

Journal of the House

Tuesday, May 14, 2019

At ten o'clock in the forenoon the Speaker called the House to order.

Devotional Exercises

Devotional exercises were conducted by Rep. Johannah Leddy Donovan of Burlington.

Pledge of Allegiance

Page Hayden Ross of Barre City led the House in the Pledge of Allegiance.

Message from the Senate No. 56

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

H. 16. An act relating to boards and commissions.

H. 330. An act relating to repealing the statute of limitations for civil actions based on childhood sexual abuse.

And has passed the same in concurrence with proposals of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate proposal of amendment to House bill entitled:

H. 132. An act relating to adopting protections against housing discrimination for victims of domestic and sexual violence.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Balint
Senator Sirotkin
Senator Clarkson

The Senate has considered House proposals of amendment to Senate bill entitled:

S. 18. An act relating to consumer justice enforcement.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator White
Senator Baruth
Senator Benning

The Senate has considered House proposals of amendment to Senate bill entitled:

S. 113. An act relating to the management of single-use products.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Bray
Senator Champion
Senator Rodgers

The Senate has considered House proposal of amendment to Senate bill entitled:

S. 149. An act relating to miscellaneous changes to laws related to vehicles and the Department of Motor Vehicles.

And has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses;

The President announced the appointment as members of such Committee on the part of the Senate:

Senator Ashe
Senator Mazza
Senator Kitchel

Committee of Conference Appointed

H. 132

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on House bill, entitled

An act relating to adopting protections against housing discrimination for victims of domestic and sexual violence

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Stevens of Waterbury
Rep. Szott of Barnard
Rep. Gamache of Swanton

Committee of Conference Appointed

S. 18

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to consumer justice enforcement

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. LaLonde of South Burlington
Rep. Colburn of Burlington
Rep. Burditt of West Rutland

Committee of Conference Appointed

S. 113

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to the management of single-use products

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Sheldon of Middlebury
Rep. McCullough of Williston
Rep. Lefebvre of Newark

Committee of Conference Appointed

S. 149

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to miscellaneous changes to laws related to vehicles and the Department of Motor Vehicles

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. McCormack of Burlington
Rep. Murphy of Fairfax
Rep. Savage of Swanton

Third Reading; Bill Passed

H. 547

House bill, entitled

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

Was taken up, read the third time and passed.

Senate Proposal of Amendment Concurred in

H. 460

The Senate proposed to the House to amend House bill, entitled

An act relating to sealing and expungement of criminal history records

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

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

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

(a) As used in this section:

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

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

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

or

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

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

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

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

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

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

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

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

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

§ 7601. DEFINITIONS

As used in this chapter:

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

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

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

(4) "Qualifying crime" means:

(A) a misdemeanor offense that is not:

(i) a listed crime as defined in subdivision 5301(7) of this title;

(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;

(iii) an offense involving violation of a protection order in violation of section 1030 of this title;

(iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or

(v) a predicate offense;

(B) a violation of subsection 3701(a) of this title related to criminal mischief;

(C) a violation of section 2501 of this title related to grand larceny;

(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title; or

(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;

(F) a violation of section 1802 of this title related to uttering a forged or counterfeited instrument;

(G) a violation of 18 V.S.A. § 4230(a) related to possession of marijuana;

(H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;

(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;

(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;

(K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;

(L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;

(M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;

(N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;

(O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or

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

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

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

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

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

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

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

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

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

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

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

* * *

(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only petitions to seal may be considered or granted by the court. This subsection shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be sealed in accordance with section 7607 of this title if the following conditions are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c), (d) [Repealed.]

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

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

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

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

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

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

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

expungement of the record.

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

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

§ 7606. EFFECT OF EXPUNGEMENT

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

(b) Effect.

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

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

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

(4) Nothing in this section shall affect any right of the person whose

record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

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

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

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

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

(d) Special index.

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

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

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

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

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

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

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

§ 7607. EFFECT OF SEALING

(a) Order and notice. Upon entry of an order to seal, the order shall be legally effective immediately and the person whose record is sealed shall be

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

(b) Effect.

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

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

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

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

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

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

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

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

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

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

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

(e) Special index.

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

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

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

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

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

§ 7610. CRIMINAL HISTORY RECORD SEALING SPECIAL FUND

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

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

§ 1205. CIVIL SUSPENSION; SUMMARY PROCEDURE

* * *

(e) Effective date of suspension.

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

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

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

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

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

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

* * *

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

§ 1210. PENALTIES

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

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

(c) Second offense. A person convicted of violating section 1201 of this title who has been convicted of another violation of that section within the last 20 years shall be fined not more than \$1,500.00 or imprisoned not more than two years, or both. At least 200 hours of community service shall be performed, or 60 consecutive hours of the sentence of imprisonment shall be

served and may not be suspended or deferred or served as a supervised sentence, except that credit for a sentence of imprisonment may be received for time served in a residential alcohol facility pursuant to sentence if the program is successfully completed.

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

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

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

* * *

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

§ 1431. FEES IN SUPREME AND SUPERIOR COURTS

* * *

(e) Prior to the filing of any postjudgment motion in the Civil, Criminal, or Environmental Division of the Superior Court, including motions to reopen civil suspensions ~~and motions for sealing or expungement in the Criminal~~

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

* * *

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

During the 2019 legislative interim:

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

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

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

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

(3) the Joint Legislative Justice Oversight Committee, working with the Council of State Governments Justice Center, shall conduct a review of the Vermont statutes governing expungement and sealing of criminal history records and develop a comprehensive policy to help individuals with a criminal record overcome barriers to employment and licensing through clearing their records. Any recommendations for reform of the expungement and sealing chapter and other relevant statutes shall be introduced in the form of proposed legislation for the 2020 legislative session.

Sec. 12. SURCHARGES STUDY GROUP

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

Sec. 13. REVIEW OF PROSTITUTION AND HUMAN TRAFFICKING LAWS

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

Sec. 14. EFFECTIVE DATES

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

Which proposal of amendment was considered and concurred in.

**Rules Suspended; Second Reading; Proposal of Amendment Agreed to;
Third Reading Ordered**

S. 146

On motion of **Rep. McCoy of Poultney**, the rules were suspended and Senate bill, entitled

An act relating to substance misuse prevention

Appearing on the Calendar for Notice, was taken up for immediate consideration.

Rep. Pajala of Londonderry, for the committee on Human Services, to which had been referred the Senate bill reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Legislative Intent * * *

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that:

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

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

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

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

* * * Chief Prevention Officer * * *

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

Subchapter 6. Chief Prevention Officer

§ 2321. CHIEF PREVENTION OFFICER

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

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

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

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

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

* * * Substance Misuse Prevention * * *

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

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

* * *

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

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

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

~~(1) the Secretary of Human Services or designee;~~

~~(2) the Commissioner of Public Safety or designee;~~

~~(3) the Commissioner of Mental Health or designee;~~

~~(4) the Deputy Commissioner of Health for the Division of Alcohol and Drug Abuse Programs;~~

~~(5) the Director of the Blueprint for Health or designee;~~

~~(6) a representative of an approved provider or preferred provider, appointed by the Governor;~~

~~(7) a licensed alcohol and drug abuse counselor, appointed by the Governor;~~

~~(8) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;~~

~~(9) an educator involved in substance abuse prevention services, appointed by the Governor;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Creation. There is created the Substance Misuse Prevention Oversight and Advisory Council within the Department of Health to improve the health outcomes of all Vermonters through a consolidated and holistic approach to substance misuse prevention that addresses all categories of substances. The

Council shall provide advice to the Governor and General Assembly for improving prevention policies and programming throughout the State and to ensure that population prevention measures are at the forefront of all policy determinations. The Advisory Council's prevention initiatives shall encompass all substances at risk of misuse, including:

(1) alcohol;

(2) cannabis;

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

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

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

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

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

(C) the Secretary of Education or designee;

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

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

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

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

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

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

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

(E) persons with expertise in the following disciplines:

(i) substance misuse prevention in a professional setting;

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

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

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

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

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

(vii) the criminal justice system;

(viii) treatment of substance use disorder;

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

(x) municipalities;

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

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

(xiii) comprehensive communications and media campaigns.

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

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

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

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

(4) reviewing existing community-based youth programming, including recreation, municipal programs, parent-child center programs, and afterschool and year-round programs, to determine a foundation of connection and support for all Vermont children and youth;

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

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

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

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

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

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

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

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

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

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

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

(g) Organization.

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

remainder of the unexpired term. Any individual interested in serving on the Council may submit a letter of interest or resume to the Manager of Substance Misuse Prevention.

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

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

§ 4804. ADMINISTRATIVE SUPPORT MANAGER OF SUBSTANCE MISUSE PREVENTION

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

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

(2) coordinating regional planning.

§ 4805. DUTIES

The Council shall:

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

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

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

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

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

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

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

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

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

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

* * *

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

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

Chapter 225. Tobacco Prevention, Cessation, and Control

§ 9501. DEFINITIONS

As used in this chapter:

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

* * *

§ 9503. VERMONT TOBACCO PREVENTION AND TREATMENT

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

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

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

~~(3) tobacco cessation programs;~~

~~(4) countermarketing activities;~~

- ~~(5) enforcement activities;~~
- ~~(6) surveillance and evaluation activities;~~
- ~~(7) policy initiatives; and~~
- ~~(8) any other activities determined by the Commissioner or the Board to be necessary to implement the provisions of this section.~~

~~(b) By June 1, 2001, the Department and the Board shall jointly establish a plan that includes goals for each program component listed in subsection (a) of this section, for reducing adult and youth smoking rates by 50 percent in the following 10 years. By June 1 of each year, the The Department and the Board shall jointly establish goals for reducing adult and youth smoking rates in the following two years, including goals for each program component listed in subsection (a) of this section, including performance measures for each goal in conjunction with the Substance Misuse Prevention Oversight and Advisory Council established pursuant to section 4803 of this title. The services provided by a quitline approved by the Department of Health shall be offered and made available to any minor, upon his or her consent, who is a smoker or user of tobacco products as defined in 7 V.S.A. § 1001.~~

* * *

~~(f) The Board shall be represented on all tobacco program advisory committees, including the youth working group, Community Grants Advisory Board, and the Scientific Advisory Board. The Board's representative on any such advisory committee shall include at least one member other than the Commissioner of Health. [Repealed.]~~

§ 9504. CREATION OF THE VERMONT TOBACCO EVALUATION AND REVIEW BOARD

~~(a) There is created and established, within the Office of the Secretary, a body to be known as the Vermont Tobacco Evaluation and Review Board, an independent State board created to work in partnership with the Agency of Human Services and the Department of Health in establishing the annual budget, program criteria and policy development, and review and evaluation of the tobacco prevention and treatment program.~~

~~(b) The Board shall consist of 14 members, including ex officio the Commissioner of Health and the Secretary of Education or their designees; the Commissioner of Liquor Control or designee; the Attorney General or designee; a member of the House of Representatives appointed by the Speaker of the House; a member of the Senate appointed by the Committee on Committees; a member representing a nonprofit organization qualifying under Section 501(c)(3) of the Internal Revenue Code and dedicated to anti-tobacco~~

~~activities appointed by the Speaker of the House; a member representing the low-income community appointed by the Senate Committee on Committees; two persons under the age of 30, one appointed by the Speaker of the House and one appointed by the Committee on Committees; and four members appointed by the Governor with the advice and consent of the Senate, including: one K-12 educator involved in prevention education; one tobacco use researcher; one member representing the health care community; and one tobacco industry countermarketing expert. The public members shall serve for three-year terms, beginning on July 1 of the year in which the appointment is made, except that the first members appointed by the Governor to the Board shall be appointed, two for a term of two years, one for a term of three years, and one for a term of four years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.~~

~~(c) The Governor shall appoint a chair from among the Board's public members. The Chair shall serve for a term of two years. The Chair may be removed for good cause by a two-thirds, voting majority of the Board. The Board may elect such other officers as it may determine. The Board may appoint committees or subcommittees for the purpose of providing advice on community-based programs, countermarketing activities, and independent program evaluations. Meetings shall be held at the call of the Chair or at the request of three members; however, the Board shall meet no fewer than four times a year. A majority of the sitting members shall constitute a quorum, and action taken by the Board under the provisions of this chapter may be authorized by a majority of the members present and voting at any regular or special meeting. Actions taken by the Board to approve, authorize, award, grant, or otherwise expend money appropriated to the Board or the Department shall require authorization from a majority of members of the entire Board.~~

~~(d) Public members other than ex officio members shall be entitled to per diem compensation authorized under 32 V.S.A. § 1010 for each day spent in the performance of their duties, and members shall be reimbursed from the Fund for reasonable expenses incurred in carrying out their duties under this chapter. Legislative members shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406.~~

~~(e) The Board may employ staff, through the Agency of Human Services, to assist the Board in planning, administering, and executing its functions under this chapter, subject to the policies, control, and direction of its members and the powers and duties of the Board under this chapter. The Board may employ technical experts and contractors as necessary to effect the purposes of this chapter. The Board shall use the Office of the Attorney General for legal services. The Board shall receive additional staff assistance from the~~

~~Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.~~

~~(f) The Agency of Human Services shall provide administrative support to the Board for the purposes of this chapter.~~

~~(g) No member of the Board shall have any direct or knowing affiliation or contractual relationship with any tobacco company, its affiliates, its subsidiaries, or its parent company. Each Board member shall file a conflict of interest statement, stating that he or she has no such affiliation or contractual relationship. [Repealed.]~~

§ 9505. GENERAL POWERS AND DUTIES

~~The Board Department shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this section, and shall:~~

~~(1) Establish jointly with the Department of Health the selection criteria for community grants and review and recommend the grants to be funded.~~

~~(2) Select, upon the advice of the Commissioner, a contractor responsible for countermarketing activities. The Department shall pay the fees and costs of any such contractor. The Board and Commissioner shall jointly approve any final countermarketing campaign.~~

~~(3) Review and advise the Department selection criteria for grantees and contracts funded by the Program in conformity with the goals established by the Department and Board.~~

~~(4) Establish jointly with the Department an application process, criteria, and components for an independent evaluation. The Board shall select an independent contractor to perform an independent evaluation, and oversee the independent contractor's evaluation of the tobacco prevention, treatment, and control program. Perform ongoing evaluations of tobacco cessation efforts and publish the evaluation measures on the Department's website.~~

~~(5)(4) Review and make recommendations regarding the overall plan and any Execute a memorandum of understanding developed jointly by the Department of Health and with the Agency of Education for school-based programs funded through the Tobacco Program Fund.~~

~~(6)(5) Review and make recommendations regarding Consult with the Department of Liquor and Lottery concerning enforcement activities administered by the Department of Liquor Control in accordance with the provisions of this chapter.~~

~~(7) Review and advise any State agency on applications for funds contributed from any outside sources that are designated for purposes of reducing tobacco use.~~

~~(8) In collaboration with the Agency and Department, organize a minimum of two public meetings, by September 15 of each year, to receive public input and advice for setting program priorities and establishing an annual program budget.~~

~~(9) Conduct jointly with the Secretary a review of the Department's proposed annual budget for the program, including funds contributed from any outside sources that are designated for purposes of reducing tobacco use, and submit independent recommendations to the Governor, Joint Fiscal Committee, and House and Senate Committees on Appropriations by October 1 of each year.~~

~~(10)(6) Propose to the Department strategies for program coordination and collaboration with other State agencies, health care providers and organizations, community and school groups, nonprofit organizations dedicated to anti-tobacco activities, and other nonprofit organizations.~~

~~(11) Adopt a conflict of interest policy within 30 days of the appointment of the full Board and include this policy in the annual report required under this chapter.~~

§ 9506. ALLOCATION SYSTEM

~~(a) In determining the allocation of funds available for the purposes of this chapter, the Department and the Board shall consider all relevant factors, including:~~

~~(1) the level of funding or other participation by private or public sources in the activity being considered for funding;~~

~~(2) what resources will be required in the future to sustain the program;~~

~~(3) geographic distribution of funds; and~~

~~(4) the extent to which the goals of the project can be measured by reductions in adult or youth smoking rates.~~

~~(b) The Department's and Board's allocation system shall include a method, developed jointly, that evaluates the need for and impact and quality of the activities proposed by eligible applicants, including, if appropriate, measuring the results of the project through reductions in adult and youth smoking rates.~~

§ 9507. ANNUAL REPORT

(a) ~~On or before January 15 of each year, the Board shall submit a report concerning its activities under this chapter to the Governor and the General Assembly. The report shall include, to the extent possible, the following:~~

~~(1) the results of the independent program evaluation, beginning with the report filed on January 15, 2003, and then each year thereafter;~~

~~(2) a full financial report of the activities of the Departments of Health and of Liquor Control, the Agency of Education, and the Board, including a special accounting of all activities from July 1 through December 31 of the year preceding the legislative session during which the report is submitted;~~

~~(3) a recommended budget for the program; and~~

~~(4) an explanation of the results of approved programs, measured through reductions in adult and youth smoking rates. [Repealed.]~~

(b) [Repealed.]

* * * Substance Misuse Prevention Inventory * * *

Sec. 5. INVENTORY; SUBSTANCE MISUSE PREVENTION SERVICES

(a) On or before January 1, 2021, the Manager of Substance Misuse Prevention established pursuant to 18 V.S.A. § 4804, in consultation with the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321, shall develop and submit to the House Committee on Human Services and to the Senate Committee on Health and Welfare an inventory of substance misuse prevention programs in the State. The Manager shall include in the inventory:

(1) the estimated cost and funding source of each program;

(2) the geographic reach of each program;

(3) the effectiveness of each program; and

(4) any identified gaps in services.

(b) On or before January 1, 2020, the Manager shall submit an interim report to the House Committee on Human Services and to the Senate Committee on Health and Welfare regarding its progress and findings related to subsection (a) of this section.

* * * Vermont Prescription Drug Advisory Council * * *

Sec. 6. 18 V.S.A. § 4255 is amended to read:

§ 4255. ~~CONTROLLED SUBSTANCES AND PAIN MANAGEMENT~~

VERMONT PRESCRIPTION DRUG ADVISORY COUNCIL

(a) There is hereby created the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The ~~Controlled Substances and Pain Management~~ Advisory Council shall consist of the following members:

* * *

Sec. 7. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

(g) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

* * *

Sec. 8. 18 V.S.A. § 4289 is amended to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE
PROVIDERS AND DISPENSERS

* * *

(e) The Commissioner of Health shall, after consultation with the ~~Controlled Substances and Pain Management~~ Vermont Prescription Drug Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

* * *

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

Rep. Fagan of Rutland City, for the committee on Appropriations recommended that the House propose to the Senate to amend the bill as recommended by the committee on Human Services.

Thereupon, the bill was read the second time, the reports of the committees on Human Services and Appropriations were agreed to and third reading was ordered.

Recess

At ten o'clock and fifty-six minutes in the forenoon, the Speaker declared a recess until three o'clock in the afternoon.

At three o'clock and eleven minutes in the afternoon, the Speaker called the House to order.

Message from the Senate No. 57

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered bills originating in the House of the following titles:

H. 539. An act relating to approval of amendments to the charter of the Town of Stowe and to the merger of the Town and the Stowe Fire District No. 3.

H. 540. An act relating to approval of the amendments to the charter of the Town of Williston.

H. 544. An act relating to approval of amendments to the charter of the City of Burlington.

H. 549. An act relating to approval of the dissolution of Rutland Fire District No. 10.

And has passed the same in concurrence.

The Senate has considered a bill originating in the House of the following title:

H. 536. An act relating to education finance.

And has passed the same in concurrence with proposal of amendment in the adoption of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 31. An act relating to informed health care financial decision making.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to Senate bill of the following title:

S. 58. An act relating to the State hemp program.

And has concurred therein.

Message from the Senate No. 58

A message was received from the Senate by Mr. Marshall, its Assistant Secretary, as follows:

Madam Speaker:

I am directed to inform the House that:

The Senate has considered House proposals of amendment to Senate bills of the following titles:

S. 73. An act relating to licensure of ambulatory surgical centers.

S. 112. An act relating to earned good time.

And has concurred therein with an amendment in the passage of which the concurrence of the House is requested.

The Senate has considered House proposal of amendment to the following Senate bill and has refused to concur therein and asks for a Committee of Conference upon the disagreeing votes of the two Houses, to which the President announced the appointment as members of such Committee on the part of the Senate:

S. 134. An act relating to background investigations for State employees with access to federal tax information.

Senator Pollina
Senator Collamore
Senator White

**Rules Suspended; Third Reading; Bill Passed in Concurrence with
Proposal of Amendment**

S. 146

On Senate bill, entitled

An act relating to substance misuse prevention

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed in concurrence with proposal of amendment.

**Second Reading; Proposal of Amendment Agreed to;
Third Reading Ordered**

S. 37

Rep. LaLonde of South Burlington, for the committee on Judiciary, to which had been referred Senate bill, entitled

An act relating to medical monitoring

Reported in favor of its passage in concurrence with proposal of amendment by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Medical Monitoring * * *

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

CHAPTER 219. MEDICAL MONITORING

§ 7201. DEFINITIONS

As used in this chapter:

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

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

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

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

land, structures, other appurtenances, and improvements on the land owned by a municipality.

(5) “Large facility” means a facility:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) “Toxic substance” shall not mean:

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

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

§ 7202. MEDICAL MONITORING FOR EXPOSURE TO TOXIC

SUBSTANCES

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

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

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

(3) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if, shown by expert testimony, a physician would prescribe diagnostic testing because the person’s increased risk of contracting the disease due to the exposure makes it reasonably necessary to undergo diagnostic

testing different from what would normally be prescribed in the absence of the exposure.

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

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

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

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

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

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

Sec. 2. APPLICATION TO EXPOSURES PRIOR TO EFFECTIVE DATE

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

* * * Hazardous Material Releases * * *

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

§ 6615. LIABILITY

(a) Subject only to the defenses set forth in subsections (d) and (e) of this section, the following persons shall be liable for abating a release or threatened release of hazardous material and the costs of investigation, removal, and remedial actions incurred by the State that are necessary to protect the public health or the environment:

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

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

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

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

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

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

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

* * *

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

(A) An act of God.

(B) An act of war.

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

This subdivision (d)(1)(C) shall only serve as a defense if the defendant establishes by a preponderance of the evidence:

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

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

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

* * *

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

* * *

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

Sec. 4. APPLICATION OF LIABILITY

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

* * * Effective Date * * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

The bill, having appeared on the Calendar one day for notice, was taken up, read the second time, the report of the committee on Judiciary agreed to and third reading ordered.

Action on Bill Postponed

H. 543

House bill, entitled

An act relating to capital construction and State bonding

Was taken up and pending consideration of the Senate proposal of amendment, on motion of **Rep. Emmons of Springfield**, action on the bill was postponed until May 15, 2019.

Committee of Conference Appointed

S. 134

Pursuant to the request of the Senate for a Committee of Conference on the disagreeing votes of the two Houses on Senate bill, entitled

An act relating to background investigations for State employees with access to federal tax information

The Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Gardner of Richmond

Rep. Gannon of Wilmington

Rep. LaClair of Barre Town

**Rules Suspended; Senate Proposal of Amendment Not Concurred in;
Committee of Conference Requested and Appointed**

H. 536

Pending entrance of the bill on the Calendar for Notice, on motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

An act relating to education finance

Was taken up for immediate consideration.

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

By striking out Sec. 5 in its entirety and inserting in lieu thereof the following:

Sec. 5. PROPERTY DOLLAR EQUIVALENT YIELD, INCOME
DOLLAR EQUIVALENT YIELD, AND NONRESIDENTIAL
RATE FOR FISCAL YEAR 2020

(a) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2020 only, the property dollar equivalent yield shall be \$10,591.00.

(b) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2020 only, the income dollar equivalent yield shall be \$13,015.00.

(c) Notwithstanding any other provision of law, the nonresidential rate for fiscal year 2020 shall be \$1.598 per \$100.00 of equalized education property value under 32 V.S.A. § 5402(a)(1).

Pending the question, Will the House concur in the Senate proposal of amendment? **Rep. Ancel of Calais** moved that the House refuse to concur and ask for a Committee of Conference which was agreed to, and the Speaker appointed as members of the Committee of Conference on the part of the House:

Rep. Till of Jericho

Rep. Canfield of Fair Haven

Rep. Donovan of Burlington

**Rules Suspended; Second Reading;
Bill Amended; Third Reading Ordered; Rules Suspended;
Third Reading; Bill Passed**

H. 508

On Motion of **Rep. McCoy of Poultney**, the rules were suspended and House bill, entitled

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

Pending entry on the Calendar for Notice, was taken up for immediate consideration.

Rep. Gannon of Wilmington, for the committee on Government Operations, to which had been referred the bill reported in favor of its passage when amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 24 App. V.S.A. chapter 103 is amended to read:

CHAPTER 103. TOWN OF BENNINGTON

Preamble

The people of Bennington reaffirm faith in Government of the people, by the people, and for the people and describe this government in a charter with provision to review and amend. The charter of the Town of Bennington reflects concern to improve the quality of life for all people and to improve the operation of Town government.

* * *

§ 101. GENERAL LAW APPLIES

(a) All provisions of the Constitution and laws of the State relating to towns and villages shall apply to the Town of Bennington, except as modified by this charter;

(b) The Town of Bennington shall have all the powers and functions conferred upon towns and villages by the Constitution and ~~general~~ laws of ~~this~~ the State and shall also have all implied powers necessary to implement such powers and functions;

(c) The powers and functions conferred upon the Town of Bennington by this charter shall be in addition to the powers and functions conferred upon the Town by the laws now in force or hereafter enacted of the State. Nothing in this charter shall be construed as a limitation upon such powers and functions.

* * *

§ 203. COMPENSATION

(a) Compensation paid to the Select Board members shall be set by the voters at Town meeting.

(b) Subject to subsection (a) of this section, the Select Board ~~members~~ shall fix the compensation ~~to~~ of all elective officers and of all officers appointed by the Select Board.

(c) The Town Manager, under policies approved by the Select Board ~~members~~, shall fix the compensation of all other officers and employees whose compensation is not fixed by the Select Board pursuant to subsection (b) of this section.

* * *

§ 301. SELECT BOARD MEMBERS; THE LEGISLATIVE BODY

The Select Board shall constitute the legislative body of the Town of Bennington and shall have all powers and authority necessary for the performance of the legislative function.

* * *

§ 303. FURTHER POWERS OF SELECT BOARD MEMBERS

In addition to powers otherwise conferred by law, the Select Board members shall also have the power to:

(1) organize, and from time to time reorganize, the Fire Department under the supervision of a coordinating committee formed by the Select Board from its members; such Department shall be a volunteer department ~~and the, unless an affirmative vote of the members of the Fire Department authorizes a transition to a paid or combination paid and volunteer department as set forth in a transition plan proposed by the Select Board working with a committee formed from members of the Fire Department;~~

~~(2)~~ Select Board shall have authority to continue any existing contract with a volunteer fire department or to enter on behalf of the Town into contracts with other volunteer fire departments to provide additional fire protection to the inhabitants;

~~(2)~~(3) create ~~departments not now existing,~~ consolidate, or dissolve departments as necessary or relevant for the performance of municipal services;

~~(3)~~(4) create, consolidate, or dissolve commissions and committees ~~not now existing~~ as necessary or relevant and appoint the members thereof;

~~(4)~~(5) ~~provide for and shall provide~~ on an annual basis an independent audit of all Town financial records by a certified public accountant;

~~(5)~~(6) inquire into the conduct of any officer, commission, or department and investigate any and all municipal affairs;

~~(6)~~(7) discharge all duties heretofore devolving on the Town Agent by general law and hire attorneys on behalf of the Town; and

~~(7)~~(8) establish an adequate number of polling places within the Town as required for the convenience of the Town voters and without regard to election district boundaries, to the end that election expenses may be lessened and confusion among the voters as to the proper place for them to vote may be avoided; however, one such polling place shall be in North Bennington and the central polling place shall be within the boundaries of the former Village of Bennington.

* * *

§ 402. TOWN MANAGER NONPARTISAN

(a) The Town Manager shall be chosen solely on the basis of ~~his/her~~ his or her executive, administrative, and professional qualifications.

(b) The Town Manager shall not take part in the organization or direction of a political party, serve as a member of a party committee, nor be a candidate for election to any public office.

§ 403. OATH AND BOND

Before entering upon his or her duties, the Town Manager shall be sworn to the faithful performance of his or her duties by the Town Clerk and shall ~~give a bond to the Town~~ be bonded in such amount and with such sureties as the Select Board ~~members~~ may require.

§ 404. DUTIES FOR MANAGER

(a) The Town Manager shall be the Chief Executive Officer of the Town and shall:

(1) ~~carry~~ Carry out the policies established by the Select Board, to whom the Town Manager shall be ~~responsible~~ accountable.

(b)(2) ~~The Manager shall attend~~ Attend all meetings of the Select Board, except when his or her compensation or removal is being considered, shall keep the Select Board ~~members~~ informed of the financial condition and future needs of the Town, and shall make such other reports as may be required by law, requested by the Select Board ~~members~~, or deemed by him or her to be advisable.

(c)(3) ~~He or she shall perform~~ Perform all other duties prescribed by this charter, or required by law, or by resolution of the Select Board ~~members~~.

(d)(4) ~~The Manager shall be~~ Be an ex-officio member of all standing committees except the Zoning Development Review Board, ~~but may and shall~~ not vote.

(e)(5) ~~The Manager shall prepare~~ Prepare an annual budget, submit it to the Select Board ~~members~~, and be responsible for its administration after adoption.

(f)(6) ~~The Manager shall compile~~ Compile for general distribution at the end of each fiscal year a complete report on the finances and administrative activities of the Town for the year.

(g)(7) ~~The Manager shall provide~~ Provide to the Select Board a monthly financial statement, with a copy to the Town Treasurer.

~~(h)(8) The Manager shall perform~~ Perform all duties now conferred by law on the Road Commissioner within all areas of the Town, except within such villages as may vote not to surrender their charters under this charter, notwithstanding the provisions of 24 V.S.A. § 1236(5).

~~(i)(9) The Manager shall perform~~ Perform all duties now conferred by law on the Collector of Delinquent Taxes.

~~(j)(10) The Manager, under~~ Under policies approved by the Select Board ~~members, shall,~~ be the General Purchasing Agent of the Town and purchase all equipment and supplies and contract for services for every department pursuant to the purchasing and bid policies approved by the Select Board.

~~(k)(11) The Manager shall be~~ Be responsible for the system of accounts.

~~(l)(12) The Manager shall be~~ Be responsible for the operation of all departments, including by ~~specification~~ the Police and Fire Departments.

~~(m)(13) The Manager, under~~ Under policies approved by the Select Board ~~members, shall~~ have exclusive authority to appoint, fix the salaries of, suspend, and remove, all officers and employees except those who are elected or who are appointed by the Select Board ~~members~~. When the ~~managership~~ Town Manager position is vacant, this authority shall be exercised by the Select Board.

~~(n)(b) The~~ Town Manager may, when advisable or proper, delegate to subordinate officers and employees of the Town, any duties conferred upon him or her.

§ 405. COMPENSATION

The Town Manager shall receive such compensation as may be fixed by the Select Board ~~members~~.

§ 406. REMOVAL

(a) On ~~90 days~~ days' written notice from the Select Board, the Town Manager may be removed without cause by a majority of the Select Board ~~members so voting~~ at a meeting called for the purpose of voting on removal. During the ~~90-day~~ 90-day period, the Town Manager may be suspended with pay.

(b) The Select Board ~~members~~ may adopt at any time a resolution stating ~~their~~ its intention to remove the Town Manager and the reasons therefore, a copy of which shall be sent to the Town Manager. The Town Manager may, within 10 days after such notice is sent, request a hearing, ~~which~~. The hearing shall be held by the Select Board ~~members~~ not less than 10 days nor more than 20 days from the date of such request, after which the Select Board ~~members~~

may dismiss the Town Manager. If no request for a hearing is filed in accordance with the foregoing, the Select Board ~~members~~ may dismiss the Town Manager immediately. During the period after the resolution of intention is adopted and until the Town Manager's dismissal, he or she may be suspended with pay.

* * *

§ 501. TAXES

Taxes shall be assessed by the Town based on the fair market value of real ~~and personal~~ property, in accordance with State law.

* * *

§ 503. FAIR MARKET VALUE OF REAL ESTATE

* * *

(c) When the fair market value of real estate is finally determined by a ~~State board or appraisers~~ the Director of Property Valuation and Review (PVR) or by a court having jurisdiction, then the value so fixed shall be the fair market value of such real estate for the year for which such appeal is taken and for the ensuing two years, unless the taxpayer's property is altered materially; is damaged; or if the Town in which it is located has undergone a complete revaluation of all taxable real estate, in the event of which, such fair market value may be changed.

§ 504. SPECIAL ASSESSMENTS

Despite any contrary provision in general law, the Select Board ~~members~~ may in ~~their~~ its sole discretion make a special assessment upon real estate for the installation or construction of a public improvement, such special assessment to be such proportion of the total cost of such improvement as the benefit to a parcel of real estate bears to the total benefit resulting to the public in general.

§ 505. TAX WITHIN BENNINGTON RURAL FIRE DISTRICT NO. 1

(a) The tax assessed by the Town on the grand list shall be reduced with respect to real estate in the Bennington Rural Fire District No. 1. This reduction shall be in direct proportion to the amount of the tax assessed by the Town ~~which~~ that is used by the Town to provide fire protection services to property not included in the Bennington Rural Fire District No. 1.

(b) The purpose of this ~~amendment~~ section is to make substantially uniform the taxes assessed throughout the Town for fire protection furnished by all fire departments in the Town. This tax reduction shall remain in effect until such time as the Bennington Rural Fire District No. 1 dissolves itself or

merges with the Town of Bennington, in accordance with the charter of the Town of Bennington.

* * *

§ 508. PURPOSES AND POWERS

(a) The District is created for the general purpose of maintaining and improving the economic, social, cultural, and environmental vitality and quality of the Town of Bennington (in particular, the District created by ~~this~~ section ~~507~~ 506 of this charter); to promote the Town and the District as a regional retail, commercial, and service center; and to serve as an advocate for the orderly development of the District in order to encourage expansion of the retail, commercial, and service base of the District and the Town by attracting new business and investment.

* * *

§ 511. LOCAL OPTION TAX

(a) If the Select Board by a majority vote recommends, the voters of the Town may, at an annual or special meeting warned for the purpose, by a majority vote of those present and voting, assess any or all of the following:

- (1) a one percent meals tax;
- (2) a one percent rooms tax;
- (3) a one percent alcoholic beverages tax; or
- (4) a one percent sales tax.

(b) Any local option tax assessed under subsection (a) of this section shall be collected and administered and may be rescinded as provided by the general laws of this State.

* * *

§ 601. ~~ORDINANCES CONTINUE IN EFFECT~~

~~If at the time this charter becomes effective as the charter of the Town of Bennington there is in force in any village or other area of the Town a zoning ordinance, including billboard zoning, such ordinance shall continue in force within the area for which it was originally enacted. Each such ordinance shall be a valid and legal ordinance within such area and the same shall be and become a valid and legal zoned area with such districts as are provided for in said ordinance. [Repealed.]~~

* * *

§ 603. ADMINISTRATION OF ORDINANCE OF VILLAGES WHICH
THAT MERGE

When ~~such~~ villages cease to exist as ~~aforsaid~~ pursuant to this charter, the ~~Town legislative body~~ Select Board, Board of Adjustment Development Review Board, and Administrative Officer shall have jurisdiction of and administer zoning in ~~said~~ the village area as a separate zoned area in accordance with the provisions of the ordinance in force therein and the general law. If no Town Administrative Officer ~~and Board of Adjustment~~ have or Development Review Board has then been appointed by the ~~legislative body~~ Select Board, ~~that body~~ the Select Board shall ~~forthwith~~ make such appointment.

§ 604. COMPREHENSIVE TOWN ORDINANCE

~~The billboard zoning ordinance enacted for the area outside the villages in the Town shall continue to be administered by the Town officials having charge of zoning.~~ When ~~such~~ Town officials having charge of zoning acquire jurisdiction of the zoning ordinance in other zoned areas as ~~herein~~ provided in this section, ~~said the ordinances, together with said billboard zoning ordinance,~~ shall be deemed to be part of a general ~~town~~ Town zoning ordinance duly and legally enacted in accordance with a comprehensive plan. ~~Such~~ The general ordinance shall be subject to repeal, amendment, or alteration by the Town ~~under the application provisions of law.~~

* * *

§ 806. CHARTER REVIEW COMMITTEE

~~The~~ At least once every five years, the ~~Select Board may~~ shall appoint a Charter Review Committee of not ~~less~~ fewer than five nor more than nine members ~~of from among the inhabitants residents~~ of the Town, ~~said.~~ The Committee ~~to~~ shall review the charter and recommend ~~such~~ any changes ~~therein~~ as it finds necessary or advisable for the purpose of improving the operation of Town government. ~~Said~~ The Committee shall prepare a written report of ~~their recommended amendments to the charter~~ its recommendations in time for ~~same~~ those recommendations to be submitted to the Select Board for review no later than one year after the appointment of ~~said~~ the Committee. At the discretion of the Select Board ~~such amendments,~~ the recommendations may be warned for ballot vote at an annual or special Town meeting to be held no later than one year after the submission of the report. The Select Board shall provide in ~~their~~ its budget for any year when a Charter Review Committee is appointed, ~~a sum of money~~ funding for ~~said~~ the Committee.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Rep. Browning of Arlington for the committee on Ways and Means, to which had been referred the bill recommended that the bill ought to pass.

Thereupon, the bill was read the second time, the report of the committee on Government Operations and Ways and Means were agreed to and third reading was ordered.

Thereupon, on motion of **Rep. McCoy of Poultney**, the rules were suspended and the bill placed on all remaining stages of passage. The bill was read the third time and passed.

Rules Suspended; Bills Messaged to Senate Forthwith

On motion of **Rep. McCoy of Poultney**, the rules were suspended and the following bills were ordered messaged to the Senate forthwith:

S. 146

Senate bill, entitled

An act relating to substance misuse prevention

H. 508

House bill, entitled

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

H. 536

House bill, entitled

An act relating to education finance

H. 547

House bill, entitled

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

Adjournment

At four o'clock and forty-three minutes in the afternoon, on motion of **Rep. McCoy of Poultney**, the House adjourned until tomorrow at ten o'clock in the forenoon.