State should commit to funding the Clean Water Initiative in a manner that ensures the maintenance of effort and that provides an annual appropriation for clean water programs in a range of \$50 million to \$60 million as adjusted for inflation over the duration of the Initiative.

(4) To avoid the future impairment and degradation of the State's waters, the State should commit to continued funding for the protection of land and waters through agricultural and natural resource conservation, including through permanent easements and fee acquisition.

(b) The General Assembly establishes in this subchapter a Vermont Clean Water Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Fund shall be used to:

(1) ~~assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs~~ the implementation of the Clean Water Initiative;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions; and

(3) ~~provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects~~ clean water service providers to meet the obligations of chapter 37, subchapter 5 of this title.

Sec. 3a. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the Clean Water Fund to be administered by the Secretary of Administration. The Fund shall consist of:

(1) revenues from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a;

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title; and

(4) four percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225; and

~~(4)~~(5) other revenues dedicated for deposit into the Fund by the General Assembly.

\* \* \*

Sec. 4. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER BOARD

(a) Creation.

(1) There is created the Clean Water Board that shall:

(A) be responsible and accountable for planning, coordinating, and financing of the remediation, improvement, and protection of the quality of State waters;

(B) recommend to the Secretary of Administration expenditures:

(i) appropriations from the Clean Water Fund according to the priorities established under subsection (e) of this section; and

(ii) clean water water quality programs or projects that provide water quality benefits, reduce pollution, protect natural areas, enhance water quality protections on agricultural land enhance flood and climate resilience, provide wildlife habitat, or promote and enhance outdoor recreation in support of rural community vitality to be funded by capital appropriations.

(2) The Clean Water Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee;

(5) the Secretary of Transportation or designee; and

(6) four members of the public, who are not legislators, with expertise in one or more of the following subject matters: public management, civil engineering, agriculture, ecology, wetlands, stormwater system management, forestry, transportation, law, banking, finance, and investment, to be appointed by the Governor.

\* \* \*

(d) Powers and duties of the Clean Water Board. The Clean Water Board shall have the following powers and authority:

\* \* \*

(3) The Clean Water Board shall:

~~(A) establish a process by which watershed organizations, State agencies, and other interested parties may propose water quality projects or programs for financing from the Clean Water Fund;~~

~~(B) develop an annual revenue estimate and proposed budget for the Clean Water Fund;~~

~~(C)(B) establish measures for determining progress and effectiveness of expenditures for clean water restoration efforts;~~

(C) if the Board determines that there are insufficient funds in the Clean Water Fund to issue all grants or financing required by sections 925–928 of this title, conduct all of the following:

(i) Direct the Secretary of Natural Resources to prioritize the work needed in every basin, adjust pollution allocations assigned to clean water service providers, and issue grants based on available funding.

(ii) Make recommendations to the Governor and General Assembly on additional revenue to address unmet needs.

(iii) Notify the Secretary of Natural Resources that there are insufficient funds in the Fund. The Secretary of Natural Resources shall consider additional regulatory controls to address water quality improvements that could not be funded.

(D) issue the annual Clean Water Investment Report required under section 1389a of this title; and

(E) solicit, consult with, and accept public comment from organizations interested in improving water quality in Vermont regarding recommendations under this subsection (d) for the allocation of funds from the Clean Water Fund; and



~~(F) establish a process under which a watershed organization, State agency, or other interested party may propose that a water quality project or program identified in a watershed basin plan receive funding from the Clean Water Fund recommend capital appropriations for the permanent protection of land and waters from future development through conservation and water quality projects.~~

(e) Priorities.

~~(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize as follows:~~

~~(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);~~

~~(B) funding to projects that address sources of water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;~~

~~(1) As a first priority, make recommendations regarding funding for the following grants and programs, which shall each be given equal priority:~~

~~(A) grants to clean water service providers to fund the reasonable costs associated with the inspection, verification, operation, and maintenance of clean water projects in a basin;~~

~~(B) the Water Quality Restoration Formula Grant under section 925 of this title;~~

~~(C) the Agency of Agriculture, Food and Markets' agricultural water quality programs; and~~

~~(D) the Water Quality Enhancement Grants under section 926 of this title at a funding level of at least 20 percent of the annual balance of the Clean Water Fund, provided that the maximum amount recommended under this subdivision (D) in any year shall not exceed \$ 5,000,000.00; and~~

~~(E) funding to partners for basin planning, basin water quality council participation, education, and outreach as provided in subdivision 1253(d)(3) of this title, provided funding shall be at least \$500,000.00.~~

~~(2) As the next priority after reviewing funding requests for programs identified under subdivision (1) of this subsection:~~

~~(C)(A) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;~~

~~(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;~~

~~(E)(B) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;~~

~~(F)(C) funding for the Municipal Stormwater Implementation Grant as provided in section 928 of this title;~~

~~(D) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy; and~~

~~(G)(E) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices;~~

~~(H) funding to municipalities for the establishment and operation of stormwater utilities; and~~

~~(I) investment in watershed basin planning, water quality project identification screening, water quality project evaluation, and conceptual plan development of water quality projects.~~

~~(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements and to municipalities for the establishment and operation of stormwater utilities.~~

~~(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide investment in all watersheds of the State based on the needs identified in watershed basin plans.~~

~~(3) As the next priority after reviewing funding requests under subdivisions (1) and (2) of this subsection, funding for the Developed Lands Implementation Grant Program as provided in section 927 of this title.~~

(f) Assistance. The Clean Water Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

Sec. 4a. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) The Education Fund is established to comprise the following:

\* \* \*

(4) ~~25~~ 21 percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225;

\* \* \*

Sec. 4b. REPEAL

Sec. G.8 (prewritten software accessed remotely) of 2015 Acts and Resolves No. 51 is repealed.

Sec. 5. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

\* \* \*

(20) If designated as a clean water service provider under 10 V.S.A. § 924, provide for the identification, prioritization, development, construction, inspection, verification, operation, and maintenance of clean water projects in the basin assigned to the regional planning commission in accordance with the requirements of 10 V.S.A. chapter 37, subchapter 5.

Sec. 6. 10 V.S.A. § 704 is amended to read:

§ 704. POWERS OF COUNCIL

The State Natural Resources Conservation Council may employ an administrative officer and such technical experts and such other agents and employees as it may require. The Council may call upon the Attorney General of the State for such legal services as it may require, or may employ its own counsel. It shall have authority to delegate to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. If designated as a clean water service provider under section 924 of

this title, provide for the identification, prioritization, development, construction, inspection, verification, operation, and maintenance of clean water projects in the basin assigned to a natural resources conservation district in accordance with the requirements of chapter 37, subchapter 5 of this title.

#### Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

On or before July 1, 2022, the Secretary of Natural Resources, after consultation with the Clean Water Board, shall submit to the Senate Committees on Appropriations, on Natural Resources and Energy, and on Finance and the House Committees on Appropriations, on Natural Resources, Fish, and Wildlife, and on Ways and Means recommendations regarding implementation of a market-based mechanism that allows the purchase of water quality credits by permittees under 10 V.S.A. chapter 47, and other entities. The report shall include information on the cost to develop and manage any recommended trading program.

#### Sec. 8. TRANSITION

(a) Until November 1, 2021, the Secretary shall implement the existing ecosystem restoration funding delivery program and shall not make substantial modifications to the manner in which that program has been implemented. The Secretary may give increased priority to meeting legal obligations pursuant to a total maximum daily load when implementing that funding delivery program.

(b) Until the plan required by 10 V.S.A. § 923(d)(2) has been fully implemented, the Secretary shall provide additional weight to geographic areas of the State not receiving a grant pursuant to 10 V.S.A. § 925 when making funding decisions with respect to grants awarded pursuant to 10 V.S.A. § 926.

#### Sec. 9. LAND AND WATER CONSERVATION STUDY

(a) The State's success in achieving and maintaining compliance with the Vermont Water Quality Standards for all State waters depends on avoiding the future degradation or impairment of surface waters. An important component of avoiding the future degradation or impairment of surface waters is the permanent protection of lands for multiple conservation purposes, including the protection of surface waters and associated natural resources, according to priorities for multiple conservation values, including water quality benefits, natural areas, flood and climate resilience, wildlife habitat, and outdoor recreation.

(b) The State's success in achieving and maintaining compliance with the Vermont Water Quality Standards depends in part on strategic land conservation. To assist the State in enhancing the benefit of strategic land

conservation, the Secretary of Natural Resources shall convene a Land and Water Conservation Study Stakeholder Group to develop a recommended framework for statewide land conservation. On or before January 15, 2020, the Secretary shall submit the Stakeholder Group's recommended framework for statewide land conservation to the General Assembly. The recommended framework shall include:

(1) recommendations for maximizing both water quality benefits and other state priorities from land conservation projects, including agricultural uses, natural area and headwaters protection, flood and climate resilience, wildlife habitat, outdoor recreation, and rural community development; and

(2) recommended opportunities to leverage federal and other nonstate funds for conservation projects.

(c)(1) The Land and Water Conservation Study Stakeholder Group shall include the following individuals or their designees:

(A) the Secretary of Natural Resources;

(B) the Secretary of Agriculture, Food and Markets;

(C) the Executive Director of the Vermont Housing and Conservation Board;

(D) the President of the Vermont Land Trust;

(E) the Vermont and New Hampshire Director of the Trust for Public Land; and

(F) the Director of the Nature Conservancy for the State of Vermont.

(2) The Secretary of Natural Resources shall invite the participation in the Stakeholder Group by the U.S. Department of Agriculture's Natural Resources Conservation Service, representatives of farmer's watershed alliances, representatives of landowner organizations, and other interested parties.

Sec. 10. 10 V.S.A. § 1389a is amended to read:

§ 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Secretary of Administration shall publish the Clean Water Investment Report. The Report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Board and other State agencies for clean water restoration over the prior fiscal year. The Report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source.

(b) The Report shall include:

(1) Documentation of progress or shortcomings in meeting established indicators for clean water restoration.

(2) A summary of additional funding sources pursued by the Board, including whether those funding sources were attained; if it was not attained, why it was not attained; and where the money was allocated from the Fund.

(3) A summary of water quality problems or concerns in each watershed basin of the State, a list of water quality projects identified as necessary in each basin of the State, and how identified projects have been prioritized for implementation. The water quality problems and projects identified under this subdivision shall include programs or projects identified across State government and shall not be limited to projects listed by the Agency of Natural Resources in its watershed projects database.

(4) A summary of any changes to applicable federal law or policy related to the State's water quality improvement efforts, including any changes to requirements to implement total maximum daily load plans in the State.

(5) A summary of available federal funding related to or for water quality improvement efforts in the State.

(6) Beginning January 2023, a summary of the administration of the grant programs established under sections 925–928 of this title, including whether these grant programs are adequately funding implementation of the Clean Water Initiative and whether the funding limits for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of this title should be amended to improve State implementation of the Clean Water Initiative.

(c) The Report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(d)(1) The Secretary of Administration shall develop and use a results-based accountability process in publishing the annual report required by subsection (a) of this section.

(2) The Secretary of Administration shall develop user-friendly issue briefs, tables, or executive summaries that make the information required under subdivision (b)(3) available to the public separately from the report required by this section.

(3) On or before September 1 of each year, the Secretary of Administration shall submit to the Joint Fiscal Committee an interim report regarding the information required under subdivision (b)(5) of this section relating to available federal funding.

Sec. 10a. REPORT OF SECRETARY OF ADMINISTRATION;  
WATER QUALITY PROJECTS ON FARMS

On or before January 15, 2020, the Secretary of Administration, as the chair of the Clean Water Board, shall, after consultation with the Secretary of Natural Resources and the Secretary of Agriculture, Food and Markets, submit to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry and the Senate Committees on Natural Resources and Energy and on Agriculture a report regarding the administration and funding of water quality projects on farms as part of the Clean Water Initiative. The report shall include recommendations on:

(1) how farmers can maximize access to funding for water quality projects on farms, including funding available through grants authorized under 10 V.S.A chapter 37, subchapter 5;

(2) how the Agency of Agriculture, Food and Markets should be involved in water quality projects on farms, including how the Agency of Agriculture, Food and Markets would give approval of, be notified of, or participate in water quality projects on farms funded by a clean water service provided under 10 V.S.A. chapter 37, subchapter 5;

(3) how to minimize duplication of effort, administration, and oversight between the Agency of Agriculture, Food and Markets and clean water service providers regarding water quality projects on farms; and

(4) how to most efficiently and effectively fund water quality projects on farms, including how to ensure the continued functionality of projects after construction or implementation.

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

**UNFINISHED BUSINESS OF THURSDAY, MAY 16, 2019**

**Third Reading**

**H. 107.**

An act relating to paid family and medical leave.

**Second Reading**

**Favorable with Proposal of Amendment**

**H. 351.**

An act relating to workers' compensation, unemployment insurance, and ski tramway amendments.

**Reported favorably with recommendation of proposal of amendment by Senator Sirotkin for the Committee on Economic Development, Housing and General Affairs.**

The Committee recommends that the Senate propose to the House to amend the bill as follows:

By striking out Secs. 1 through 6 and their reader assistance headings in their entireties and inserting in lieu thereof new Secs. 1 through 6 and their reader assistance heading to read as follows:

\* \* \* Deleted Sections \* \* \*

Sec. 1. [Deleted.]

Sec. 2. [Deleted.]

Sec. 3. [Deleted.]

Sec. 4. [Deleted.]

Sec. 5. [Deleted.]

Sec. 6. [Deleted.]

(Committee vote: 4-0-1)

(For House amendments, see House Journal for March 20, 2019, pages 564-570)



**Reported favorably with recommendation of proposal of amendment by Senator McCormack for the Committee on Appropriations.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In Sec. 8, 21 V.S.A. § 707, by striking out “ski lift mechanic education, job training, and apprenticeship programs” and inserting in lieu thereof the following: mechanic education, job training, and apprenticeship programs, related to the maintenance and operation of ski lifts

(Committee vote: 6-0-1)

**NEW BUSINESS**

**Third Reading**

**H. 63.**

An act relating to the time frame for return of unclaimed beverage container deposits.

**Proposal of amendment to H. 63 to be offered by Senator Perchlik before Third Reading**

Senator Perchlik moves to amend the Senate proposal of amendment as follows:

First: In Sec. 11, 30 V.S.A. chapter 2, subchapter 2, in section 62, subsection (d), after the word “Co-Chair”, by striking out the words “or any three of its members” and inserting in lieu thereof the words in consultation with the Department of Public Service

Second: In Sec. 14, effective dates, by adding a subsection (c) to read as follows:

(c) 30 V.S.A. § 62, building energy working groups, is repealed on June 30, 2021.

**H. 292.**

An act relating to town banners over highway rights-of-way.

**H. 513.**

An act relating to broadband deployment throughout Vermont.

**Proposal of amendment to H. 513 to be offered by Senators Hooker and Collamore before Third Reading**

Senators Hooker and Collamore move to amend the Senate proposal of amendment in Sec. 27a (Microcells; Municipalities; Emergency Services) in the first sentence by striking out the following: “already-installed,”

**Second Reading**

**Favorable**

**H. 547.**

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

**Reported favorably by Senator Pollina for the Committee on Government Operations.**

(Committee vote: 5-0-0)

(For House amendments, see House Journal of May 13, 2019, page 1467)

**Favorable with Recommendation of Amendment**

**S.R. 5.**

Senate resolution strongly opposing the basing of any nuclear weapon delivery system in the State of Vermont.

**Reported favorably with recommendation of amendment by Senator Pollina for the Committee on Government Operations.**

The Committee recommends that the resolution be amended by striking it out in its entirety and inserting in lieu thereof the following:

Senate resolution strongly opposing the basing of any nuclear weapon delivery system in Vermont.

*Whereas*, the State of Vermont has long been a national leader in opposing the spread of nuclear weapons, and

*Whereas*, at Town Meeting in 1982, 88 percent of the 180 municipalities voting on a U.S–U.S.S.R. bilateral nuclear freeze ballot measure voted in the affirmative, and

*Whereas*, at Town Meeting in 1999, 33 Vermont municipalities voted to “call upon the U.S. government and governments of all nuclear weapons states

to secure on an urgent basis a nuclear weapons abolition treaty” that would include a timetable for the early and mutually verifiable elimination of nuclear weapons, and

*Whereas*, shortly after the 33 towns approved this town meeting question, the General Assembly adopted Acts and Resolves No. R-120, “Joint resolution relating to urgently requesting the U.S. government to immediately enter into negotiations with all other nuclear nations for the adoption of a verifiable treaty to abolish nuclear weapons,” and

*Whereas*, on May 7, 2019, a retired Vermont Air National Guard Lieutenant Colonel testified before the Senate Committee on Government Operations that when the now-retired F-89 aircraft was stationed in Burlington it carried nuclear warheads, but that neither the U.S. Department of Defense nor the U.S. Air Force informed the State of Vermont that these weapons were being stored locally, and

*Whereas*, the 2018 *Nuclear Posture Review*, a publication of the U.S. Department of Defense, states that “We [the United States] are committed to upgrading the DCA (Dual-Capable Aircraft) with the nuclear-capable F-35 aircraft,” and further that “The United States is also incorporating nuclear capability onto the F-35, to be used by the United States and NATO allies, as a replacement for the current aging DCA,” and

*Whereas*, in a July 2018 interview, an official in the U.S. Air Force’s Financial Management and Comptroller’s office indicated that the variant of the F-35 to be assigned to the National Guard will eventually receive a Block 4 (nuclear capable) upgrade, and

***Resolved by the Senate of the State of Vermont:***

That the Senate of the State of Vermont expresses its strong opposition to the basing of any nuclear delivery system in the State of Vermont, *and be it further*

***Resolved:*** That the Secretary of the Senate be directed to send a copy of this resolution to the Governor, to Acting U.S. Secretary of Defense Patrick Shanahan, and to the Vermont Congressional Delegation.

(Committee vote: 4-1-0)

(For text of Resolution, see Senate Journal for April 25, 2019, page 600)

## Report of Committee of Conference

### H. 511.

An act relating to criminal statutes of limitations.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H. 511. An act relating to criminal statutes of limitations.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, sexual assault, sexual exploitation of a minor as defined in subsection 3258(c) of this title, human trafficking, aggravated human trafficking, murder, manslaughter, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for ~~manslaughter~~, lewd and lascivious conduct, sexual abuse of a vulnerable adult under subsection 1379(a) of this title, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses shall be commenced within 40 years after the commission of the offense, and not after:

(1) lewd and lascivious conduct alleged to have been committed against a child under 18 years of age;

(2) ~~sexual exploitation of a minor as defined in subsection 3258(c) of this title~~ maiming;

(3) lewd or lascivious conduct with a child;

(4) sexual exploitation of children under chapter 64 of this title; and

(5) ~~manslaughter alleged to have been committed against a child under 18 years of age~~ sexual abuse of a vulnerable adult under subsection 1379(b) of this title.

(d) Prosecutions for arson and first degree aggravated domestic assault shall be commenced within 11 years after the commission of the offense, and not after.

(e) Prosecutions for other felonies and for misdemeanors shall be commenced within three years after the commission of the offense, and not after.

Sec. 2 EFFECTIVE DATE

This act shall take effect on passage.

*JOSEPH C. BENNING  
ALICE W. NITKA  
RICHARD W. SEARS*

*Committee on the part of the Senate*

*MARTIN J. LALONDE  
MAXINE JO GRAD  
THOMAS B. BURDITT*

*Committee on the part of the House*

**NOTICE CALENDAR**

**Second Reading**

**Favorable**

**H. 508.**

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

**Reported favorably by Senator Collamore for the Committee on Government Operations.**

(Committee vote: 5-0-0)

(For House amendments, see House Journal of May 14, 2019, pages 1508-1516)

**Reported favorably by Senator Campion for the Committee on Finance.**

(Committee vote: 4-0-3)

## House Proposal of Amendment

### S. 30

An act relating to the regulation of hydrofluorocarbons.

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

Sec. 1. 10 V.S.A. § 586 is added to read:

#### § 586. REGULATION OF HYDROFLUOROCARBONS

(a) As used in this section:

(1) “Class I substance” and “class II substance” mean those substances listed in the 42 U.S.C. § 7671a, as it read on November 15, 1990 and Appendix A or B of Subpart A of 40 C.F.R. Part 82, as those read on January 3, 2017.

(2) “Hydrofluorocarbon” means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.

(3) “Residential consumer refrigeration product” has the same meaning as in Section 430.2 of Subpart A of 10 C.F.R. Part 430.

(4) “Retrofit” has the same meaning as in section 152 of Subpart F of 40 C.F.R. Part 82, as that section existed as of January 3, 2017.

(5) “Substitute” means a chemical, product, or alternative manufacturing process, whether new or retrofit, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including hydrofluorocarbons.

(b)(1) A person may not offer any product or equipment for sale, lease, or rent, or install or otherwise cause any equipment or product to enter into commerce in Vermont if that equipment or product consists of, uses, or will use a substitute, as set forth in Appendix U or V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, for the applications or end uses restricted by Appendix U or V, as those read on January 3, 2017, and consistent with the dates established in subdivision (b)(4) of this section.

(2) Except where existing equipment is retrofit, nothing in this subsection requires a person that acquired a restricted product or equipment prior to an effective date of the restrictions in subdivision (b)(4) of this section to cease use of that product or equipment.

(3) Products or equipment manufactured prior to an applicable effective date of the restrictions in subdivision (b)(4) of this section may be sold, imported, exported, distributed, installed, and used after the specified effective date.

(4) The restrictions under subdivision (b)(1) of this section shall take effect beginning:

(A) January 1, 2021, for propellants, rigid polyurethane applications and spray foam, flexible polyurethane, integral skin polyurethane, flexible polyurethane foam, polystyrene extruded sheet, polyolefin, phenolic insulation board and bunstock, supermarket systems, remote condensing units, stand-alone units, and vending machines;

(B) January 1, 2021, for refrigerated food processing and dispensing equipment, compact residential consumer refrigeration products, and polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component-spray foam;

(C) January 1, 2022, for residential consumer refrigeration products other than compact and built-in residential consumer refrigeration products;

(D) January 1, 2023, for cold storage warehouses and built-in residential consumer refrigeration products;

(E) January 1, 2024, for centrifugal chillers and positive displacement chillers; and

(F) January 1, 2020, or the effective date of the restrictions identified in appendix U or V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in subdivisions (A) through (E) of this subsection (b).

(c) The Secretary may adopt rules that include any of the following:

(1) The modification of the date of a prohibition established pursuant to subsection (b) of this section if the Secretary determines that the modified deadline meets both of the following criteria:

(A) reduces the overall risk to human health or the environment; and

(B) reflects the earliest date that a substitute is currently or potentially available.

(2) The prohibition on the use of any substitute if the Secretary determines that the prohibition meets both of the following criteria:

(A) reduces the overall risk to human health or the environment; and

(B) a lower-risk substitute is currently or potentially available.

(3) The creation of a list of approved substitutes, use conditions, or use limits, if any, and the addition or removal of substitutes, use conditions, or use limits to or from the list of approved substitutes if the Secretary determines those substitutes reduce the overall risk to human health and the environment.

(4) The creation of a list of exemptions from this section for medical uses of hydrofluorocarbons.

(d) If the U.S. Environmental Protection Agency approves a previously prohibited hydrofluorocarbon blend with a global warming potential of 750 or less for foam blowing of polystyrene extruded boardstock and billet and rigid polyurethane low-pressure two-component spray foam pursuant to the Significant New Alternatives Policy Program under section 7671(k) of the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.), the Secretary shall expeditiously propose a rule to conform to the requirements established under this section with that federal action.

## Sec. 2. ADOPTION OF RULES AND REPORTING

(a) On or before July 1, 2020, the Secretary of Natural Resources shall file with the Secretary of State proposed rules to establish a schedule to phase down the use of hydrofluorocarbons to meet the goal of a 40 percent reduction from the 2013 level of use by 2030.

(b) On or before January 15, 2020, the Secretary of Natural Resources shall submit a report to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife on progress in filing proposed rules pursuant to subsection (a) of this section and any delays in such rulemaking.

## Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

### **House Proposal of Amendment to Senate Proposal of Amendment to House Proposal of Amendment**

#### **S. 31**

An act relating to informed health care financial decision making

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

First: In Sec. 5, Vermont Health Information Exchange; opt-out consent policy; implementation, in subsection (a), by striking out subdivision (3) in its entirety and inserting in lieu thereof a new subdivision (3) to read as follows:



(3) identify the mechanisms by which Vermonters will be able to easily opt out of having their health information shared through the VHIE and a timeline identifying when each mechanism will be available, which shall begin at least one month prior to the March 1, 2020 change to the consent policy;

Second: In Sec. 6, effective dates, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) Sec. 4 (18 V.S.A. § 9351) shall take effect on March 1, 2020.

**House Proposal of Amendment to Senate Proposal of Amendment to  
House Proposal of Amendment**

**S. 73**

An act relating to licensure of ambulatory surgical centers.

The House concurs in the Senate proposal of amendment with the following amendments thereto:

First: By striking out Sec. 4, ambulatory surgical center data; Green Mountain Care Board; reports, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

\* \* \*

(14)(A) Collect and review annualized data from ambulatory surgical centers licensed pursuant to chapter 49 of this title, which shall include net patient revenues and which may include data on an ambulatory surgical center's scope of services, volume, payer mix, and coordination with other aspects of the health care system. The Board's processes shall be appropriate to ambulatory surgical centers' scale, their role in Vermont's health care system, and their administrative capacity, and the Board shall seek to minimize the administrative burden of data collection on ambulatory surgical centers. The Board shall also consider ways in which ambulatory surgical centers can be integrated into systemwide payment and delivery system reform.

(B) In its annual report pursuant to subsection (d) of this section, the Board shall describe its oversight of ambulatory surgical centers pursuant to subdivision (A) of this subdivision (14) for the most recently concluded 12-month period of the Board's review, including the amount of each ambulatory surgical center's net patient revenues and, using claims data from the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES), information regarding high-volume outpatient surgeries and procedures performed in ambulatory surgical center and hospital settings in Vermont, any

changes in utilization over time, and a comparison of the commercial insurance rates paid for the same surgeries and procedures performed in ambulatory surgical centers and in hospitals in Vermont.

Second: By adding a new section to be Sec. 4a to read as follows:

Sec. 4a. GREEN MOUNTAIN CARE BOARD; AMBULATORY  
SURGICAL CENTER REPORTING REQUIREMENTS;  
PROSPECTIVE REPEAL

18 V.S.A. § 9375(b)(14) (Green Mountain Care Board; ambulatory surgical center reporting requirements) is repealed on January 1, 2025.

Third: In Sec. 6, effective dates, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Secs. 3a (18 V.S.A. § 9373), 4 (18 V.S.A. § 9375(b)), and 4a (Green Mountain Care Board; ambulatory surgical center reporting; prospective repeal) and this section shall take effect on passage.

### **House Proposal of Amendment**

#### **S. 105**

An act relating to miscellaneous judiciary procedures.

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

Sec. 1. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

\* \* \*

(c) All diversion projects receiving financial assistance from the Attorney General shall adhere to the following provisions:

\* \* \*

(4) Each State's Attorney, in cooperation with the Attorney General and the diversion project program, shall develop clear criteria for deciding what types of offenses and offenders will be eligible for diversion; however, the State's Attorney shall retain final discretion over the referral of each case for diversion. The provisions of 33 V.S.A. § 5225(c) and § 5280(e) shall apply.

\* \* \*

~~(e) Within 30 days of the two-year anniversary of a successful completion of juvenile diversion, the court shall order the sealing of all court files and records, law enforcement records other than entries in the juvenile court~~

~~diversion project's centralized filing system, fingerprints, and photographs applicable to a juvenile court diversion proceeding unless, upon motion, the court finds:~~

~~(1) the participant has been convicted of a subsequent felony or misdemeanor during the two-year period, or proceedings are pending seeking such conviction; or~~

~~(2) rehabilitation of the participant has not been attained to the satisfaction of the court.~~

(1) Within 30 days after the two-year anniversary of a successful completion of juvenile diversion, the court shall provide notice to all parties of record of the court's intention to order the expungement of all court files and records, law enforcement records other than entries in the juvenile court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the expungement of the records. The court shall expunge the records if it finds:

(A) two years have elapsed since the successful completion of juvenile diversion by the participant and the dismissal of the case by the State's Attorney;

(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction;

(C) rehabilitation of the participant has been attained to the satisfaction of the court; and

(D) the participant does not owe restitution related to the case under a contract executed with the Restitution Unit.

(2) The court may expunge any records that were sealed pursuant to this subsection 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 subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement 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 expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) 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 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.

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

(f) Upon the entry of an order sealing such files and records under this section, the proceedings in the matter under this section shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein. Except as otherwise provided in this section, upon the entry of an order expunging files and records under this section, the proceedings in the matter shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

(g) Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records and only to those persons named therein. The process of automatically expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records expunged. Expungement shall occur if the requirements of subsection (e) of this section are met.

\* \* \*

(j) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225–5280.

Sec. 2. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

\* \* \*

(d) The Office of the Attorney General shall develop program outcomes following the designated State of Vermont performance accountability framework and, in consultation with the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Center for Crime Victim Services, and the Judiciary, report annually on or before December 1 to the General Assembly on services provided and outcome indicators. As a component of the report required by this subsection, the Attorney General shall include data on diversion program referrals in each county and possible causes of any geographical disparities.

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The matter shall become confidential when notice is provided to the court, except that for persons who are subject to conditions of release imposed pursuant to 13 V.S.A. § 7554 and who are referred to diversion pursuant to subdivision (b)(2) of this section, the matter shall become confidential upon the successful completion of diversion. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise, files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the diversion program declines to accept the case;
- (B) the person declines to participate in diversion;

(C) the diversion program accepts the case, but the person does not successfully complete diversion; or

(D) the prosecuting attorney recalls the referral to diversion.

\* \* \*

(m) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases pursuant to 33 V.S.A. §§ 5225 and 5280.

Sec. 3. [Deleted.]

Sec. 4. 4 V.S.A. § 27b is added to read:

§ 27b. ELECTRONICALLY FILED VERIFIED DOCUMENTS

(a) A registered electronic filer in the Judiciary's electronic document filing system may file any document that would otherwise require the approval or verification of a notary by filing the document with the following language inserted above the signature and date:

I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I will be subject to the penalty of perjury.

(b) A document filed pursuant to subsection (a) of this section shall not require the approval or verification of a notary.

(c) This section shall not apply to an affidavit in support of a search warrant application or to an application for a nontestimonial identification order.

Sec. 5. 13 V.S.A. § 2904 is amended to read:

§ 2904. FALSE SWEARING; FALSE DECLARATION

(a) A person of whom an oath is required by law, who willfully swears falsely in regard to any matter or thing respecting which such oath is required, shall be guilty of perjury and punished as provided in section 2901 of this title.

(b) A person who declares, certifies, or verifies in a signed writing that a statement is true and is made under the pains and penalties of perjury, and who willfully makes a false statement in the declaration, certification, or verification, shall be guilty of perjury and punished as provided in section 2901 of this title.

Sec. 6. 13 V.S.A. § 11a is amended to read:

§ 11a. ~~VIOLENT CAREER CRIMINALS~~

~~(a) The State may elect to seek the substitute penalty provided for in this section against a person who, after having been two times convicted within this State of a felony crime of violence, or under the law of any other state, government, or country, of a crime which, if committed in this State would be a felony crime of violence, is convicted of a third felony crime of violence within this State.~~

~~(b) If the State seeks a substitute penalty for one of the offenses enumerated in subsection (d) of this section, it shall give notice to the person by filing an information seeking the penalty contained in this section.~~

~~(c) A person charged under this section shall be sentenced upon conviction of such third or subsequent offense to imprisonment up to and including life.~~

~~(d) As used in this section, "felony crime of violence" shall mean the following crimes:~~

~~(1) arson causing death as defined in section 501 of this title;~~

~~(2) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;~~

~~(3) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;~~

~~(4) aggravated assault as defined in section 1024 of this title;~~

~~(5) murder as defined in section 2301 of this title;~~

~~(6) manslaughter as defined in section 2304 of this title;~~

~~(7) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;~~

~~(8) maiming as defined in section 2701 of this title;~~

~~(9) sexual assault as defined in subdivision 3252(a)(1) or (2) of this title or its predecessor as it was defined in section 3201 of this title;~~

~~(10) aggravated sexual assault as defined in section 3253 of this title;~~

~~(11) first degree unlawful restraint as defined in section 2407 of this title;~~

~~(12) first degree aggravated domestic assault as defined in section 1043 of this title where the defendant causes serious bodily injury to another person;~~

~~(13) lewd or lascivious conduct with a child as defined in section 2602 of this title where the child is under the age of 13 years and the defendant is 18 years of age or older.~~

~~(e) Notwithstanding any other provision of law to the contrary, the court shall not place on probation or suspend the sentence of any person sentenced under this section. No person who receives a minimum sentence under this section shall be eligible for early release or furlough until the expiration of the minimum sentence.~~

~~(f) For the purposes of this section, multiple convictions that arise out of the same criminal transaction are to be treated as one conviction. [Repealed.]~~

Sec. 7. 13 V.S.A. § 362 is amended to read:

#### § 362. EXPOSING POISON ON THE LAND

A person who deposits any poison or substance poisonous to animals on his or her premises or on the ~~premise~~ premises or buildings of another, with the intent that it be taken by an animal, shall be in violation of subdivision 352(2) of this title. This section shall not apply to control of wild pests, protection of crops from insects, mice, and plant diseases, or the Department of Fish and Wildlife ~~and employees and agents of the State Forest Service~~ in control of destructive wild animals.

Sec. 8. 13 V.S.A. § 397 is amended to read:

#### § 397. ADMINISTRATIVE PENALTY

In addition to the forfeiture of any award, premium, or trophy otherwise due, and in addition to other penalties provided by law, a person violating this chapter may be assessed an administrative penalty in an amount not to exceed \$1,000.00 by the Secretary. The Secretary shall utilize the provisions of 6 V.S.A. §§ 16 and 17 for purposes of assessing the penalty.

Sec. 9. 13 V.S.A. § 508 is amended to read:

#### § 508. SETTING FIRES

A person who enters upon lands of another and sets a fire that causes damage shall be imprisoned not more than 60 days nor less than 30 days, or fined not more than \$100.00 nor less than \$10.00, or both. The provisions of this section shall not affect the provisions of sections section 507 ~~and 3906~~ of this title.



Sec. 10. 13 V.S.A. § 1501 is amended to read:

§ 1501. ESCAPE AND ATTEMPTS TO ESCAPE

(a) A person who, while in lawful custody:

(1) escapes or attempts to escape from any correctional facility or a local lockup shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or

(2) escapes or attempts to escape from an officer, if the person was in custody as a result of a felony, shall be imprisoned for not more than 10 years or fined not more than \$5,000.00, or both; or if the person was in custody as a result of a misdemeanor, shall be imprisoned for not more than two years, or fined not more than \$1,000.00, or both.

(b)(1) A person shall not, while in lawful custody:

(A) fail to return from work release to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with 28 V.S.A. § 753;

(B) fail to return from furlough to the correctional facility at the specified time, or visits other than the specified place, as required by the order issued in accordance with ~~28 V.S.A. § 808, 808a, 808b, or 808e~~ 28 V.S.A. § 808(a)(1)–(5);

(C) escape or attempt to escape while on release from a correctional facility to do work in the service of such facility or of the Department of Corrections in accordance with 28 V.S.A. § 758; or

(D) elope or attempt to elope from the Vermont Psychiatric Care Hospital or a participating hospital, when confined by court order pursuant to chapter 157 of this title, or when transferred there pursuant to 28 V.S.A. § 703 and while still serving a sentence.

(2) A person who violates this subsection shall be imprisoned for not more than five years or fined not more than \$1,000.00, or both.

(3) It shall not be a violation of subdivision (1)(A), (1)(B), or (1)(C) of this subsection (b) if the person is on furlough status pursuant to 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c.

(c) All sentences imposed under subsection (a) of this section shall be consecutive to any term or sentence being served at the time of the offense.

\* \* \*

Sec. 11. 28 V.S.A. § 808e is added to read:

§ 808e. ABSCONDING FROM FURLOUGH; WARRANT

The Commissioner of Corrections may issue a warrant for the arrest of a person who has absconded from furlough status in violation of 28 V.S.A. § 808(a)(6), 808(e), 808(f), 808a, 808b, or 808c, requiring the person to be returned to a correctional facility. A person for whom an arrest warrant is issued pursuant to this section shall not earn credit toward service of his or her sentence for any days that the warrant is outstanding.

Sec. 12. 13 V.S.A. § 1504 is amended to read:

~~§ 1504. PLACE OF CONFINEMENT CONSTRUED~~

~~The words “place of confinement” as used in sections 1502 and 1503 of this title shall not be construed to include the Weeks School. [Repealed.]~~

Sec. 13. 13 V.S.A. § 2901 is amended to read:

§ 2901. PUNISHMENT FOR PERJURY

A person who, being lawfully required to depose the truth in a proceeding in a court of justice or in a contested case before a State agency pursuant to 3 V.S.A. chapter 25, commits perjury shall be imprisoned not more than 15 years ~~and~~ or fined not more than \$10,000.00, or both.

Sec. 14. 13 V.S.A. § 2535 is amended to read;

§ 2535. GUARDIAN

A guardian who embezzles or fraudulently converts to his or her own use, money, obligations, securities, or other effects or property belonging to the ~~ward person under guardianship~~ or the estate of the ~~ward of whom he or she is guardian~~ person under guardianship, shall be guilty of larceny and shall be imprisoned not more than 10 years or fined not more than \$1,000.00, or both.

Sec. 15. 13 V.S.A. § 3403 is amended to read:

§ 3403. MISPRISION OF TREASON

A person owing allegiance to this State, knowing such treason to have been committed, or knowing of the intent of a person to commit such treason, who does not, within 14 days from the time of having such knowledge, give information thereof to the Governor of the State, to one of the Justices of the Supreme Court, a Superior ~~or~~ District judge, or a justice of the peace, shall be guilty of misprision of treason and shall be imprisoned not more than 10 years nor less than five years or fined not more than \$2,000.00, or both.

Sec. 16. 13 V.S.A. § 3485 is amended to read:

§ 3485. PENALTY WHEN OFFENSE IS TREASON

A person who commits an offense punishable under one of sections ~~3481-3484~~ ~~3482-3485~~ of this title, and such offense amounts to treason, shall be punished for treason in lieu of the penalty prescribed in such section.

Sec. 17. 13 V.S.A. § 5415 is amended to read:

§ 5415. ENFORCEMENT; SPECIAL INVESTIGATION UNITS

(a) Special investigation units, created pursuant to 24 V.S.A. § 1940, shall be responsible for the investigation of violations of this chapter's Registry requirements and are authorized to conduct in-person Registry compliance checks in a time, place, and manner it deems appropriate in furtherance of the purposes of this chapter. This section shall not be construed to prohibit local law enforcement from enforcing the provisions of this chapter.

(b) On or before November 1, 2019, and annually thereafter, local law enforcement agencies shall report to the Vermont Crime Information Center about any in-person Registry compliance checks that the agency has conducted during the preceding 12 months. The report shall include the total number of in-person compliance checks conducted during the 12-month period, the number of offenders who were in compliance, the number of offenders who were out of compliance, and the reasons for being out of compliance.

(c) ~~The department of public safety~~ Department of Public Safety shall report to the Senate and House Committees on Judiciary on or before December 15, 2009, and annually thereafter, regarding its efforts under this section.

Sec. 18. 13 V.S.A. § 7041 is amended to read:

§ 7041. DEFERRED SENTENCE

(a) Upon an adjudication of guilt and after the filing of a presentence investigation report, the court may defer sentencing and place the respondent on probation upon such terms and conditions as it may require if a written agreement concerning the deferring of sentence is entered into between the State's Attorney and the respondent and filed with the clerk of the court.

(b) Notwithstanding subsection (a) of this section, the court may defer sentencing and place the respondent on probation without a written agreement between the State's Attorney and the respondent if the following conditions are met:

- (1) ~~the respondent is 28 years old or younger;~~ [Repealed.]

(2) the crime for which the respondent is being sentenced is not a listed crime as defined in subdivision 5301(7) of this title;

(3) the court orders a presentence investigation in accordance with the procedures set forth in V.R.C.P. Rule 32, unless the State's Attorney agrees to waive the presentence investigation;

(4) the court permits the victim to submit a written or oral statement concerning the consideration of deferment of sentence;

(5) the court reviews the presentence investigation and the victim's impact statement with the parties; and

(6) the court determines that deferring sentence is in the interests of justice.

\* \* \*

Sec. 19. 13 V.S.A. § 7554c is amended to read:

§ 7554c. PRETRIAL RISK ASSESSMENTS; NEEDS SCREENINGS

\* \* \*

(b)(6) Any person charged with a criminal offense or who is the subject of a youthful offender petition pursuant to 33 V.S.A. § 5280, except those persons identified in subdivision (2) of this subsection, may choose to engage with a pretrial services coordinator.

\* \* \*

Sec. 20. 14 V.S.A. § 1203 is amended to read:

§ 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

(a) All claims against a decedent's estate ~~which~~ that arose before the death of the decedent, including claims of the State and any subdivision thereof, whether due or to become due, absolute or contingent, liquidated or unliquidated, founded on contract, tort, or other legal basis, except claims for the possession of or title to real estate and claims for injury to the person and damage to property suffered by the act or default of the deceased, if not barred earlier by other statute of limitations, are barred against the estate, the executor or administrator, and the heirs and devisees of the decedent, unless presented as follows:

(1) within four months after the date of the first publication of notice to creditors if notice is given in compliance with the Rules of Probate Procedure; provided, however, that claims barred by the nonclaim statute of the decedent's domicile before the first publication for claims in this State are also barred in this State;

\* \* \*

Sec. 21. 18 V.S.A. § 8840 is amended to read:

§ 8840. JURISDICTION AND VENUE

Proceedings brought under this subchapter for commitment to the Commissioner for custody, care, and habilitation shall be commenced by petition in the ~~Criminal~~ Family Division of the Superior Court for the unit in which the respondent resides.

Sec. 22. 24 V.S.A. § 1981 is amended to read:

§ 1981. ENFORCEMENT OF ORDER FROM JUDICIAL BUREAU

(a) Upon the filing of the complaint and entry of a judgment after hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the Judicial Bureau. Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the Judicial Bureau.

\* \* \*

Sec. 23. 33 V.S.A. § 5204a is amended to read:

§ 5204A. JURISDICTION OVER ADULT DEFENDANT FOR CRIME  
COMMITTED WHEN DEFENDANT WAS UNDER AGE 18

(a) A proceeding may be commenced in the Family Division against a defendant who has attained ~~the age of 18 years of age~~ if:

(1) the petition alleges that the defendant;

(A) before attaining the age of 18 years of age, violated a crime listed in subsection 5204(a) of this title; or

(B) after attaining 14 years of age but before attaining 18 years of age, committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title;

(2) a juvenile petition was never filed based upon the alleged conduct;  
and

(3) the statute of limitations has not tolled on the crime which the defendant is alleged to have committed.

(b)(1) The Family Division shall, except as provided in subdivision (2) of this subsection, transfer a petition filed pursuant to ~~subsection (a)~~ subdivision (a)(1)(A) of this section to the Criminal Division if the Family Division finds that:

(A) there is probable cause to believe that while the defendant was less than 18 years of age he or she committed an act listed in subsection 5204(a) of this title;

(B) there was good cause for not filing a delinquency petition in the Family Division when the defendant was less than 18 years of age;

(C) there has not been an unreasonable delay in filing the petition;  
and

(D) transfer would be in the interest of justice and public safety.

(2)(A) ~~The~~ If a petition has been filed pursuant to subdivision (a)(1)(A) of this section, the Family Division may order that the defendant be treated as a youthful offender consistent with the applicable provisions of ~~subchapter 5 of chapter 52~~ 52A of this title if the defendant is under 23 years of age and the Family Division:

(i) makes the findings required by subdivisions (1)(A), (B), and (C) of this subsection;

(ii) finds that the youth is amenable to treatment or rehabilitation as a youthful offender; and

(iii) finds that there are sufficient services in the Family Division system and the Department for Children and Families or the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(B) If the Family Division orders that the defendant be treated as a youthful offender, the ~~Court~~ court shall approve a disposition case plan and impose conditions of probation on the defendant.

(C) If the Family Division finds after hearing that the defendant has violated the terms of his or her probation, the Family Division may:

(i) maintain the defendant's status as a youthful offender, with modified conditions of probation if the ~~Court~~ court deems it appropriate; or

(ii) revoke the defendant's youthful offender status and transfer the petition to the Criminal Division pursuant to subdivision (1) of this subsection.

(3) The Family Division shall in all respects treat a petition filed pursuant to subdivision (a)(1)(B) of this section in the same manner as a petition filed pursuant to section 5201 of this title, except that the Family Division's jurisdiction shall end on or before the defendant's 22nd birthday, if the Family Division:

(A) finds that there is probable cause to believe that, after attaining 14 years of age but before attaining 18 years of age, the defendant committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; and

(B) makes the findings required by subdivisions (b)(1)(B) and (C) of this section.

(4) In making the determination required by subdivision (1)(D) of this subsection, the ~~Court~~ court may consider, among other matters:

(A) the maturity of the defendant as determined by consideration of his or her age; home; environment; emotional, psychological, and physical maturity; and relationship with and adjustment to school and the community;

(B) the extent and nature of the defendant's prior criminal record and record of delinquency;

(C) the nature of past treatment efforts and the nature of the defendant's response to them;

(D) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(E) the nature of any personal injuries resulting from or intended to be caused by the alleged act;

(F) whether the protection of the community would be best served by transferring jurisdiction from the Family Division to the Criminal Division of the Superior Court.

(c) If the Family Division does not transfer ~~the case~~ a petition filed pursuant to subdivision (a)(1)(A) of this section to the Criminal Division or order that the defendant be treated as a youthful offender pursuant to subsection (b) of this section, the petition shall be dismissed.

Sec. 24. TASK FORCE ON CAMPUS SEXUAL HARM; REPORT

(a) Creation. There is created the Task Force on Campus Sexual Harm to examine issues relating to responses to sexual harm, dating and intimate partner violence, and stalking on campuses of postsecondary educational institutions in Vermont.

(b) Membership. The Task Force shall be composed of the following 19 members:

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

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

(3) two survivors of campus sexual assault, domestic violence, or stalking incidents, appointed by Vermont Center for Crime Victim Services;

(4) the Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee;

(5) one representative of a community-based sexual violence advocacy organization, appointed by the Vermont Network Against Domestic and Sexual Violence;

(6) three Title IX Coordinators, one employed and appointed by the University of Vermont, one employed and appointed by the Vermont State Colleges, and one employed by a Vermont independent postsecondary educational institution, appointed by the President of the Association of Vermont Independent Colleges;

(7) one campus health and wellness educator or sexual violence prevention educator working in a Vermont postsecondary educational institution, appointed by the Higher Education Subcommittee of the Prekindergarten–16 Council;

(8) one victim advocate working in a Vermont postsecondary educational institution, appointed by the Higher Education Subcommittee of the PreK–16 Council;

(9) two students who are members of campus groups representing traditionally marginalized communities, appointed by the Higher Education Subcommittee of the Prekindergarten–16 Council;

(10) one community-based restorative justice practitioner, appointed by the Community Justice Network of Vermont;

(11) one representative appointed by the Pride Center of Vermont;



(12) one representative appointed by the Vermont Office of the Defender General;

(13) one representative appointed by the Vermont Department of State's Attorneys and Sheriffs;

(14) one representative appointed by the Vermont Bar Association, with expertise in working with postsecondary educational institutions on the investigation and adjudication of sexual harassment and sexual assault allegations; and

(15) the Executive Director of the Vermont Human Rights Commission or designee.

(c) Powers and duties. The Task Force shall study the following:

(1) The pathways for survivors of sexual harm in postsecondary educational institutional settings to seek healing and justice and recommendations to increase or enhance those pathways.

(2) Issues with Vermont's campus adjudication processes as identified by survivors of sexual harm, dating and intimate partner violence, or stalking in postsecondary educational institutional settings, including the interface between campus adjudication processes and law enforcement.

(3) Issues relating to transparency, safety, affordability, accountability of outcomes, and due process in campus conduct adjudication processes for sexual harm, dating and intimate partner violence, or stalking, including:

(A) current and best practices relating to outcomes conveyed through a student's transcript record;

(B) the effectiveness of acts passed in New York in 2015 to address campus sexual assault and in Virginia in 2015 to include a notation "on the transcript of each student who has been suspended for, has been permanently dismissed for, or withdraws from the institution while under investigation for an offense involving sexual violence under the institution's code, rules, or set of standards governing student conduct";

(C) the effectiveness of requiring that student transcript records note expulsions or suspensions in order to trigger follow-up conversations between the transferring and receiving schools; and

(D) consideration of concerns raised by the Association of Title IX Administrators with regard to transcript notation, in support of proposed federal legislation known as the Safe Transfer Act (H.R.6523, 114th Congress).

(4) How to improve survivor safety in campus adjudication processes.

(5) Any State policy changes that should be made in response to Title IX changes at the federal level.

(6) How to enhance ties between postsecondary educational institutions and community organizations that focus on domestic and sexual violence.

(d) Assistance. For purposes of scheduling meetings and preparing recommended legislation, the Task Force shall have the assistance of the Office of Legislative Council.

(e) Report. On or before March 15, 2020, the Task Force shall submit a written report to the House and Senate Committees on Education and on Judiciary with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Executive Director of the Vermont Network Against Domestic and Sexual Violence or designee shall call the first meeting of the Task Force to occur on or before July 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 Task Force shall cease to exist on March 16, 2020.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force 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) Other members of the Task Force who are not otherwise compensated for their service on the Task Force 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. 25. REPEAL; EXTENSION

Sec. 2 of 2016 Acts and Resolves No. 167, as amended by Sec. E.204 of 2017 Acts and Resolves No. 185, is amended to read:

Sec. 2. REPEAL

4 V.S.A. § 38 (Judicial Masters) shall be repealed on July 1, ~~2020~~ 2025.

Sec. 26. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 9 and 10 shall take effect on July 1, 2019.

### **Report of Committee of Conference**

#### **S. 95.**

An act relating to municipal utility capital investment.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon Senate Bill entitled:

S.95. An act relating to municipal utility capital investment.

Respectfully report that they have met and considered the same and recommend that the House recede from its proposals of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 V.S.A. § 1822 is amended to read:

§ 1822. POWERS; APPROVAL OF VOTERS

(a) In addition to the powers it may now or hereafter have, a municipal corporation otherwise authorized to own, acquire, improve, control, operate, or manage a public utility or project and to issue bonds pursuant to this subchapter, may also, by action of its legislative branch, exercise any of the following powers:

(1) to borrow money and issue bonds for the purposes of acquiring, improving, maintaining, financing, controlling, or operating the public utility or project, or for the purpose of selling, furnishing, or distributing the services, facilities, products, or commodities of such utility or project;

(2) to enter into contracts in connection with the issuance of bonds for any of the purposes enumerated in subdivision (1) of this subsection;

(3) to purchase, hold, and dispose of any of its bonds;

(4) to pledge or assign all or part of any net revenues of the public utility or project, to provide for or to secure the payment of the principal of and the interest on bonds issued in connection with such public utility or project;

(5) to do any and all things necessary or prudent to carry out the powers expressly granted or necessarily implied in this subchapter, including without limitation those powers enumerated in section 1824 of this title.

(b)(1) The bonds authorized under this section shall be in such form, shall contain such provisions, and shall be executed as may be determined by the legislative branch of the municipal corporation, but shall not be executed, issued, or made, and shall not be valid and binding, unless and until at least a majority of the legal voters of such municipal corporation present and voting at a duly warned annual or special meeting called for that purpose shall have first voted to authorize the same.

(2) The warning calling such a meeting shall state the purpose for which it is proposed to issue bonds, the estimated cost of the project, the amount of bonds proposed to be issued under this subchapter therefor, that such bonds are to be payable solely from net revenues, and shall fix the place where and the date on which such meetings shall be held and the hours of opening and closing the polls.

(3) The notice of the meeting shall be published and posted as provided in section 1756 of this title.

(4) When a majority of all the voters voting on the question at such meeting vote to authorize the issuance of bonds under this subchapter to pay for such project, the legislative body shall be authorized to issue bonds or enter into contracts, pledges, and assignments as provided in this subchapter.

(5) Sections 1757 and 1758 of this title shall apply to the proceedings taken hereunder, except that the form of ballot to be used shall be substantially as follows:

Shall bonds of the (name of municipality) to the amount of \$ \_\_\_\_\_ be issued under subchapter 2 of chapter 53 of Title 24, Vermont Statutes Annotated, payable only from net revenues derived from the (type) public utility system, for the purpose of paying for the following public utility project?

If in favor of the bond issue, make a cross (x) in this square .

If opposed to the bond issue, make a cross (x) in this square .

(c) The bonds authorized by this subchapter shall be sold at par, premium, or discount by negotiated sale, competitive bid, or to the Vermont Municipal Bond Bank.

(d) Notwithstanding the provisions of subsection (b) of this section, the legislative branch of a municipal corporation owning a municipal plant as defined in 30 V.S.A. § 2901 may authorize by resolution the issuance of bonds in an amount not to exceed 50 percent of the total assets of said municipal plant without the need for voter approval. Nothing in this subsection shall be interpreted as eliminating the requirement for approval from the Public Utility Commission pursuant to 30 V.S.A. § 108, where applicable.

Sec. 2. 30 V.S.A. § 108 is amended to read:

§ 108. ISSUE OF BONDS OR OTHER SECURITIES

\* \* \*

(b) The provisions of this section shall not apply to the Vermont Public Power Supply Authority or to a public utility which that meets each and all of the following four conditions:

(1) is incorporated in some state other than Vermont;

(2) is conducting an interstate and intrastate telephone business ~~which~~ that is subject to regulation by the Federal Communications Commission in some respects;

(3) is conducting telephone operations in four or more states; and

(4) has less than 10 percent of its total investment in property used or useful in rendering service located within this State to the extent that such public utility may issue stock, bonds, notes, debentures, or other evidences of indebtedness not directly or indirectly constituting or creating a lien on any property used or useful in rendering service ~~which~~ that is located within this State.

(c)(1) A municipality shall not issue bonds or notes or pledge its net revenues under 24 V.S.A. chapter 53, respecting the ownership or operation of a gas or electric utility, unless the Public Utility Commission first finds, upon petition of the municipality and after notice and an opportunity for hearing, that the proposed action will be consistent with the general good of the State.

(2) If the Public Utility Commission does not issue its ruling within 90 days of the filing of the petition, as may be extended by consent of the municipality, the issuance of the proposed bonds or notes or pledge of net revenues shall be deemed to be consistent with the general good of the State.

(3) If the Public Utility Commission issues a ruling in accordance with subdivision (1) of this subsection, or does not rule within the period specified in subdivision (2) of this subsection, a municipality must ~~subsequently obtain~~

also have obtained voter approval in accordance with 24 V.S.A. chapter 53, if required, prior to issuing bonds or notes or pledging its net revenues.

(d) Notwithstanding the provisions of subsection (c) of this section, a municipality may:

(1) issue bonds or notes or pledge its net revenues payable within three years from the date of issue without such consent, provided such borrowing is necessary in an emergency to restore service immediately after damage by disaster; ~~or~~

(2) issue bonds or notes or pledge its net revenues payable within one year of the date of issuance without the consent otherwise required by this subdivision, provided its total bonds, notes, or evidences of indebtedness so payable within one year do not exceed 20 percent of its total assets; or

(3) issue bonds or notes without the consent otherwise required by this subdivision, provided:

(A) the amount of the issuance plus the amount of any bond or note issuances during the previous 12 calendar months does not exceed 20 percent of the municipality's total assets; and

(B) after the proposed issuance, the total amount of the municipality's outstanding bonds, notes, or evidences of indebtedness would not exceed 50 percent of its total assets.

Sec. 3. 30 V.S.A. § 5031(a)(4) is amended to read:

(4) Bonds and notes may be issued in accordance with this chapter, ~~subject to~~ without the need to obtain the consent and approval of the Public Utility Commission as provided in this title.

Sec. 4. 30 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

As used in this chapter:

\* \* \*

(10) "Group net metering system" means a net metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net metering system. A union or district school facility ~~shall~~ may be considered in the same group net metering system with buildings of its member ~~municipalities schools~~ schools that are located within the service area of the same retail electricity provider ~~that serves the facility.~~

\* \* \*

Sec. 5. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

\* \* \*

(f) Except for net metering systems for which the Commission has established a registration process, the Commission shall issue a final determination as to an uncontested application within 90 days of the date of the last substantive filing by a party.

Sec. 6. NET METERING; CUMULATIVE CUSTOMER CAPACITY;  
SCHOOLS AND SCHOOL DISTRICTS

(a) Legislative intent. Public Utility Commission Rule 5.129(D) establishes a 500 kW single customer limit and states that the cumulative capacity of net metering systems allocated to a single customer may not exceed 500 kW. It is the intent of the General Assembly that schools and school districts shall not be included in this 500 kW customer limit or cap. Specifically, it is the intent of the General Assembly that:

(1) Customers that are a school or school district shall have a cumulative capacity limit of 1 MW. This means that a school or school district may have multiple accounts as long as the allocated share of those multiple accounts does not exceed 1 MW in total.

(2) School districts that have been or may be created as a result of consolidation should not be penalized by the fact that the consolidation resulted in a cumulative capacity that exceeds the 1 MW limit. As a result, customers that are school districts that have been or may be created as a result of school district consolidation or merger shall have a cumulative capacity of the larger of 1 MW, or the cumulative capacity of the net metering systems the schools or school districts were participating in, or had agreed to participate in, prior to the consolidation that created the new district.

(b) Cumulative capacity of school net metering systems. Notwithstanding any provision of law to the contrary, the cumulative capacity of net metering systems allocated to a single customer:

(1) That is a public school, as defined in 16 V.S.A. § 11(7); an independent school, as defined in 16 V.S.A. § 11(8); a supervisory union, as defined in 16 V.S.A. § 11(23); or a school district, as defined in 16 V.S.A. § 11(10) shall not exceed 1 MW.

(2) That is a school district, as defined in 16 V.S.A. § 11(10), or a supervisory union, as defined in 16 V.S.A. § 11(23), created as a result of school district consolidation under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, shall not exceed the greater of:

(A) the cumulative capacity of the net metering systems that the school districts were participating in, or had agreed to participate in, prior to consolidation; or

(B) 1 MW.

(c) Public Utility Commission rules. The Public Utility Commission shall amend Rule 5.129(D), or adopt a new rule, as necessary to implement this section. The amended, or new, rule shall clearly state that the 500 kW customer limit is no longer applicable to schools and school districts, that customers that are schools or school districts shall have a customer limit of 1 MW, unless, pursuant to subsection (b)(2)(A) of this section, the customer limit is greater than 1 MW.

#### Sec. 7. PUBLIC UTILITY COMMISSION; RULES

(a) The Public Utility Commission shall update its applicable rules for consistency with this act.

(b) The provisions of this act shall supersede any provisions to the contrary contained in the Public Utility Commission's rules as they existed immediately prior to the effective date of this act.

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

*MARK A. MACDONALD  
CHRISTOPHER A. PEARSON  
REBECCA A. BALINT*

*Committee on the part of the Senate*

*LAURA H. SIBILIA  
TIMOTHY C. BRIGLIN  
MICHAEL I. YANTACHKA*

*Committee on the part of the House*



## CONCURRENT RESOLUTIONS FOR ACTION

### Concurrent Resolutions For Action Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session. Requests for floor consideration should be communicated to the Secretary's Office.

**S.C.R. 13** (For text of Resolutions, see Addendum to Senate Calendar for May 16, 2019)

**H.C.R. 176 - 190** (For text of Resolutions, see Addendum to House Calendar for May 16, 2019)

## CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Emily Boedecker of Montpelier – Commissioner, Department of Environmental Conservation – By Sen. Parent for the Committee on Natural Resources and Energy. (5/16/19)

Daniel M. French of Manchester Center – Secretary, Agency of Education – By Sen. Baruth for the Committee on Education. (5/16/19)

Louis P. Porter of Adamant – Commissioner, Department of Fish and Wildlife – By Sen. Rodgers for the Committee on Natural Resources and Energy. (5/16/19)

Michael C. Snyder of Stowe – Commissioner, Department of Forest, Parks and Recreation – By Sen. Rodgers for the Committee on Natural Resources and Energy. (5/16/19)

Diane B. Snelling of Hinesburg – Chair, Natural Resources Board – By Sen. Campion for the Committee on Natural Resources and Energy. (5/16/19)

Julia S. Moore of Middlesex – Secretary, Agency of Natural Resources – By Sen. Bray for the Committee on Natural Resources and Energy. (5/17/19)