

\*Senator Mazza explained his vote as follows:

“I voted to advance the bill to third reading because I would like to testify before the Committee on Finance in the morning to voice my concern over the tax on soda, water and candy.”

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until nine o'clock and thirty minutes in the morning.

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### **FRIDAY, MAY 1, 2015**

The Senate was called to order by the President.

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Message from the House No. 57**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**H. 120.** An act relating to creating a Vermont false claims act.

And has severally concurred therein.

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

**H. 105.** An act relating to disclosure of sexually explicit images without consent.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

### **Rules Suspended; Bill Committed**

Pending entry on the Calendar for notice, on motion of Senator Campbell the rules were suspended and Senate bill entitled:

**S. 135.** An act relating to expanding the responsibilities of the Green Mountain Care Board.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Finance, Senator Campbell moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Finance *intact*,

Which was agreed to.

**Bill Referred to Committee on Finance**

**H. 5.**

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to hunting, fishing, and trapping.

**Third Readings Ordered; Rules Suspended; Bills Passed In Concurrence**

**H. 494.**

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of the adoption and codification of the charter of the Town of Weybridge.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was passed in concurrence.

**H. 496.**

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of the adoption and codification of the charter of the Town of West Fairlee.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was passed in concurrence.

#### **H. 499.**

Senator Collamore, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of the adoption and codification of the charter of the Town of Salisbury.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Thereupon, on motion of Senator Campbell, the rules were suspended and the bill was placed on all remaining stages of its passage in concurrence forthwith.

Thereupon, the bill was passed in concurrence.

#### **Recess**

On motion of Senator Campbell the Senate recessed until 11:00 A.M.

#### **Called to Order**

The Senate was called to order by the President.

#### **Proposals of Amendment; Third Reading Ordered**

#### **H. 477.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to miscellaneous amendments to election law.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 6 (17 V.S.A. § 2386 (time for filing statements)) in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 17 V.S.A. § 2386 is amended to read:

§ 2386. TIME FOR FILING STATEMENTS

(a) ~~Statements pursuant to this subchapter, except for vacancies created by the death or withdrawal of a candidate after the~~ In the case of the failure of a major political party to nominate a candidate by primary, a statement shall be

~~filed as set forth in section 2356 of this title~~ not later than 5:00 p.m. on the third day following the primary.

(b) In the case of the death or withdrawal of a candidate after the primary election, the party committee shall have seven days from the date of the death or withdrawal to nominate a candidate. In no event, shall a statement be filed later than 60 days prior to the election.

(c) In the case of a nomination by a minor political party, a statement shall be filed as set forth in section 2356 of this chapter.

(d) In the case of a nomination for the office of justice of the peace, a statement shall be filed as set forth in section 2413 of this chapter.

Second: By adding two new sections under the “Campaign Finance” reader assistance heading to be Secs. 29a and 29b to read as follows:

Sec. 29a. 17 V.S.A. § 2903 is amended to read:

§ 2903. PENALTIES

(a) A person who knowingly and intentionally violates a provision of subchapter 2, 3, or 4 of this chapter shall be fined not more than \$1,000.00 or imprisoned not more than six months, or both.

(b) A person who violates any provision of this chapter shall be subject to a civil penalty of up to \$10,000.00 for each violation and shall refund ~~the unspent balance of Vermont campaign finance grants received under subchapter 5 of this chapter, if any, calculated as of the date of the violation to~~ the Secretary of State an amount equivalent to any contributions or expenditures that violate subdivision 2983(b)(1) of this chapter.

(c) In addition to the other penalties provided in this section, a State’s Attorney or the Attorney General may institute any appropriate action, injunction, or other proceeding to prevent, restrain, correct, or abate any violation of this chapter.

Sec. 29b. APPLICABILITY OF SEC. 29a

It is the intent of the General Assembly that the provisions of 1 V.S.A. § 214(c) shall apply to Sec. 29a of this act.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Government Operations? Senator Sears raised a *point of order* under Sec. 111(3) of Mason’s Manual of Legislative Procedure on the grounds that the *second* proposal of amendment

offered by the Committee on Government Operations violated the rule against referring to any matter awaiting adjudication in a court.

The President *overruled* the point of order and ruled that the proposal of amendment did not violate Sec. 111(3) of Mason's Manual of Legislature Procedure and could be considered by the Senate.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as proposed by the Committee on Government Operations?, Senator Sears requested that the *second* proposal of amendment be voted on separately.

Thereupon, the *first* proposal of amendment of the Committee on Government Operations was decided in the affirmative.

Thereupon, Senator Sears moved to amend the proposal of amendment of the Committee on Government Operations by adding the following:

Third: By striking out Sec. 40 (effective dates) and inserting in lieu thereof the following:

Sec. 40. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Sec. 7, 17 V.S.A. § 2402 (requisites of statement), shall take effect on January 1, 2016;

(2) Sec. 19, 17 V.S.A. § 2593 (participation to be entered on statewide checklist by town clerk), shall take effect on July 1, 2015; and

(3) Secs. 29a, 17 V.S.A. § 2903 (penalties), and 29b (applicability of Sec. 29a) shall take effect on April 1, 2016.

Which was disagreed to on a division of the Senate, Yeas 10, Nays 17.

Thereupon, the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Government Operations in the *second* proposal of amendment?, was decided in the affirmative on a roll call, Yeas 22, Nays 6.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Bray, Campion, Collamore, Cummings, Doyle, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Pollina, Rodgers, Sirotkin, Starr, White, Zuckerman.

**Those Senators who voted in the negative were:** Degree, Flory, McAllister, Mullin, Sears, Snelling.

**Those Senators absent and not voting were:** Campbell, Westman.

Thereupon, third reading of the bill was ordered.

**Proposal of Amendment; Bill Passed in Concurrence with Proposal of Amendment**

**H. 489.**

House bill entitled:

An act relating to revenue.

Was taken up.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the Senate proposal of amendment as follows:

First: By striking out Sec. 32 (AHS administration of VSNIP) in its entirety and inserting in lieu thereof the following:

Sec. 32. [Deleted.]

Second: In Sec. 33, (Probate Cases), by striking out subdivision (a)(20) in its entirety and inserting in lieu thereof a new subdivision (a)(20) to read:

(20) Corrections for vital records ~~\$30.00~~ \$40.00

Third: In Sec. 85 (sales tax definitions), in subdivision (31), after “soft drinks” by striking out “, candy,” and by striking subdivision (55) in its entirety.

Fourth: By adding a section 87a to read as follows:

Sec. 87a. 32 V.S.A. § 5870 is amended to read:

**§ 5870. REPORTING USE TAX ON INDIVIDUAL INCOME TAX RETURNS**

The Commissioner of Taxes shall provide that individuals report use tax on their State individual income tax returns. Taxpayers are required to attest to the amount of their use tax liability under chapter 233 of this title for the period of the tax return. Alternatively, they may elect to report an amount that is ~~0.40~~ 0.15 percent of their Vermont adjusted gross income, as shown on a table published by the Commissioner of Taxes; and use tax liability arising from the purchase of each item with a purchase price in excess of \$1,000.00 shall be added to the table amount.

Fifth: In Sec. 88 (satellite programming tax), in 32 V.S.A. § 10502, subsection (a), after “the rate of” by striking “five” and inserting in lieu thereof two and one-half

Sixth: In Sec. 91, in subdivision (1), after 30 (Motor Vehicles), and before (VSNIP surcharge and language) by striking out “31–32” and inserting in lieu thereof 31, and by adding a subdivision (12) to read:

(12) Sec. 85 (use tax reporting) shall take effect on January 1, 2016, and apply to tax year 2015 returns and after.

Which was agreed to.

Thereupon, Senator Pollina moved that the Senate proposal of amendment be amended by adding three new sections to be numbered Secs. 22b, 22c, and 22d to read as follows:

Sec. 22b. 10 V.S.A. § 1521 is amended to read:

§ 1521. DEFINITIONS

~~For the purpose of~~ As used in this chapter:

(1) “Beverage” means beer or other malt beverages and mineral waters, mixed wine drink, soda water, and carbonated soft drinks in liquid form and intended for human consumption. As of January 1, 1990, “beverage” also shall mean liquor.

\* \* \*

(3) “Container” means the individual, separate, bottle, can, jar, or carton composed of glass, metal, paper, plastic, or any combination of those materials containing a consumer product. This definition shall not include containers made of biodegradable material.

(4) “Distributor” means every person who engages in the sale of consumer products in containers to a dealer in this ~~state~~ State including any manufacturer who engages in such sales. Any dealer or retailer who sells, at the retail level, beverages in containers without having purchased them from a person otherwise classified as a distributor, shall be a distributor.

(5) “Manufacturer” means every person bottling, canning, packing, or otherwise filling containers for sale to distributors or dealers.

\* \* \*

(8) “Secretary” means the ~~secretary of the agency of natural resources~~ Secretary of Natural Resources.

(9) “Mixed wine drink” means a beverage containing wine and more than 15 percent added plain, carbonated, or sparkling water; and ~~which~~ that

contains added natural or artificial blended material, such as fruit juices, flavors, flavoring, adjuncts, coloring, or preservatives; ~~which~~ that contains not more than 16 percent alcohol by volume; or other similar product marketed as a wine cooler.

(10) "Liquor" means spirits as defined in 7 V.S.A. § 2.

(11) "Deposit initiator" means the first distributor or manufacturer to collect the deposit on a beverage container sold to any person within the State.

Sec. 22c. 10 V.S.A. §§ 1530 and 1531 are added to read:

§ 1530. ABANDONED BEVERAGE CONTAINER DEPOSITS; DEPOSIT TRANSACTION ACCOUNT; BEVERAGE REDEMPTION FUND

(a) A deposit initiator shall open a separate interest-bearing account in a Vermont branch of a financial institution to be known as the deposit transaction account. The deposit initiator shall keep the deposit transaction account separate from all other revenues and accounts.

(b) Beginning on July 1, 2015, each deposit initiator shall deposit in its deposit transaction account the refund value established by section 1522 of this title for all beverage containers sold by the deposit initiator. The deposit initiator shall deposit the refund value for each beverage container in the account not more than three business days after the date on which the beverage container is sold. All interest, dividends, and returns earned on the deposit transaction account shall be paid directly to the account. The deposit initiator shall pay all refunds on returned beverage containers from the deposit transaction account.

(c) Beginning on August 10, 2015, and by the tenth day of each month thereafter, every deposit initiator shall report to the Secretary of Natural Resources and the Commissioner of Taxes concerning transactions affecting the deposit initiator's deposit transaction account in the preceding month. The deposit initiator shall submit the report on a form provided by the Commissioner of Taxes. The report shall include:

(1) the balance of the account at the beginning of the preceding month;

(2) the number of nonreusable beverage containers sold in the preceding month and the number of nonreusable beverage containers returned in the preceding month;

(3) the amount of beverage container deposits received by the deposit initiator and deposited into the deposit transaction account;

(4) the amount of refund payments made from the deposit transaction account in the preceding month;



(5) any income earned on the deposit transaction account in the preceding month;

(6) any other transactions, withdrawals, or service charges on the deposit transaction account from the preceding month; and

(7) any additional information required by the Commissioner of Taxes.

(d) On or before August 10, 2015, and on the tenth day of each month thereafter, each deposit initiator shall remit from its deposit transaction account to the Commissioner of Taxes any abandoned beverage container deposits from the preceding month. The amount of abandoned beverage container deposits for a month is the amount equal to the amount of deposits that should be in the fund less the sum of:

(1) income earned on amounts on the account during that month; and

(2) the total amount of refund value received by the deposit initiator for nonrefillable containers during that month.

(e) The Secretary of Natural Resources may prohibit the sale of a beverage that is sold or distributed in the State by a deposit initiator who fails to comply with the requirements of this chapter. The Secretary may allow the sale of a beverage upon the deposit initiator's coming into compliance with the requirements of this chapter.

(f) The Commissioner of Taxes shall deposit in the General Fund established under 32 V.S.A. § 435 all abandoned beverage container deposits remitted under subsection (d) of this section.

Sec. 22d. 32 V.S.A. § 435(b) is amended to read:

(b) The General Fund shall be composed of revenues from the following sources:

\* \* \*

(12) All other revenues accruing to the State not otherwise required by law to be deposited in any other designated fund or used for any other designated purpose;

(13) All abandoned beverage container deposits remitted to the Commissioner of Taxes under 10 V.S.A. § 1530.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator Pollina? Senator Rodgers raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator Pollina was *not germane* to the bill and therefore could not be considered by the Senate.

The President *overruled* the point of order and ruled that the proposal of amendment was *germane* to the bill and could be considered by the Senate.

Thereupon, the recurring question, Shall the Senate propose to the House to amend the bill as moved by Senator Pollina?, was disagreed to on a roll call, Yeas 10, Nays 19.

Senator Pollina having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ayer, Baruth, Benning, Cummings, Degree, Doyle, McCormack, Pollina, White, Zuckerman.

**Those Senators who voted in the negative were:** Ashe, Balint, Bray, Campbell, Campion, Collamore, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, Mullin, Nitka, Rodgers, Sears, Sirotkin, Snelling, Starr.

**The Senator absent and not voting was:** Westman.

Thereupon, Senator Zuckerman moved that the Senate proposal of amendment be amended by:

#### **Sec. 57a. HOME MORTGAGE INTEREST DEDUCTION**

The Department of Taxes shall report to the General Assembly on or before January 15, 2016 on whether the limit on home mortgage interest under 32 V.S.A. § 5811(21)(A)(v) has a financial impact on Vermont businesses including farms.

Which was agreed to.

Thereupon, Senator Rodgers moved that the Senate proposal of amendment be amended by inserting a new section to be numbered Sec. 22a to read as follows:

Sec. 22a. 10 V.S.A. § 1976 is amended to read:

#### **§ 1976. DELEGATION OF AUTHORITY TO MUNICIPALITIES**

(a)(1) The Secretary may delegate to a municipality authority to:

(A) implement all sections of this chapter, except for sections 1975 and 1978 of this title; or

(B) implement permitting under this chapter for the subdivision of land, a building or structure, or a campground when the subdivision, building or structure, or campground is served by sewerage connections and water service lines, provided that:

(i) the lot, building or structure, or campground utilizes both a sanitary sewer service line and a water service line; and

(ii) the water main and sanitary sewer collection line that the water service line and sanitary sewer service line are connected to are owned and controlled by the delegated municipality.

(2) If a municipality submits a written request for delegation of this chapter, the ~~secretary~~ Secretary shall delegate authority to the municipality to implement and administer provisions of this chapter, the rules adopted under this chapter, and the enforcement provisions of chapter 201 of this title relating to this chapter, provided that the ~~secretary~~ Secretary is satisfied that the municipality:

(A) has established a process for accepting, reviewing, and processing applications and issuing permits, which shall adhere to the rules established by the ~~secretary~~ Secretary for potable water supplies and wastewater systems, including permits, by rule, for sewerage connections;

(B) has hired, appointed, or retained on contract, or will hire, appoint, or retain on contract, a licensed designer to perform technical work which must be done by a municipality under this section to grant permits;

(C) will take timely and appropriate enforcement actions pursuant to the authority of chapter 201 of this title;

(D) commits to reporting annually to the ~~secretary~~ Secretary on a form and date determined by the ~~secretary~~ Secretary; and

(E) will only issue permits for water service lines and sanitary sewer service lines when there is adequate capacity in the public water supply system source, wastewater treatment facility, or indirect discharge system; and

(F) will comply with all other requirements of the rules adopted under section 1978 of this title.

~~(2) Notwithstanding the provisions of this subsection, there shall be no delegation of this section or of section 1975 or 1978 of this title.~~

\* \* \*

Which was agreed to.

Thereupon, Senator Pollina moved that the Senate proposal of amendment be amended as follows:

First: By inserting a Sec. 58a to read as follows:

Sec. 58a. TAX RATES

(a) 2009 Spec. Sess. Acts and Resolves No. 2, Sec. 20 is repealed.

(b) Beginning in tax year 2015, the tax rates for the two highest income tax brackets in 32 V.S.A. § 5822(a)(1)–(5) are raised from tax year 2014 rates of 8.80 percent and 8.95 percent to 9.0 percent and 9.5 percent respectively. The tax rates for the three lowest brackets shall remain the same as they were in tax year 2014: 3.55 percent, 6.80 percent, and 7.80 percent. The Office of Legislative Council is authorized to alter the statutory chart in 32 V.S.A. § 5822(a)(1)–(5) to reflect these changes.

Second: By striking out Sec. 88 (satellite programming tax) in its entirety and inserting in lieu thereof:

Sec. 88. [Deleted.]

Third: In Sec. 91 (effective dates), in subdivision (8), after “58 (minimum tax)” by adding , 58a (income tax rates), and by striking out subdivision (11) in its entirety.

Which was disagreed to on a roll call, Yeas 6, Nays 23.

Senator Pollina having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Cummings, Doyle, McCormack, Pollina, White, Zuckerman.

**Those Senators who voted in the negative were:** Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Degree, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, Mullin, Nitka, Rodgers, Sears, Sirotkin, Snelling, Starr.

**The Senator absent and not voting was:** Westman.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

#### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until one o’clock and forty-five minutes in the afternoon.

#### **Afternoon**

The Senate was called to order by the President.

**Proposals of Amendment Amended; Bill Passed in Concurrence with  
Proposals of Amendment**

#### **H. 490.**

House bill entitled:

An act relating to making appropriations for the support of government.

Was taken up.

Thereupon, pending third reading of the bill, Senator Kitchel moved that the Senate proposal of amendment be amended as follows:

First: By striking out Sec. B.204 in its entirety and insert in lieu thereof a new Sec. B.204 to read as follows:

Sec. B.204 Judiciary

Personal services	35,186,260
Operating expenses	8,683,467
Grants	<u>76,030</u>
Total	43,945,757
Source of funds	
General fund	38,439,850
Special funds	2,667,462
Tobacco fund	39,871
Federal funds	473,301
Interdepartmental transfers	<u>2,325,273</u>
Total	43,945,757

Second: By striking out Sec. B.301 in its entirety and inserting in lieu thereof a new Sec. B.301 to read as follows:

Sec. B.301 Secretary's office - global commitment

Operating expenses	4,541,736
Grants	<u>1,373,818,419</u>
Total	1,378,360,155
Source of funds	
General fund	209,337,689
Special funds	26,550,179
Tobacco fund	28,747,141
State health care resources fund	270,712,781
Federal funds	842,972,365
Interdepartmental transfers	<u>40,000</u>
Total	1,378,360,155

Third: By striking out Sec. B.307 in its entirety and inserting in lieu thereof a new Sec. B.307 to read as follows:

Sec. B.307 Department of Vermont health access - Medicaid program - global commitment

Grants	<u>659,633,970</u>
Total	659,633,970
Source of funds	

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Global Commitment fund	659,633,970
Total	659,633,970

Fourth: By striking out Sec. B.604 in its entirety.

Fifth: By striking out Sec. E.301.2 in its entirety.

Which was agreed to.

Thereupon, Senator Kitchel moved that the Senate proposal of amendment be amended by inserting a new section to be numbered Sec. E.100.6 to read as follows:

Sec. E.100.6 FURTHER REDUCTIONS FOR CONFERENCE COMMITTEE CONSIDERATION

(a) The conference committee on this bill may review and consider further changes suggested by the Administration including additional pay act reductions; changes to opioid inpatient treatment reimbursement; further alignment of Medicaid and Medicare readmission; and alternatives for funding weatherization.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as recommended by Senator Kitchel?, Senator Kitchel requested and was granted leave to withdraw the proposal of amendment.

Thereupon, Senator Ayer, Lyons, McCormack, and Pollina moved that the Senate proposal of amendment be amended by inserting a new Sec. E.313.1 to read as follows:

Sec. E.313.1 18 V.S.A. chapter 95 is added to read:

CHAPTER 95. SUBSTANCE ABUSE ADVISORY COUNCIL

§ 4851. PURPOSE

It is the purpose of this chapter to establish a council responsible for evaluating Vermont's substance abuse system of care from a health and wellness perspective. The council created herein shall modernize the State's approach to substance abuse in terms of prevention, intervention, treatment, and recovery by focusing on community services, balancing scarce Medicaid resources, and integrating efforts with the Blueprint for Health.

§ 4852. SUBSTANCE ABUSE ADVISORY COUNCIL

(a) Creation. There is created a substance abuse advisory council to foster coordination and integration of substance abuse services across the substance abuse system of care.

(b) Membership. The Council shall be composed of the following 17 members:

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- (1) the Secretary of Human Services or designee;
  - (2) the Secretary of Education or designee;
  - (3) the Deputy Commissioner of the Department of Health's Division of Alcohol and Drug Abuse Programs;
  - (4) the Commissioner of Mental Health or designee;
  - (5) the Commissioner of Vermont Health Access or designee;
  - (6) the Director of the Blueprint or designee;
  - (7) a representative of an approved provider or preferred provider that shall also be a designated agency, appointed by the Governor;
  - (8) a representative of an approved provider or preferred provider that provides residential treatment services, appointed by the Governor;
  - (9) two licensed alcohol and drug abuse counselors serving different regions of the State, appointed by the Governor;
  - (10) a physician in private practice with expertise treating substance use disorders, appointed by the Governor;
  - (11) a representative of hospitals, appointed by the Vermont Association of Hospitals and Health Systems;
  - (12) a representative of the criminal justice community, appointed by the Governor;
  - (13) an educator involved in substance abuse prevention services, appointed by the Governor;
  - (14) a youth substance abuse prevention specialist, appointed by the Governor;
  - (15) a community prevention coalition member, appointed by the Governor; and
  - (16) a member of the peer community involved in recovery services, appointed by the Governor.
- (c) Report. Annually on or before November 15, the Council shall 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.
- (d) Meetings.
- (1) The Secretary of Human Services shall call the first meeting of the Council to occur on or before August 1, 2015.

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

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

(e) Reimbursement. Members of the Council who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four meetings annually.

#### § 4853. ADMINISTRATIVE SUPPORT

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.

#### § 4854. POWERS AND DUTIES

The Council shall:

(1) 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;

(2) provide recommendations to the Department of Health in its development of a substance abuse system of care, including regarding the integration of substance abuse services with health care reform initiatives, such as pay for performance methodologies;

(3) provide recommendations to the General Assembly and the Agency of Human Services regarding the improvement of statutes and rules governing the substance abuse system of care; and

(4) provide recommendations to the General Assembly regarding State policy and programs for individuals experiencing public inebriation.

Which was agreed to on a roll call, Yeas 17, Nays 10.

Senator Lyons having demanded the yeas and nays, they were taken and are as follows:



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**Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Bray, Collamore, Cummings, Degree, Doyle, Kitchel, Lyons, MacDonald, McCormack, Pollina, Sears, Sirotkin, Snelling, Starr, White, Zuckerman.

**Those Senators who voted in the negative were:** Baruth, Benning, Campbell, Campion, Flory, Mazza, McAllister, Mullin, Nitka, Rodgers.

**Those Senators absent and not voting were:** Ashe, Ayer, Westman.

Thereupon, Senator White moved that the Senate proposal of amendment be amended by inserting a new Sec. E.600.1 to read as follows:

Sec. E.600.1 16 V.S.A. § 2285 is added to read:

§ 2285. NONAPPLICABILITY OF CERTAIN REQUIREMENTS FOR PAYMENT OF WAGES

Except as expressly provided in this chapter, the University of Vermont and State Agricultural College and its Board of Trustees, officers, and employees shall not be subject to the provisions of 21 V.S.A. § 342(c) that require written employee authorization before an employer may pay wages through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by the employee within or outside the State.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as moved by Senator White? Senator Baruth raised a *point of order* under Sec. 402 of Mason's Manual of Legislative Procedure on the grounds that the proposal of amendment offered by Senator White was *not germane* to the bill and therefore could not be considered by the Senate.

Thereupon, the President *sustained* the point of order and ruled that the proposal of amendment offered by Senator White was *not germane* to the bill.

The President thereupon declared that the proposal of amendment offered by Senator White could *not* be considered by the Senate and the proposal of amendment was ordered stricken.

Thereupon, Senator White moved to suspend Rule 402 of Mason's Manual of Legislative Procedure so that the Senate could consider the proposal of amendment. Which was disagreed to on a division of the Senate, Yeas 20, Nays 8.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

**Appointments Confirmed**

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Mathis, William of Brandon - Member, State Board of Education – March 1, 2015, to February 28, 2021.

McAllister, Dylan of Greensboro - Student Member, State Board of Education - July 1, 2014, to June 30, 2016.

Milne, Linda of Montpelier - Member, Vermont State Colleges Board of Trustees - March 1, 2015, to February 28, 2021.

Peltz, Peter of Woodbury - Member, State Board of Education – March 1, 2015, to February 28, 2021.

**Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**H. 489, H. 490, H. 494, H. 496, H. 499.**

**House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Lawrence and others,

By Senators Benning and Kitchel,

**H.C.R. 140.**

House concurrent resolution congratulating Lucinda Storz on winning the 2015 Vermont State Spelling Bee.

By All Members of the House,

By All Members of the Senate,

**H.C.R. 141.**

House concurrent resolution commemorating the centennial anniversary of the legislative establishment of Vermont town forests.

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By Representative Pearce and others,  
By Senators Degree, McAllister, Rodgers and Starr,

**H.C.R. 142.**

House concurrent resolution congratulating the 2014 Richford High School Rockets Division III girls' championship softball team.

By Representative Pearce and others,  
By Senators Degree, McAllister, Rodgers and Starr,

**H.C.R. 143.**

House concurrent resolution congratulating the 2014 Richford Division IV girls' track and field team.

By Representatives Jewett and Olsen,

**H.C.R. 144.**

House concurrent resolution congratulating Jessica Diggins on winning a silver medal at the FIS (International Ski Federation) Nordic World Ski Championships 2015.

By Representative Troiano and others,

**H.C.R. 145.**

House concurrent resolution in memory of Hardwick Gazette sports editor Dave Morse.

By Representative Macaig,

**H.C.R. 146.**

House concurrent resolution welcoming the Northeast Food and Drug Officials Association to Vermont for its 104th annual meeting.

By Representative Bissonnette and others,

**H.C.R. 147.**

House concurrent resolution honoring retired Winooski Police Chief Stephen J. McQueen for his exemplary law enforcement leadership.

By Representative Russell and others,

By Senators Mullin, Collamore and Flory,

**H.C.R. 148.**

House concurrent resolution honoring the culinary contribution to Rutland City of Three Tomatoes Trattoria and the community focus of its owner, Allen Frey.

**Adjournment**

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, May 5, 2015, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 26.

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**TUESDAY, MAY 5, 2015**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Pledge of Allegiance**

The President then led the members of the Senate in the pledge of allegiance.

**Message from the House No. 58**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**S. 9.** An act relating to improving Vermont's system for protecting children from abuse and neglect.

**S. 108.** An act relating to repealing the sunset on provisions pertaining to patient choice at end of life.

**S. 139.** An act relating to pharmacy benefit managers and hospital observation status.

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

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

**S. 115.** An act relating to expungement of convictions based on conduct that is no longer criminal.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Grad of Moretown  
Rep. Nuovo of Middlebury  
Rep. Burditt of West Rutland.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 140.** House concurrent resolution congratulating Lucinda Storz on winning the 2015 Vermont State Spelling Bee.

**H.C.R. 141.** House concurrent resolution commemorating the centennial anniversary of the legislative establishment of Vermont town forests.

**H.C.R. 142.** House concurrent resolution congratulating the 2014 Richford High School Rockets Division III girls' championship softball team.

**H.C.R. 143.** House concurrent resolution congratulating the 2014 Richford Division IV girls' track and field team.

**H.C.R. 144.** House concurrent resolution congratulating Jessica Diggins on winning a silver medal at the FIS (International Ski Federation) Nordic World Ski Championships 2015.

**H.C.R. 145.** House concurrent resolution in memory of Hardwick Gazette sports editor Dave Morse.

**H.C.R. 146.** House concurrent resolution welcoming the North East Food and Drug Officials Association to Vermont for its 104th annual meeting.

**H.C.R. 147.** House concurrent resolution honoring retired Winooski Police Chief Stephen J. McQueen for his exemplary law enforcement leadership.

**H.C.R. 148.** House concurrent resolution honoring the culinary contribution to Rutland City of Three Tomatoes Trattoria and the community focus of its owner, Allen Frey.

In the adoption of which the concurrence of the Senate is requested.

#### **Bills Referred to Committee on Finance**

House bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were referred to the Committee on Finance:

**H. 480.** An act relating to making miscellaneous technical and other amendments to education laws.

**H. 484.** An act relating to miscellaneous agricultural subjects.

**Joint Senate Resolution Adopted on the Part of the Senate**

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Baruth and Benning,

**J.R.S. 27.** Joint resolution relating to weekend adjournment.

***Resolved by the Senate and House of Representatives:***

That when the two Houses adjourn on Friday, May 8, 2015, it be to meet again no later than Tuesday, May 12, 2015.

**Bill Passed in Concurrence with Proposal of Amendment**

**H. 477.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to miscellaneous amendments to election law.

**Message from the Governor**

A message was received from His Excellency, the Governor, by Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to inform the Senate that on the first day of May 2015 he approved and signed a bill originating in the Senate of the following title:

**S. 141.** An act relating to possession of firearms.

**Message from the House No. 59**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**H. 489.** An act relating to revenue.

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

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

Rep. Ancel of Calais  
Rep. Branagan of Georgia  
Rep. Condon of Colchester.

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

**H. 490.** An act relating to making appropriations for the support of government.

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

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

Rep. Johnson of South Hero  
Rep. Fagan of Rutland City  
Rep. Keenan of St. Albans City.

#### **Message from the House No. 60**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

**H. 497.** An act relating to approval of amendments to the charter of the Town of Colchester.

**H. 503.** An act relating to approval of amendments to the charter of the City of Burlington.

**H. 504.** An act relating to approval of the adoption and codification of the charter of the Town of Waitsfield.

In the passage of which the concurrence of the Senate is requested.

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

**S. 44.** An act relating to creating flexibility in early college enrollment numbers.

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

The Governor has informed the House that on 1 May 2015, he approved and signed bills originating in the House of the following titles:

**H. 51.** An act relating to group-wide supervision of internationally active insurance groups and the establishment of domestic insurers in Vermont.

**H. 73.** An act relating to the corporate governance structure of insurers.

**H. 128.** An act relating to the use of results-based accountability common language in Vermont law.

**H. 268.** An act relating to approval of the adoption and the codification of the charter of the Town of Franklin and of the merger of Franklin Fire District No. 1 into the Town.

**H. 270.** An act relating to pretrial screenings and assessments.

**H. 483.** An act relating to home improvement fraud.

**H. 478.** An act relating to approval of the adoption and codification of the charter of the Town of Royalton.

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, May 6, 2015.

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### **WEDNESDAY, MAY 6, 2015**

The Senate was called to order by the President.

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Rules Suspended; Bill Committed**

#### **H. 361.**

Pending entry on the Calendar for notice, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to making amendments to education funding, education spending, and education governance.

Was taken up for immediate consideration.



Thereupon, pending the reading of the report of the Committee on Education, Senator Baruth moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Education and the Committee on Finance *intact*,

Which was agreed to.

### **Bills Referred**

House bills of the following titles were severally read the first time and referred:

#### **H. 497.**

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

To the Committee on Rules.

#### **H. 503.**

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

To the Committee on Rules.

#### **H. 504.**

An act relating to approval of the adoption and codification of the charter of the Town of Waitsfield.

To the Committee on Rules.

### **Committees of Conference Appointed**

#### **H. 489.**

An act relating to revenue.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Ashe  
Senator MacDonald  
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

#### **H. 490.**

An act relating to making appropriations for the support of government.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Kitchel  
Senator Sears  
Senator Snelling

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**Proposal of Amendment; Third Reading Ordered**

**H. 18.**

Senator White, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to Public Records Act exemptions.

Reported recommending that the Senate propose to the House to amend the bill by striking out Sec. 21 and the reader assistance thereto in their entirety and inserting in lieu thereof the following:

\* \* \* Presentence and Preparole Reports; Supervision History \* \* \*

Sec. 21. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

\* \* \*

(d) Any presentence report, ~~pre-parole~~ preparole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is ~~privileged~~ confidential and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board, except that the court or Board may in its discretion permit the inspection of the report or parts thereof by the State's Attorney, the defendant or inmate, or his or her attorney, or other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful. Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

\* \* \*

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

### **House Proposal of Amendment Concurred In**

#### **H. 105.**

House proposal of amendment to Senate bill entitled:

An act relating to disclosure of sexually explicit images without consent.

Was taken up.

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

In Sec. 2, 13 V.S.A. § 2606, in subdivision (b)(2), by striking out “and causes harm to the person depicted”

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

### **Message from the House No. 61**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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

**S. 60.** An act relating to payment for medical examinations for victims of sexual assault.

And has passed the same in concurrence.

The House has considered joint resolution originating in the Senate of the following title:

**J.R.S. 27.** Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

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

**S. 122.** An act relating to miscellaneous changes to laws related to motor vehicles, motorboats, and other vehicles.

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

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

Rep. Brennan of Colchester  
Rep. Corcoran of Bennington  
Rep. Burke of Brattleboro

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, May 7, 2015.

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## **THURSDAY, MAY 7, 2015**

The Senate was called to order by the President.

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Bills Referred to Committee on Appropriations**

House bills of the following titles, appearing on the Calendar for notice and carrying appropriations or requiring the expenditure of funds, under the rules were severally referred to the Committee on Appropriations:

**H. 35.** An act relating to improving the quality of State waters.

**H. 117.** An act relating to creating a Division for Telecommunications and Connectivity within the Department of Public Service.

**H. 484.** An act relating to miscellaneous agricultural subjects.

### **Bills Referred**

House bills entitled:

**H. 497.** An act relating to approval of amendments to the charter of the Town of Colchester.

**H. 503.** An act relating to approval of amendments to the charter of the City of Burlington.

**H. 504.** An act relating to approval of the adoption and codification of the charter of the Town of Waitsfield.

Were severally taken up and pursuant to Temporary Rule 44A were severally referred to the Committee on Government Operations.

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**Bill Passed in Concurrence with Proposal of Amendment****H. 18.**

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to Public Records Act exemptions.

**Third Reading Ordered****J.R.H. 8.**

Senator Collamore, for the Committee on Government Operations, to which was referred joint House resolution entitled:

Joint resolution relating to military suicides.

Reported that the joint resolution ought to be adopted in concurrence.

Thereupon, the joint resolution was read the second time by title only pursuant to Rule 43, and third reading of the joint resolution was ordered on a roll call, Yeas 28, Nays 1.

Senator McAllister having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

**The Senator who voted in the negative was:** Ayer.

**The Senator absent and not voting was:** Nitka.

**House Proposal of Amendment Not Concurred In; Committee of Conference Requested****S. 9.**

House proposal of amendment to Senate bill entitled:

An act relating to improving Vermont's system for protecting children from abuse and neglect.

Was taken up.

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

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\* \* \* Legislative Findings \* \* \*

## Sec. 1. LEGISLATIVE FINDINGS

(a) In 2014, the tragic deaths of two children exposed problems with Vermont's system intended to protect children from abuse and neglect. This act is intended to address these problems and implement the recommendations of the Joint Legislative Committee on Child Protection created by 2014 Acts and Resolves No. 179, Sec. C.109 and improve our State's system for protecting our children to help prevent future tragedies.

(b) To better prevent child abuse and neglect, Vermont must invest in proven strategies to support and strengthen families.

(c) To better protect Vermont's children from abuse and neglect, and to address the increasing burden of drug abuse and other factors that are ripping families apart, the General Assembly believes that our State's child protection system must be focused on the safety and best interests of children, comprehensive, and properly funded. This system must ensure that:

(1) the dedicated frontline professionals, including guardians ad litem, who struggle to handle the seemingly ever-increasing caseloads have the support, training, and resources necessary to do their job;

(2) children who have suffered abuse and neglect can find safe, nurturing, and permanent homes, whether with their custodial parents, relatives, or other caring families and individuals;

(3) the most serious cases of abuse are thoroughly investigated and prosecuted if appropriate;

(4) courts have the information and tools necessary to make the best possible decisions;

(5) all participants in the child protection system, from the frontline caseworker to the judge determining ultimate custody, work together to prioritize the child's safety and best interests; and

(6) an effective oversight structure is established.

(d) This act is only the beginning of what must be an ongoing process in which the House and Senate Committees on Judiciary, the Senate Committee on Health and Welfare, the House Committee on Human Services, in consultation with the Senate and House Committees on Appropriations, continue to enhance the statewide approach to the prevention of child abuse and neglect.

\* \* \* Agency of Human Services; Evidence-Informed Models \* \* \*

Sec. 2. AGENCY OF HUMAN SERVICES EVIDENCE-INFORMED MODELS

The Secretary of Human Services shall identify and utilize evidence-informed models of serving families that prioritize child safety and prevention of child abuse and neglect through early interventions with high risk families that develop family strengths and reduce the impact of adverse childhood experiences. The Secretary shall make recommendations in the FY2017 budget that reflect the utilization of these models.

\* \* \* Human Services; Child Welfare Services; Definitions \* \* \*

Sec. 3. 33 V.S.A. § 4912 is amended to read:

§ 4912. DEFINITIONS

As used in this subchapter:

\* \* \*

(14) “Risk of harm” means a significant danger that a child will suffer serious harm by other than accidental means, which harm would be likely to cause physical injury, ~~neglect, emotional maltreatment,~~ or sexual abuse, including as the result of:

(A) a single, egregious act that has caused the child to be at significant risk of serious physical injury;

(B) the production or preproduction of methamphetamines when a child is actually present;

(C) failing to provide supervision or care appropriate for the child’s age or development and as a result, the child is at significant risk of serious physical injury;

(D) failing to provide supervision or care appropriate for the child’s age or development due to use of illegal substances, or misuse of prescription drugs or alcohol;

(E) failing to supervise appropriately a child in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; and

(F) a registered sex offender or person substantiated for sexually abusing a child residing with or spending unsupervised time with a child.

\* \* \*

(15) “Sexual abuse” consists of any act or acts by any person involving sexual molestation or exploitation of a child, including incest, prostitution,

rape, sodomy, or any lewd and lascivious conduct involving a child. Sexual abuse also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child. Sexual abuse also includes the viewing, possession, or transmission of child pornography, with the exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged.

\* \* \*

(17) “Serious physical injury” means any intentional or malicious conduct that leaves a child with an injury or injuries that leave significant or permanent bodily damage or disfigurement, or both, or that leaves a child without the ability to perform normal functions of daily living.

\* \* \* Confidentiality \* \* \*

Sec. 4. 33 V.S.A. § 4913 is amended to read:

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL ACTION

(a) ~~Any~~ A mandated reporter is any:

(1) health care provider, including any:

(A) physician, surgeon, osteopath, chiropractor, or physician assistant licensed, certified, or registered under the provisions of Title 26;

(B) ~~any~~ resident physician;

(C) intern;

(D) ~~or any~~ hospital administrator in any hospital in this State;

(F) ~~whether or not so registered, and any~~ registered nurse;

(G) licensed practical nurse;

(H) medical examiner;

(I) emergency medical personnel as defined in 24 V.S.A. § 2651(6);

(J) dentist;

(K) psychologist; and

(L) pharmacist, any other health care provider, child care worker;

(2) individual who is employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school



district or an approved or recognized independent school to provide student services, including any:

(A) school superintendent;

(B) headmaster of an approved or recognized independent school as defined in 16 V.S.A. § 11;

(C) school teacher;

(D) student teacher;

(E) school librarian;

(F) school principal; and

(G) school guidance counselor, and any other individual who is employed by a school district or an approved or recognized independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services;

(3) child care worker;

(4) mental health professional;

(5) social worker;

(6) probation officer;

(7) any employee, contractor, and grantee of the Agency of Human Services who have contact with clients;

(8) police officer;

(9) camp owner;

(10) camp administrator;

(11) camp counselor; or

(12) member of the clergy.

(b) As used in subsection (a) of this section, "camp" includes any residential or nonresidential recreational program.

(c) Any mandated reporter who has reasonable cause to believe that any child has been abused or neglected reasonably suspects abuse or neglect of a child shall report or cause a report to be made in accordance with the provisions of section 4914 of this title within 24 hours of the time information regarding the suspected abuse or neglect was first received or observed. As used in this subsection, "camp" includes any residential or nonresidential recreational program.

~~(b)~~(d)(1) The Commissioner shall inform the person who made the report under subsection (a) of this section:

~~(1)~~(A) whether the report was accepted as a valid allegation of abuse or neglect;

~~(2)~~(B) whether an assessment was conducted and, if so, whether a need for services was found; and

~~(3)~~(C) whether an investigation was conducted and, if so, whether it resulted in a substantiation.

(2) Upon request, the Commissioner shall provide relevant information contained in the case records concerning a person's report to a person who:

(A) made the report under subsection (a) of this section; and

(B) is engaged in an ongoing working relationship with the child or family who is the subject of the report.

(3) Any information disclosed under subdivision (2) of this subsection shall not be disseminated by the mandated reporter requesting the information. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.

(4) In providing information under subdivision (2) of this subsection, the Department may withhold information that could:

(A) compromise the safety of the reporter or the child or family who is the subject of the report; or

(B) threaten the emotional well-being of the child.

\* \* \*

Sec. 4a. 33 V.S.A. § 4914 is amended to read:

#### § 4914. NATURE AND CONTENT OF REPORT; TO WHOM MADE

A report shall be made orally or in writing to the Commissioner or designee. The Commissioner or designee shall request the reporter to follow the oral report with a written report, unless the reporter is anonymous. Reports shall contain the name and address or other contact information of the reporter as well as the names and addresses of the child and the parents or other persons responsible for the child's care, if known; the age of the child; the nature and extent of the child's injuries together with any evidence of previous abuse and neglect of the child or the child's siblings; and any other information that ~~the reporter believes~~ might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family. If a report of child abuse or neglect involves the acts or omissions of the Commissioner or employees of the Department, then the report shall be

directed to the Secretary of Human Services who shall cause the report to be investigated by other appropriate Agency staff. If the report is substantiated, services shall be offered to the child and to his or her family or caretaker according to the requirements of section 4915b of this title.

Sec. 5. 33 V.S.A. § 4921 is amended to read:

§ 4921. DEPARTMENT'S RECORDS OF ABUSE AND NEGLECT

(a) The Commissioner shall maintain all records of all investigations, assessments, reviews, and responses initiated under this subchapter. The Department may use and disclose information from such records in the usual course of its business, including to assess future risk to children, to provide appropriate services to the child or members of the child's family, or for other legal purposes.

(b) The Commissioner shall promptly inform the parents, if known, or guardian of the child that a report has been accepted as a valid allegation pursuant to subsection 4915(b) of this title and the Department's response to the report. The Department shall inform the parent or guardian of his or her ability to request records pursuant to subsection (c) of this section. This section shall not apply if the parent or guardian is the subject of the investigation.

(c) Upon request, the redacted investigation file shall be disclosed to:

(1) the child's parents, foster parent, or guardian, absent good cause shown by the Department, provided that the child's parent, foster parent, or guardian is not the subject of the investigation; and

(2) the person alleged to have abused or neglected the child, as provided for in subsection 4916a(d) of this title.

(d) Upon request, Department records created under this subchapter shall be disclosed to:

(1) the ~~court~~ Court, parties to the juvenile proceeding, and the child's guardian ad litem if there is a pending juvenile proceeding or if the child is in the custody of the Commissioner;

(2) the Commissioner or person designated by the Commissioner to receive such records;

(3) persons assigned by the Commissioner to conduct investigations;

(4) law enforcement officers engaged in a joint investigation with the Department, an ~~assistant attorney general~~ Assistant Attorney General, or a ~~state's attorney~~ State's Attorney; and

(5) other State agencies conducting related inquiries or proceedings; and,

~~(6) a Probate Division of the Superior Court involved in guardianship proceedings. The Probate Division of the Superior Court shall provide a copy of the record to the respondent, the respondent's attorney, the petitioner, the guardian upon appointment, and any other individual, including the proposed guardian, determined by the Court to have a strong interest in the welfare of the respondent. [Repealed.]~~

(e)(1) Upon request, relevant Department records or information created under this subchapter ~~may~~ shall be disclosed to:

~~(A) service providers working with a person or child who is the subject of the report; and~~ A person, agency, or organization, including a multidisciplinary team empaneled under section 4917 of this title, authorized to diagnose, care for, treat, or supervise a child or family who is the subject of a report or record created under this subchapter, or who is responsible for the child's health or welfare.

(B) Health and mental health care providers working directly with the child or family who is the subject of the report or record.

(C) Educators working directly with the child or family who is the subject of the report or record.

(D) Licensed or approved foster care givers for the child.

(E) Mandated reporters as defined by section 4913 of this subchapter, making a report in accordance with the provisions of section 4914 of this subchapter and engaging in an ongoing working relationship with the child or family who is the subject of the report.

(F) A Family Division of the Superior Court involved in any proceeding in which custody of a child or parent-child contact is at issue.

(G) A Probate Division of the Superior Court involved in guardianship proceedings.

(H) ~~other~~ Other governmental entities for purposes of child protection.

(2) Determinations of relevancy shall be made by the Department.

(3) In providing records or information under this subsection (e), the Department may withhold information that could:

(A) compromise the safety of the reporter or the child or family who is the subject of the report; or

(B) threaten the emotional well-being of the child.

(4) In providing records or information under this section, the Department may also provide other records related to its child protection activities for the child.

(5) Any persons or agencies authorized to receive confidential information under this section may share such information with other persons or agencies authorized to receive confidential information under this section for the purposes of providing services and benefits to the children and families those persons or agencies mutually serve.

(f) Any records or information disclosed under this section and information relating to the contents of those records or reports shall not be disseminated by the receiving persons or agencies to any persons or agencies, other than to those persons or agencies authorized to receive information pursuant to this section. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$2,000.00.

Sec. 6. 33 V.S.A. § 5110 is amended to read:

§ 5110. CONDUCT OF HEARINGS

(a) Hearings under the juvenile judicial proceedings chapters shall be conducted by the Court without a jury and shall be confidential.

(b) The general public shall be excluded from hearings under the juvenile judicial proceedings chapters, and only the parties, their counsel, witnesses, persons accompanying a party for his or her assistance, and such other persons as the Court finds to have a proper interest in the case or in the work of the Court, including a foster parent or a representative of a residential program where the child resides, may be admitted by the Court. An individual without party status seeking inclusion in the hearing in accordance with this subsection may petition the Court for admittance by filing a request with the clerk of the Court. This subsection shall not prohibit a victim's exercise of his or her rights under sections 5233 and 5234 of this title, and as otherwise provided by law.

(c) There shall be no publicity given by any person to any proceedings under the authority of the juvenile judicial proceedings chapters except with the consent of the child, the child's guardian ad litem, and the child's parent, guardian, or custodian. A person who violates this provision may be subject to contempt proceedings pursuant to Rule 16 of the Vermont Rules for Family Proceedings.

\* \* \* Juvenile Proceedings; General Provisions; Children in Need of Care or Supervision; Request for an Emergency Care Order \* \* \*

Sec. 7. 33 V.S.A. § 5302 is amended to read:

§ 5302. REQUEST FOR EMERGENCY CARE ORDER

(a) If an officer takes a child into custody pursuant to ~~subdivision~~ section 5301(1) ~~or (2)~~ of this title, the officer shall immediately notify the child's custodial parent, guardian, or custodian and release the child to the care of the child's custodial parent, guardian, or custodian unless the officer determines that the child's immediate welfare requires the child's continued absence from the home.

(b) If the officer determines that the child's immediate welfare requires the child's continued absence from the home, ~~the officer shall:~~

(1) ~~Remove~~ The officer shall remove the child from the child's surroundings, contact the Department, and deliver the child to a location designated by the Department. The Department shall have the authority to make reasonable decisions concerning the child's immediate placement, safety, and welfare pending the issuance of an emergency care order.

(2) ~~Prepare~~ The officer or a social worker employed by the Department for Children and Families shall prepare an affidavit in support of a request for an emergency care order and provide the affidavit to the State's Attorney. The affidavit shall include: the reasons for taking the child into custody; and to the degree known, potential placements with which the child is familiar; the names, addresses, and telephone number of the child's parents, guardian, custodian, or care provider; the name, address, and telephone number of any relative who has indicated an interest in taking temporary custody of the child. The officer or social worker shall contact the Department and the Department may prepare an affidavit as a supplement to the affidavit of the law enforcement officer or social worker if the Department has additional information with respect to the child or the family.

\* \* \*

\* \* \* Temporary Care Order; Custody \* \* \*

Sec. 8. 33 V.S.A. § 5308 is amended to read:

§ 5308. TEMPORARY CARE ORDER

(a) The Court shall order that legal custody be returned to the child's custodial parent, guardian, or custodian unless the Court finds by a preponderance of the evidence that a return home would be contrary to the best interests of the child ~~the child's welfare~~ child because any one of the following exists:

(1) A return of legal custody could result in substantial danger to the physical health, mental health, welfare, or safety of the child.

(2) The child or another child residing in the same household has been physically or sexually abused by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian.

(3) The child or another child residing in the same household is at substantial risk of physical or sexual abuse by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian. It shall constitute prima facie evidence that a child is at substantial risk of being physically or sexually abused if:

(A) a custodial parent, guardian, or custodian receives actual notice that a person has committed or is alleged to have committed physical or sexual abuse against a child; and

(B) a custodial parent, guardian, or custodian knowingly or recklessly allows the child to be in the physical presence of the alleged abuser after receiving such notice.

(4) The custodial parent, guardian, or ~~guardian~~ custodian has abandoned the child.

(5) The child or another child in the same household has been neglected and there is substantial risk of harm to the child who is the subject of the petition.

(b) Upon a finding that ~~any of the conditions set forth in subsection (a) of this section exists~~ a return home would be contrary to the best interests of the child, the Court may issue such temporary orders related to the legal custody of the child as it deems necessary and sufficient to protect the welfare and safety of the child, including, ~~in order of preference~~:

(1) ~~A~~ a conditional custody order returning or granting legal custody of the child to the custodial parent, guardian, ~~or~~ custodian, noncustodial parent, relative, or a person with a significant relationship with the child, subject to such conditions and limitations as the Court may deem necessary and sufficient ~~to protect the child;~~

~~(2)(A) An order transferring temporary legal custody to a noncustodial parent. Provided that parentage is not contested, upon a request by a noncustodial parent for temporary legal custody and a personal appearance of the noncustodial parent, the noncustodial parent shall present to the Court a~~

~~care plan that describes the history of the noncustodial parent's contact with the child, including any reasons why contact did not occur, and that addresses:~~

- ~~(i) the child's need for a safe, secure, and stable home;~~
- ~~(ii) the child's need for proper and effective care and control; and~~
- ~~(iii) the child's need for a continuing relationship with the custodial parent, if appropriate.~~

~~(B) The Court shall consider court orders and findings from other proceedings related to the custody of the child.~~

~~(C) The Court shall transfer legal custody to the noncustodial parent unless the Court finds by a preponderance of the evidence that the transfer would be contrary to the child's welfare because any of the following exists:~~

~~(i) The care plan fails to meet the criteria set forth in subdivision (2)(A) of this subsection.~~

~~(ii) Transferring temporary legal custody of the child to the noncustodial parent could result in substantial danger to the physical health, mental health, welfare, or safety of the child.~~

~~(iii) The child or another child residing in the same household as the noncustodial parent has been physically or sexually abused by the noncustodial parent or a member of the noncustodial parent's household, or another person known to the noncustodial parent.~~

~~(iv) The child or another child residing in the same household as the noncustodial parent is at substantial risk of physical or sexual abuse by the noncustodial parent or a member of the noncustodial parent's household, or another person known to the noncustodial parent. It shall constitute prima facie evidence that a child is at substantial risk of being physically or sexually abused if:~~

~~(I) a noncustodial parent receives actual notice that a person has committed or is alleged to have committed physical or sexual abuse against a child; and~~

~~(II) the noncustodial parent knowingly or recklessly allows the child to be in the physical presence of the alleged abuser after receiving such notice.~~

~~(v) The child or another child in the noncustodial parent's household has been neglected, and there is substantial risk of harm to the child who is the subject of the petition.~~

~~(D) If the noncustodial parent's request for temporary custody is contested, the Court may continue the hearing and place the child in the~~



~~temporary custody of the Department, pending further hearing and resolution of the custody issue. Absent good cause shown, the Court shall hold a further hearing on the issue within 30 days.~~

~~(3) An order transferring temporary legal custody of the child to a relative, provided:~~

~~(A) The relative seeking legal custody is a grandparent, great-grandparent, aunt, great-aunt, uncle, great-uncle, stepparent, sibling, or step-sibling of the child.~~

~~(B) The relative is suitable to care for the child. In determining suitability, the Court shall consider the relationship of the child and the relative and the relative's ability to:~~

~~(i) Provide a safe, secure, and stable environment.~~

~~(ii) Exercise proper and effective care and control of the child.~~

~~(iii) Protect the child from the custodial parent to the degree the Court deems such protection necessary.~~

~~(iv) Support reunification efforts, if any, with the custodial parent.~~

~~(v) Consider providing legal permanency if reunification fails.~~

(2) an order transferring temporary legal custody of the child to a noncustodial parent or to a relative;

(3) an order transferring temporary legal custody of the child to a person with a significant relationship with the child; or

(4) an order transferring temporary legal custody of the child to the Commissioner.

~~(C)(c)~~ The Court shall consider orders and findings from other proceedings relating to the custody of the child, the child's siblings, or children of any adult in the same household as the child.

(d) In considering ~~the suitability of a relative under this subdivision (3)~~ an order under subsection (b) of this section, the Court may order the Department to conduct an investigation of a person seeking custody of the child, and the suitability of that person's home, and file a written report of its findings with the Court. The Court may place the child in the temporary custody of the ~~Department~~ Commissioner, pending such investigation.

~~(4) A temporary care order transferring temporary legal custody of the child to a relative who is not listed in subdivision (3)(A) of this subsection or a person with a significant relationship with the child, provided that the criteria in subdivision (3)(B) of this subsection are met. The Court may make such~~

~~orders as provided in subdivision (3)(C) of this subsection to determine suitability under this subdivision.~~

~~(5) A temporary care order transferring temporary legal custody of the child to the Commissioner.~~

~~(e)~~(e) If the Court transfers legal custody of the child, the Court shall issue a written temporary care order.

(1) The order shall include:

(A) ~~a~~ A finding that remaining in the home is contrary to the ~~child's welfare~~ best interests of the child and the facts upon which that finding is based; ~~and~~.

(B) ~~a~~ A finding as to whether reasonable efforts were made to prevent unnecessary removal of the child from the home. If the Court lacks sufficient evidence to make findings on whether reasonable efforts were made to prevent the removal of the child from the home, that determination shall be made at the next scheduled hearing in the case but, in any event, no later than 60 days after the issuance of the initial order removing a child from the home.

(2) The order may include other provisions as may be ~~necessary for the protection and welfare~~ in the best interests of the child, ~~such as including:~~

(A) ~~establishing parent-child contact under such and terms and conditions as are necessary for the protection of the child. and terms and conditions for that contact;~~

(B) requiring the Department to provide the child with services, if legal custody of the child has been transferred to the Commissioner;

(C) requiring the Department to refer a parent for appropriate assessments and services, including a consideration of the needs of children and parents with disabilities, provided that the child's needs are given primary consideration;

(D) requiring genetic testing if parentage of the child is at issue;

(E) requiring the Department to make diligent efforts to locate the noncustodial parent;

(F) requiring the custodial parent to provide the Department with names of all potential noncustodial parents and relatives of the child; and

(G) establishing protective supervision and requiring the Department to make appropriate service referrals for the child and the family, if legal custody is transferred to an individual other than the Commissioner.

(3) If legal custody of a child is transferred to the Commissioner, the Commissioner shall provide the child with assistance and services. In his or her discretion, the Commissioner may provide assistance and services to other children and families to the extent that funds permit, ~~notwithstanding subdivision (2)(B) of this subsection.~~

~~(d) If a party seeks to modify a temporary care order in order to transfer legal custody of a child from the Commissioner to a relative or a person with a significant relationship with the child, the relative shall be entitled to preferential consideration under subdivision (b)(3) of this section, provided that a disposition order has not been issued and the motion is filed within 90 days of the date that legal custody was initially transferred to the Commissioner. [Repealed.]~~

\* \* \* Adoption Act; Postadoption Contact Agreements \* \* \*

Sec. 9. 15A V.S.A. § 1-109 is amended to read:

§ 1-109. TERMINATION OF ORDERS AND AGREEMENTS FOR VISITATION OR COMMUNICATION UPON ADOPTION

When a decree of adoption becomes final, except as provided in Article 4 of this title and 33 V.S.A. § 5124, any order or agreement for visitation or communication with the minor shall be unenforceable.

Sec. 10. 33 V.S.A. § 5124 is added to read:

§ 5124. POSTADOPTION CONTACT AGREEMENTS

(a) Either or both parents and each intended adoptive parent may enter into a postadoption contact agreement regarding communication or contact between either or both parents and the child after the finalization of an adoption by the intended adoptive parent or parents who are parties to the agreement. Such an agreement may be entered into if:

(1) the child is in the custody of the Department for Children and Families;

(2) an order terminating parental rights has not yet been entered; and

(3) either or both parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights.

(b) The Court shall approve the postadoption contact agreement if:

(1)(A) it determines that the child's best interests will be served by postadoption communication or contact with either or both parents; and

(B) in making a best interests determination, it may consider:

- (i) the age of the child;
  - (ii) the length of time that the child has been under the actual care, custody, and control of a person other than a parent;
  - (iii) the desires of the child, the child's parents; and the child's intended adoptive parents;
  - (iv) the child's relationship with and the interrelationships between the child's parents, the child's intended adoptive parents, the child's siblings, and any other person with a significant relationship with the child;
  - (v) the willingness of the parents to respect the bond between the child and the child's intended adoptive parents;
  - (vi) the willingness of the intended adoptive parents to respect the bond between the child and the parents;
  - (vii) the adjustment to the child's home, school, and community;
  - (viii) any evidence of abuse or neglect of the child;
  - (ix) the recommendation of any guardian ad litem;
  - (x) the recommendation of a therapist or mental health care provider working directly with the child; and
  - (xi) the recommendation of the Department;
- (2) it has reviewed and made each of the following a part of the Court record:
- (A) a sworn affidavit by the parties to the agreement which affirmatively states that the agreement was entered into knowingly and voluntarily and is not the product of coercion, fraud, or duress and that the parties have not relied on any representations other than those contained in the agreement;
  - (B) a written acknowledgment by each parent that the termination of parental rights is irrevocable, even if the intended adoption is not finalized, the adoptive parents do not abide by the postadoption contact agreement, or the adoption is later dissolved;
  - (C) an agreement to the postadoption contact or communication from the child to be adopted, if he or she is 14 years of age or older; and
  - (D) an agreement to the postadoption contact or communication in writing from the Department, the guardian ad litem, and the attorney for the child.

(c) A postadoption contact agreement must be in writing and signed by each parent and each intended adoptive parent entering into the agreement. There may be separate agreements for each parent. The agreement shall specify:

- (1) the form of communication or contact to take place;
- (2) the frequency of the communication or contact;
- (3) if visits are agreed to, whether supervision shall be required, and if supervision is required, what type of supervision shall be required;
- (4) if written communication or exchange of information is agreed upon, whether that will occur directly or through the Vermont Adoption Registry, set forth in 15A V.S.A. § 6-103;
- (5) if the Adoption Registry shall act as an intermediary for written communication, that the signing parties will keep their addresses updated with the Adoption Registry;
- (6) that failure to provide contact due to the child's illness or other good cause shall not constitute grounds for an enforcement proceeding;
- (7) that the right of the signing parties to change their residence is not impaired by the agreement;
- (8) an acknowledgment by the intended adoptive parents that the agreement grants either or both parents the right to seek to enforce the postadoption contact agreement;
- (9) an acknowledgment that once the adoption is finalized, the court shall presume that the adoptive parent's judgment concerning the best interests of the child is correct;
- (10) the finality of the termination of parental rights and of the adoption shall not be affected by implementation of the provisions of the postadoption contact agreement; and
- (11) a disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption.

(d) A copy of the order approving the postadoption contact agreement and the postadoption contact agreement shall be filed with the Probate Division of the Superior Court with the petition to adopt filed under 15A V.S.A. Article 3, and, if the agreement specifies a role for the Adoption Registry, with the Registry.

(e) The order approving a postadoption contact agreement shall be a separate order issued before and contingent upon the final order of voluntary termination of parental rights.

(f) The executed postadoption contact agreement shall become final upon legal finalization of an adoption under 15A V.S.A. Article 3.

Sec. 11. 15A V.S.A. Article 9 is added to read:

ARTICLE 9. ENFORCEMENT, MODIFICATION, AND TERMINATION  
OF POSTADOPTION CONTACT AGREEMENTS

§ 9-101. ENFORCEMENT, MODIFICATION, AND TERMINATION OF  
POSTADOPTION CONTACT AGREEMENTS

(a) An adoptive parent may petition the Court to modify or terminate a postadoption contact agreement entered into under 33 V.S.A. § 5124 if the adoptive parent believes the best interests of the child are being compromised by the terms of the agreement. In an action brought under this section, the burden of proof shall be on the adoptive parent to show by clear and convincing evidence that the modification or termination of the agreement is in the best interests of the child.

(b) A former parent may petition for enforcement of a postadoption contact agreement entered into under 33 V.S.A. § 5124 if the adoptive parent is not in compliance with the terms of the agreement. In an action brought under this section, the burden of proof shall be on the former parent to show by a preponderance of the evidence that enforcement of the agreement is in the best interests of the child.

(c) A disagreement between the parties or litigation brought to enforce or modify the agreement shall not affect the validity of the termination of parental rights or the adoption.

(d) The Court shall not act on a petition to modify or enforce the agreement unless the petitioner had in good faith participated or attempted to participate in mediation or alternative dispute resolution proceedings to resolve the dispute prior to bringing the petition for enforcement.

(e) Parties to the proceeding shall be the individuals who signed the original agreement created under 33 V.S.A. § 5124. The adopted child, if 14 years of age or older, may also participate. The Department for Children and Families shall not be required to be a party to the proceeding and the Court shall not order further investigation or evaluation by the Department.

(f) The Court may order the communication or contact be terminated or modified if the Court deems such termination or modification to be in the best

interests of the child. In making a best interests determination, the Court may consider:

(1) the protection of the physical safety of the adopted child or other members of the adoptive family;

(2) the emotional well-being of the adopted child;

(3) whether enforcement of the agreement undermines the adoptive parent's parental authority; and

(4) whether, due to a change in circumstances, continued compliance with the agreement would be unduly burdensome to one or more of the parties.

(g) A Court-imposed modification of the agreement may limit, restrict, condition, or decrease contact between the former parents and the child, but in no event shall a Court-imposed modification serve to expand, enlarge, or increase the amount of contact between the former parents and the child or place new obligations on the adoptive parents.

(h) A hearing held to enforce, modify, or terminate an agreement for postadoption contact shall be confidential.

(i) Failure to comply with the agreement or petitioning the Court to enforce, modify, or terminate an agreement shall not form the basis for an award of monetary damages.

(j) An agreement for postadoption contact or communication under 33 V.S.A. § 5124 shall cease to be enforceable on the date the adopted child turns 18 years of age or upon dissolution of the adoption.

Sec. 12. 33 V.S.A. § 152 is amended to read:

§ 152. ACCESS TO RECORDS

(a) The Commissioner may obtain from the Vermont Crime Information Center the record of convictions of any person to the extent required by law or the Commissioner has determined by rule that such information is necessary to regulate a facility or individual subject to regulation by the Department or to carry out the Department's child protection obligations under chapters 49–59 of this title. The Commissioner shall first notify the person whose record is being requested.

\* \* \*

Sec. 13. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

(1) The investigative report shall be disclosed only to: the Commissioner or person designated to receive such records; persons assigned by the Commissioner to investigate reports; the person reported to have abused, neglected, or exploited a vulnerable adult; the vulnerable adult or his or her representative; the Office of Professional Regulation when deemed appropriate by the Commissioner; the Secretary of Education when deemed appropriate by the Commissioner; the Commissioner for Children and Families or designee, for purposes of review of expungement petitions filed pursuant to section 4916c of this title; a law enforcement agency; the State's Attorney, or the Office of the Attorney General, when the Department believes there may be grounds for criminal prosecution or civil enforcement action, or in the course of a criminal or a civil investigation. When disclosing information pursuant to this subdivision, reasonable efforts shall be made to limit the information to the minimum necessary to accomplish the intended purpose of the disclosure, and no other information, including the identity of the reporter, shall be released absent a court order.

\* \* \*

(c) The Commissioner or ~~the Commissioner's~~ designee may disclose Registry information only to:

\* \* \*

(5) the Commissioner for Children and Families; or ~~the Commissioner's~~ designee; for purposes related to:

(A) the licensing or registration of facilities and individuals regulated by the Department for Children and Families; and

(B) the Department's child protection obligations under chapters 49–59 of this title.

\* \* \*

Sec. 14. 33 V.S.A. § 4916c is amended to read:

§ 4916c. PETITION FOR EXPUNGEMENT FROM THE REGISTRY

(a)(1) ~~A~~ Except as provided in this subdivision, a person whose name has been placed on the Registry prior to July 1, 2009 and has been listed on the Registry for at least three years may file a written request with the



Commissioner, seeking a review for the purpose of expunging an individual Registry record. A person whose name has been placed on the Registry on or after July 1, 2009 and has been listed on the Registry for at least seven years may file a written request with the Commissioner seeking a review for the purpose of expunging an individual Registry record. The Commissioner shall grant a review upon request.

(2) A person who is required to register as a sex offender on a state's sex offender registry shall not be eligible to petition for expungement of his or her Registry record during the period in which the person is subject to sex offender registry requirements.

(b)(1) The person shall have the burden of proving that a reasonable person would believe that he or she no longer presents a risk to the safety or well-being of children.

(2) Factors to be considered by the The Commissioner shall include consider the following factors in making his or her determination:

~~(1)~~(A) the nature of the substantiation that resulted in the person's name being placed on the Registry;

~~(2)~~(B) the number of substantiations, ~~if more than one~~;

~~(3)~~(C) the amount of time that has elapsed since the substantiation;

~~(4)~~(D) the circumstances of the substantiation that would indicate whether a similar incident would be likely to occur;

~~(5)~~(E) any activities that would reflect upon the person's changed behavior or circumstances, such as therapy, employment, or education; ~~and~~

~~(6)~~(F) references that attest to the person's good moral character; and

(G) any other information that the Commissioner deems relevant.

\* \* \*

\* \* \* Municipal and County Government; Special Investigative Units; Mission and Jurisdiction \* \* \*

Sec. 15. 24 V.S.A. § 1940 is amended to read:

§ 1940. ~~TASK FORCES; SPECIALIZED~~ SPECIAL INVESTIGATIVE UNITS; BOARDS; GRANTS

(a) Pursuant to the authority established under section 1938 of this title, and in collaboration with law enforcement agencies, investigative agencies, victims' advocates, and social service providers, the Department of State's Attorneys and Sheriffs shall coordinate efforts to provide access in each region of the ~~state~~ State to special investigative units ~~to investigate sex crimes, child~~

~~abuse, domestic violence, or crimes against those with physical or developmental disabilities. The General Assembly intends that access to special investigative units be available to all Vermonters as soon as reasonably possible, but not later than July 1, 2009 which:~~

(1) shall investigate:

(A) an incident in which a child suffers, by other than accidental means, serious bodily injury as defined in 13 V.S.A. § 1021; and

(B) potential violations of:

(i) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

(ii) 13 V.S.A. chapter 60 (human trafficking);

(iii) 13 V.S.A. chapter 64 (sexual exploitation of children);

(iv) 13 V.S.A. chapter 72 (sexual assault); and

(v) 13 V.S.A. § 1379 (sexual abuse of a vulnerable adult); and

(2) may investigate:

(A) an incident in which a child suffers:

(i) bodily injury, by other than accidental means, as defined in 13 V.S.A. § 1021; or

(ii) death;

(B) potential violations of:

(i) 13 V.S.A. § 2601 (lewd and lascivious conduct);

(ii) 13 V.S.A. § 2605 (voyeurism); and

(iii) 13 V.S.A. § 1304 (cruelty to a child); and

(C) an incident involving potential domestic violence or crimes against those with physical or developmental disabilities.

(b) A ~~task force or specialized~~ special investigative unit organized and operating under this section may accept, receive, and disburse in furtherance of its duties and functions any funds, grants, and services made available by the State of Vermont and its agencies, the federal government and its agencies, any municipality or other unit of local government, or private or civic sources. Any employee covered by an agreement establishing a special investigative unit shall remain an employee of the donor agency.

(c) A ~~Specialized~~ Special Investigative Unit Grants Board is created which shall ~~be comprised of~~ comprise the Attorney General, the Secretary of Administration, the Executive Director of the Department of State's Attorneys

and Sheriffs, the Commissioner of Public Safety, the Commissioner for Children and Families, a representative of the Vermont Sheriffs' Association, a representative of the Vermont Association of Chiefs of Police, the Executive Director of the Center for Crime Victim Services, and the Executive Director of the Vermont League of Cities and Towns. ~~Specialized~~ Special investigative units organized and operating under this section ~~for the investigation of sex crimes, child abuse, elder abuse, domestic violence, or crimes against those with physical or developmental disabilities~~ may apply to the Board for a grant or grants covering the costs of salaries and employee benefits to be expended during a given year for the performance of unit duties as well as unit operating costs for rent, utilities, equipment, training, and supplies. Grants under this section shall be approved by a majority of the entire Board and shall not exceed 50 percent of the yearly salary and employee benefit costs of the unit. Preference shall be given to grant applications which include the participation of the Department of Public Safety, the Department for Children and Families, sheriffs' departments, community victims' advocacy organizations, and municipalities within the region. Preference shall also be given to grant applications which promote policies and practices that are consistent across the State, including policies and practices concerning the referral of complaints, the investigation of cases, and the supervision and management of special investigative units. However, a sheriff's department in a county with a population of ~~less~~ fewer than 8,000 residents shall upon application receive a grant of up to \$20,000.00 for 50 percent of the yearly salary and employee benefits costs of a part-time ~~specialized~~ special investigative unit investigator which shall be paid to the department as time is billed on a per hour rate as agreed by contract up to the maximum amount of the grant.

(d) The Board may adopt rules relating to grant eligibility criteria, processes for applications, awards, and reports related to grants authorized pursuant to this section. The Attorney General shall be the adopting authority.

Sec. 16. 33 V.S.A. § 4915b(e) is amended to read:

(e) ~~The Department shall report to and request assistance from law enforcement in the following circumstances:~~

~~(1) investigations of child sexual abuse by an alleged perpetrator age 10 or older;~~

~~(2) investigations of serious physical abuse or neglect likely to result in criminal charges or requiring emergency medical care;~~

~~(3) situations potentially dangerous to the child or Department worker.~~  
[Repealed.]

Sec. 17. 33 V.S.A. § 4915 is amended to read:

§ 4915. ASSESSMENT AND INVESTIGATION

\* \* \*

(g) The Department shall report to and receive assistance from law enforcement in the following circumstances:

(1) investigations of child sexual abuse by an alleged perpetrator 10 years of age or older;

(2) investigations of serious physical abuse or neglect requiring emergency medical care, resulting in death, or likely to result in criminal charges; and

(3) situations potentially dangerous to the child or Department worker.

(h) The Department shall report to the appropriate special investigative unit any valid allegation pursuant to subsection (b) of this section concerning an incident in which a child suffers, by other than accidental means:

(1) serious bodily injury as defined in 13 V.S.A. § 1021; and

(2) potential violations of:

(A) 13 V.S.A. § 2602 (lewd or lascivious conduct with child);

(B) 13 V.S.A. chapter 60 (human trafficking);

(C) 13 V.S.A. chapter 64 (sexual exploitation of children); and

(D) 13 V.S.A. chapter 72 (sexual assault).

\* \* \* Penalties for Mandated Reporters, Public Officers, and Others \* \* \*

Sec. 18. [Deleted]

Sec. 19. [Deleted]

Sec. 20. [Deleted]

Sec. 21. [Deleted]

\* \* \* Department for Children and Families; Policies \* \* \*

Sec. 22. THE DEPARTMENT FOR CHILDREN AND FAMILIES;  
POLICIES, PROCEDURES, AND PRACTICES

(a) The Commissioner for Children and Families shall:

(1) ensure that Family Services Division policies, procedures, and practices are consistent with the best interests of the child and are consistent with statute;

(2) ensure that Family Services Division policies, procedures, and practices are consistent with each other and are applied in a consistent manner, in all Department offices and in all regions of the State;

(3) develop metrics as to the appropriate case load for social workers in the Family Services Division that take into account the experience and training of a social worker, the number of families and the total number of children a social worker is responsible for, and the acuity or difficulty of cases;

(4) ensure that all Family Services Division employees receive training on:

(A) relevant policies, procedures, and practices; and

(B) the employees' legal responsibilities and obligations;

(5) develop policies, procedures, and practices to:

(A) ensure the consistent sharing of information, in a manner that complies with statute, treatment providers, courts, State's Attorneys, guardians ad litem, law enforcement, and other relevant parties;

(B) encourage treatment providers and all agencies, departments, and other persons that support recovery to provide regular treatment progress updates to the Commissioner;

(C) ensure that courts have all relevant information in a timely fashion, and that Department employees file paperwork and reports in a timely manner;

(D) require that the Family Services Division assess a child's safety if:

(i) the child remains in a home from which other children have been removed; or

(ii) the child remains in the custody of a parent or guardian whose parental rights as to another child have been terminated;

(E) improve information sharing with mandatory reporters who have an ongoing relationship with a child;

(F) ensure that mandatory reporters are informed that any confidential information they may receive cannot be disclosed to a person who is not authorized to receive that information;

(G) ensure all parties authorized to receive confidential information are informed of their right to receive that information; and

(H) apply results-based accountability or other data-based quality measures to determine if children who receive services from the Family

Services Division in different areas of the State have different outcomes and the reasons for those differences;

(6) ensure that all employees assigned to carry out investigations of child abuse and neglect have training or experience in conducting investigations and have a master's degree in social work or an equivalent degree, or relevant experience; and

(7) by September 30, 2015, develop and implement a Family Services Division policy requiring a six-month supervision period by the Department after a child is returned to the home from which he or she was removed due to abuse or neglect.

(b) The Commissioner for Children and Families shall, within available resources, develop a plan to implement the following policies, procedures, and practices, including identifying potential costs to:

(1) increase the number of required face-to-face meetings between Family Services Division social workers and children;

(2) increase the number of required home visits and require unannounced home visits by Family Services Division social workers; and

(3) require that all persons living in a household, or that will have child care responsibilities, will be assessed for criminal history and potential safety risks whenever a child who has been removed from a home is returned to that home.

(c) On or before September 30, 2015, the Commissioner shall submit a written response to the House Committees on Human Services and on Judiciary and to the Senate Committees on Health and Welfare and on Judiciary with the Commissioner's response to the issues in subsection (a) of this section, including the language of any new or amended policies and procedures.

\* \* \* Legislature; Establishing a Joint Legislative Child  
Protection Oversight Committee \* \* \*

#### Sec. 23. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT COMMITTEE

(a) Creation. There is created a Joint Legislative Child Protection Oversight Committee.

(b) Membership. The Committee shall be composed of the following six members, who shall be appointed each biennial session of the General Assembly:

(1) Three current members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House; and

(2) Three current members of the Senate, not all from the same political party, who shall be appointed by the Committee on Committees.

(3) One appointment shall be made from the following committees:

(A) House Committee on Education;

(B) Senate Committee on Education;

(C) House Committee on Judiciary;

(D) Senate Committee on Judiciary;

(E) House Committee on Human Services; and

(F) Senate Committee on Health and Welfare.

(c) Powers and duties.

(1) The Committee shall:

(A) Exercise oversight over Vermont's system for protecting children from abuse and neglect, including:

(i) evaluating whether the branches, departments, agencies, and persons that are responsible for protecting children from abuse and neglect are effective;

(ii) determining if there are deficiencies in the system and the causes of those deficiencies;

(iii) evaluating which programs are the most cost-effective;

(iv) determining whether there is variation in policies, procedures, practices, and outcomes between different areas of the State and the causes and results of any such variation;

(v) evaluating whether licensed mandatory reporters should be required to certify that they completed training on the requirements set forth under 33 V.S.A. § 4913; and

(vi) evaluating the measures recommended by the Working Group to Recommend Improvements to CHINS Proceedings established in Sec. 24 of this act to ensure that once a child is returned to his or her family, the court or the Department for Children and Families may continue to monitor the child and family where appropriate.

(B) At least annually, report on the Committee's activities and recommendations to the General Assembly.

(2) The Committee may review and make recommendations to the House and Senate Committees on Appropriations regarding budget proposals and appropriations relating to protecting children from abuse and neglect.

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

(e) Retaliation. No person who is an employee of the State of Vermont, or of any State, local, county, or municipal department, agency, or person involved in child protection, and who testifies before, supplies information to, or cooperates with the Committee shall be subject to retaliation by his or her employer. Retaliation shall include job termination, demotion in rank, reduction in pay, alteration in duties and responsibilities, transfer, or a negative job performance evaluation based on the person's having testified before, supplied information to, or cooperated with the Committee.

(f) Meetings.

(1) The member appointed from the Senate Committee on Health and Welfare shall call the first meeting of the Committee.

(2) The Committee shall select a Chair, Vice Chair, and Clerk from among its members and may adopt rules of procedure. The Chair shall rotate biennially between the House and the Senate members. A quorum shall consist of five members.

(3) When the General Assembly is in session, the Committee shall meet at the call of the Chair. The Committee may meet six times during adjournment, and may meet more often subject to approval of the Speaker of the House and the President Pro Tempore of the Senate.

(g) Reimbursement. For attendance at meetings during adjournment of the General Assembly, members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

(h) Sunset. On June 1, 2018 this section (creating the Joint Legislative Child Protection Oversight Committee) is repealed and the Committee shall cease to exist.



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\* \* \* Improvements to CHINS Proceedings \* \* \*

## Sec. 24. WORKING GROUP TO RECOMMEND IMPROVEMENTS TO CHINS PROCEEDINGS

(a) Creation. There is created a working group to recommend ways to improve the efficiency, timeliness, and process of Children in Need of Care or Supervision (CHINS) proceedings.

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

(1) the Chief Administrative Judge or designee;

(2) the Defender General or designee;

(3) the Attorney General or designee;

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

(5) the Executive Director of State's Attorneys and Sheriffs or designee; and

(6) a guardian ad litem who shall be appointed by the Chief Superior Judge.

(c) Powers and duties. The Working Group shall study and make recommendations concerning:

(1) how to ensure that statutory time frames are met in 90 percent of proceedings;

(2) how to ensure that attorneys, judges, and guardians ad litem appear on time and are prepared;

(3) how to monitor and improve the performance and work quality of attorneys, judges, and guardians ad litem;

(4) how to ensure that there is a sufficient number of attorneys available to handle all CHINS cases, in all regions of the State, in a timely manner;

(5) the role of guardians ad litem, and how to ensure their information is presented to, and considered by, the court;

(6) how to expedite a new proceeding that concerns a family with repeated contacts with the child protection system;

(7) whether the adoption of American Bar Association standards for attorneys who work in the area of child abuse and neglect would be appropriate;

(8) the feasibility of creating a statewide Family Drug Treatment Court initiative to improve substance abuse treatment and child welfare outcomes;

(9) whether requiring a reunification hearing would improve child welfare outcomes;

(10) how and whether to provide financial assistance to individuals seeking to mediate a dispute over a postadoption contact agreement;

(11) how and whether to change the confidentiality requirements for juvenile judicial proceedings under 33 V.S.A. chapter 53;

(12) best practices regarding representation of children in juvenile judicial proceedings; and

(13) any other issue the Working Group determines is relevant to improve the efficiency, timeliness, process, and results of CHINS proceedings.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Office of the Attorney General. The Working Group may consult with any persons necessary in fulfilling its powers and duties.

(e) Report. On or before November 1, 2015, the Working Group shall provide a report on its findings and recommendations with respect to subdivisions (c)(1)–(5) of this section to the Joint Legislative Child Protection Oversight Committee, the House Committees on Human Services and on Judiciary, and the Senate Committees on Health and Welfare and on Judiciary. On or before November 1, 2016, the Working Group shall report its findings and recommendations with respect to subdivisions (c)(6)-(13) of this section to the same Committees.

(f) Meetings and sunset.

(1) The Attorney General or designee shall call the first meeting of the Working Group.

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

(3) The Working Group shall cease to exist on November 2, 2016.

\* \* \* Effective Dates \* \* \*

## Sec. 25. EFFECTIVE DATES

This act shall take effect on July 1, 2015, except for this section, Secs. 22 (Department for Children and Families; policies, procedures, and practices), 23 (Joint Legislative Child Protection Oversight Committee), and 24 (Working

Group to Recommend Improvements to CHINS Proceedings), which shall take effect on passage.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

### **House Proposal of Amendment Concurred In**

#### **S. 108.**

House proposal of amendment to Senate bill entitled:

An act relating to repealing the sunset on provisions pertaining to patient choice at end of life.

Was taken up.

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

By adding two new sections to be numbered Sec. 2 and Sec. 3 to read as follows:

Sec. 2. 18 V.S.A. § 5293 is added to read:

#### § 5293. REPORTING REQUIREMENTS

(a) The Department of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 to facilitate the collection of information regarding compliance with this chapter, including identifying patients who filled prescriptions written pursuant to this chapter. Except as otherwise required by law, information regarding compliance shall be confidential and shall be exempt from public inspection and copying under the Public Records Act.

(b) Beginning in 2018, the Department of Health shall generate and make available to the public a biennial statistical report of the information collected pursuant to subsection (a) of this section, as long as releasing the information complies with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

Sec. 3. 18 V.S.A. § 4284(b)(2) is amended to read:

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

\* \* \*

(G) The Commissioner of Health or the Commissioner's designee in order to identify patients who filled prescriptions written pursuant to chapter 113 of this title.

And by renumbering Sec. 2, effective date, to be Sec. 4

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**Rules Suspended; Proposal of Amendment; Third Reading Ordered**

**H. 361.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to making amendments to education funding, education spending, and education governance.

Was taken up for immediate consideration.

Senator Cummings, for the Committee on Education, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Findings \* \* \*

Sec. 1. FINDINGS

(a) Vermont's kindergarten through grade 12 student population has declined from 103,000 in fiscal year 1997 to 78,300 in fiscal year 2015.

(b) The number of school-related personnel has not decreased in proportion to the decline in student population.

(c) The proportion of Vermont students with severe emotional needs has increased from 1.5 percent of the population in fiscal year 1997 to 2.3 percent in fiscal year 2015. In addition, the proportion of students from families in crisis due to loss of employment, opiate addiction, and other factors has also increased during this time period, requiring the State's public schools to fulfill an array of human services functions.

(d) From July 1997 through July 2014, the number of Vermont children ages 6 through 17 residing with families receiving nutrition benefits has increased by 47 percent, from 13,000 to 19,200. While other factors affect student academic performance, studies demonstrate that when the percentage of students in a school who are living in poverty increases, student performance and achievement have a tendency to decrease.

(e) With 13 different types of school district governance structures, elementary and secondary education in Vermont lacks cohesive governance and delivery systems. As a result, many school districts:

(1) are not well-suited to achieve economies of scale; and

(2) lack the flexibility to manage, share, and transfer resources, including personnel, with other school districts and to provide students with a variety of high quality educational opportunities.

(f) 16 V.S.A. § 4010(f) was enacted in 1999 to protect school districts, particularly small school districts, from large, sudden tax increases due to declining student populations. The steady, continued decline in some districts, together with the compounding effect of the legislation as written, has inflated the equalized pupil count in some districts by as much as 77 percent, resulting in artificially low tax rates in those communities.

(g) National literature suggests that the optimal size for student learning is in elementary schools of 300 to 500 students and in high schools of 600 to 900 students. In Vermont, the smallest elementary school has a total enrollment of 15 students (kindergarten–grade 6) and the smallest high school has a total enrollment of 55 students (grades 9–12). Of the 300 public schools in Vermont, 205 have 300 or fewer enrolled students and 64 have 100 or fewer enrolled students. Of those 64 schools, 16 have 50 or fewer enrolled students.

(h) National literature suggests that the optimal size for a school district in terms of financial efficiencies is between 2,000 and 4,000 students. The smallest Vermont school district has an average daily membership (ADM) of six students, with 79 districts having an ADM of 100 or fewer students. Four Vermont school districts have an ADM that exceeds 2,000 students.

(i) Vermont recognizes the important role that a small school plays in the social and educational fabric of its community. It is not the State's intent to close its small schools, but rather to ensure that those schools have the opportunity to enjoy the expanded educational opportunities and economies of scale that are available to schools within larger, more flexible governance models.

(j) The presence of multiple public schools within a single district not only supports flexibility in the management and sharing of resources, but it promotes innovation. For example, individual schools within a district can more easily develop a specialized focus, which, in turn, increases opportunities for students to choose the school best suited to their needs and interests.

\* \* \* Preferred Education Governance Structure; Alternative Structure \* \* \*

## Sec. 2. PREFERRED EDUCATION GOVERNANCE STRUCTURE; ALTERNATIVE STRUCTURE

(a) Preferred structure: prekindergarten–grade 12 district. In order to provide substantial equity in the quality and variety of educational opportunities statewide; to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources; and to promote

transparency and accountability, the preferred education governance structure in Vermont is a school district that:

(1) is responsible for the education of all resident prekindergarten through grade 12 students;

(2) is its own supervisory district;

(3) has a minimum average daily membership of 900; and

(4) is organized and operates according to one of the four most common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12;

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for all resident students in grade 7 through grade 12; or

(D) a district that operates no schools and pays tuition for all resident students in prekindergarten through grade 12.

(b) Alternative structure: supervisory union. A single prekindergarten–grade 12 district as envisioned in subsection (a) of this section may not be possible or the best model to achieve Vermont’s education goals in all regions of the State. In such situations, a supervisory union composed of multiple member districts, each with its separate school board, can meet the State’s goals, particularly if:

(1) the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;

(2) the supervisory union operates in a manner that maximizes efficiencies through economies of scale and flexible management, transfer, and sharing of nonfinancial resources among the member districts; and

(3) the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns.

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\* \* \* Intent; Protections \* \* \*

Sec. 3. SCHOOL CLOSURE; SMALL SCHOOLS; TUITION PAYMENT;  
SCHOOL OPERATION; PROTECTIONS; INTENT

(a) School closure; intent. It is not the State's intent to close schools and nothing in this act shall be construed to require, encourage, or contemplate the closure of schools in Vermont.

(b) Small schools; intent. As stated in Sec. 1 (findings), it is not the State's intent to close its small schools, but rather to ensure that those schools have the opportunity to enjoy the expanded educational opportunities and economies of scale that are available to schools within larger, more flexible governance models.

(c) Tuition payment; school operation; protection; intent.

(1) Tuition payment; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades if it chooses to do so and shall not require the district to limit the options available to students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(2) School operation; protection. All governance transitions contemplated pursuant to this act shall preserve the ability of a district that, as of the effective date of this section, provides for the education of all resident students in one or more grades by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades if it chooses to do so and shall not require the district to pay tuition for students if it ceases to exist as a discrete entity and realigns into a supervisory district or union school district.

(3) Tuition payment; school operation; intent. Nothing in this act shall be construed to restrict or repeal, or to authorize, encourage, or contemplate the restriction or repeal of, the ability of a school district that, as of the effective date of this section, provides for the education of all resident students in one or more grades:

(A) by paying tuition on the students' behalf, to continue to provide education by paying tuition on behalf of all students in the grade or grades; or

(B) by operating a school offering the grade or grades, to continue to provide education by operating a school for all students in the grade or grades.

\* \* \* Voluntary Mergers; Incentives; REDS \* \* \*

Sec. 4. 2010 Acts and Resolves No. 153, Sec. 2(a), as amended by 2012 Acts and Resolves No. 156, Sec. 1, is further amended to read:

(a) Program created. There is created a school district merger incentive program under which the incentives outlined in Sec. 4 of this act shall be available to each new unified union school district created pursuant to Sec. 3 of this act and to each new district created under Sec. 3 of this act by the merger of districts that provide education by paying tuition; and to the Vermont members of any new interstate school district if the Vermont members jointly satisfy the size criterion of Sec. 3(a)(1) of this act and the new, merged district meets all other requirements of Sec. 3 of this act. Incentives shall be available, however, only if the effective date of merger ~~is on or before July 1, 2017~~ on which the new district becomes operational is on or before July 1, 2020.

Sec. 5. 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, is further amended to read:

Sec. 4. VOLUNTARY SCHOOL DISTRICT MERGER; INCENTIVES

\* \* \*

(h) ~~This section is repealed on July 1, 2017.~~ [Repealed.]

\* \* \* Accelerated Activity; Enhanced Incentives \* \* \*

Sec. 6. ACCELERATED MERGER; SUPERVISORY UNION BECOMING A SUPERVISORY DISTRICT; INCENTIVES; REPORT

(a) A newly formed school district shall receive the incentives set forth in subsection (b) of this section if it:

(1) is formed by merging the governance structures of all member districts of a supervisory union into one unified union school district pursuant to the processes and requirements of 16 V.S.A. chapter 11; and, in addition, could include merger with a neighboring supervisory district;

(2) obtains an affirmative vote of all "necessary" districts on or after July 1, 2015, and prior to July 1, 2016;

(3) is responsible for the education of all resident prekindergarten through grade 12 students;

(4) is its own supervisory district;

(5) has a minimum average daily membership of 900 in its first year of operation; and

(6) is organized and operates according to one of the following common governance structures:



(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12; or

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12;

(7) becomes operational on or before July 1, 2017; and

(8) provides data as requested by the Agency of Education and otherwise assists the Agency to assess whether and to what extent the consolidation of its governance results in increased educational opportunities, operational efficiencies, transparency, and accountability.

(b) A newly formed school district that meets the criteria set forth in subsection (a) shall receive the following:

(1) Decreased equalized homestead property tax rate or accelerated action incentive grant. A new district's plan of merger shall provide whether, upon creation of the new district, the district shall receive decreased equalized homestead property tax rates during the first five years of operation pursuant to subdivision (A) or an incentive grant during the first year of operation pursuant to subdivision (B):

(A)(i) Decreased homestead property tax rates. Subject to the provisions of subdivision (iii) of this subdivision (A) and notwithstanding any other provision of law, the new district's equalized homestead property tax rate shall be:

(I) decreased by \$0.10 in the first fiscal year of operation;

(II) decreased by \$0.10 in the second fiscal year of operation;

(III) decreased by \$0.08 in the third fiscal year of operation;

(IV) decreased by \$0.06 in the fourth fiscal year of operation; and

(V) decreased by \$0.04 in the fifth fiscal year of operation.

(ii) The household income percentage shall be calculated accordingly.

(iii) During the years in which a new district's equalized homestead property tax rate is decreased pursuant to this subdivision (A), the rate for each town within the new district shall not increase by more than five

percent in a single year. The household income percentage shall be calculated accordingly.

(B) Accelerated action incentive grant. During the first fiscal year of operation, the Secretary of Education shall pay to the new district's board an accelerated action incentive grant from the Education Fund equal to \$400.00 multiplied by the total number of resident students in the new district in that year. The grant shall be in addition to funds received under 16 V.S.A. § 4028.

(C) Common level of appraisal. Regardless of whether a new district chooses to receive decreased homestead property tax rates or an accelerated action incentive grant, on and after the effective date of merger, the common level of appraisal shall be calculated independently for each town within the new district for purposes of determining the homestead property tax rate for each town.

(2) Merger support grant. Notwithstanding any provision of law to the contrary, if the districts forming the new district include at least one "eligible school district," as defined in 16 V.S.A. § 4015, that received a small school support grant under section 4015 in fiscal year 2016, then the new district shall receive an annual merger support grant in each of the first five fiscal years after it begins operation in an amount equal to the small school support grant received by the eligible school district in fiscal year 2016. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in fiscal year 2016.

(3) Transition facilitation grant. After voter approval of the plan of merger, the Secretary of Education shall pay the transitional board of the new district a transition facilitation grant from the Education Fund equal to the lesser of:

(A) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(B) \$150,000.00.

(c) If a new district that receives incentives under this section also meets the eligibility criteria to receive incentives as a regional education district (RED), then the district shall not receive the incentives available to a RED pursuant to 2010 Acts and Resolves No. 153, subsections 4(a), (d), (e) or (g), as amended by 2012 Acts and Resolves No. 156, Sec. 13.

(d) The Secretary of Education, in collaboration with other entities such as the University of Vermont or the Regional Educational Laboratory–Northeast

and Islands, shall collect and analyze data from the new districts created under this section regarding issues including educational opportunities, operational efficiencies, transparency, and accountability following merger. Beginning on January 15, 2016, and annually through January 2021, the Secretary shall submit a report to the House and Senate Committees on Education and on Appropriations, the House Committee on Ways and Means, and the Senate Committee on Finance regarding the districts pursuing merger under this section, conclusions drawn from the data collected, and any recommendations for legislative action.

\* \* \* Facilitating Voluntary Governance Transitions; Supervisory  
Union Boundaries \* \* \*

Sec. 7. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY  
UNIONS

(a) The State Board shall review on its own initiative or when requested as per subsection (b) of this section and may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate K-12 prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

(b)(1) Any school district that has so voted at its annual school district meeting, if said meeting has been properly warned regarding such a vote, may ~~apply to request that~~ the State Board of education for adjustment of ~~adjust~~ the existing boundaries of the supervisory union of which it is a ~~component~~ member district.

(2) Any group of school districts that have so voted at their respective annual school district meeting, regardless of whether the districts are members of the same supervisory union, may request that the State Board adjust existing supervisory union boundaries and move one or more nonrequesting districts to a different supervisory union if such adjustment would assist the requesting districts to realign their governance structures into a unified union school district pursuant to chapter 11 of this title.

(3) The State Board shall give timely consideration to ~~such~~ requests made pursuant to this subsection and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

(c) The State Board may designate any school district, including a unified union district, as a supervisory district if it will ~~offer schools in grades K-12~~ provide for the education of all resident students in prekindergarten through

grade 12 and is large enough to support the planning and administrative functions of a supervisory union.

(d) Upon application by a supervisory union board, the State Board may waive any requirements of chapter 5 or 7 of this title with respect to the supervisory union board structure, board composition, or board meetings, or the staffing pattern of the supervisory union, if it can be demonstrated that such a waiver will result in efficient and effective operations of the supervisory union; will not result in any disproportionate representation; and is otherwise in the public interest.

\* \* \* Merger Support Grants; Small Schools Grants \* \* \*

#### Sec. 8. MERGER SUPPORT GRANT

(a) Notwithstanding any provision of law to the contrary and subject to subsection (b) of this section, if the districts creating a union school district pursuant to 16 V.S.A. chapter 11 include at least one "eligible school district," as defined in 16 V.S.A. § 4015, that received a small school support grant under section 4015 in fiscal year 2016, then the new union school district shall receive an annual merger support grant in each of the first five fiscal years after it begins operation in an amount equal to the small school support grant received by the eligible school district in fiscal year 2016. If more than one merging district was an eligible school district, then the merger support grant shall be in an amount equal to the total combined small school support grants they received in fiscal year 2016.

(b) This section shall apply only to a union school district that:

(1) is responsible for the education of all resident prekindergarten through grade 12 students;

(2) is its own supervisory district;

(3) has a minimum average daily membership of 900 in its first year of operation; and

(4) is organized and operates according to one of the following common governance structures:

(A) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 12;

(B) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 8 and pays tuition for all resident students in grade 9 through grade 12; or

(C) a district that operates a school or schools for all resident students in prekindergarten or kindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12;

(5) obtains a favorable vote of all “necessary” districts on or after July 1, 2015; and

(6) becomes operational after July 1, 2017, and on or before July 1, 2020.

Sec. 9. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) “Eligible school district” means a school district that operates at least one school; that has been determined by the State Board to be eligible due to geographic necessity, and

~~(A) has a two-year average combined enrollment of fewer than 100 students in all the schools operated by the district; or~~

~~(B) that school~~ has an average grade size of 20 or fewer.

\* \* \*

(7) “Eligible due to geographic necessity” means that the State Board has determined, on an annual basis, that the lengthy driving times or inhospitable travel routes between the school and the nearest school or schools in which there is excess capacity are an obstacle to transporting students. The State Board shall adopt and publish guidelines, which it will update as necessary, by which it will determine eligibility. A determination by the State Board of whether a district is eligible due to geographic necessity under this section shall be final.

\* \* \*

~~(c) Small schools financial stability grant: In addition to a small schools support grant, an eligible school district whose two-year average enrollment decreases by more than 10 percent in any one year shall receive a small schools financial stability grant. However, a decrease due to a reduction in the number of grades offered in a school or to a change in policy regarding paying tuition for students shall not be considered an enrollment decrease. The amount of the grant shall be determined by multiplying 87 percent of the base education amount for the current fiscal year, by the number of enrollment, to the nearest one-hundredth of a percent, necessary to make the two-year average enrollment decrease only 10 percent. [Repealed.]~~

~~(d) Funds for both grants shall be appropriated from the Education Fund and shall be added to payments for the base education amount or deducted from the amount owed to the Education Fund in the case of those districts that must pay into the Fund under section 4027 of this title. [Repealed.]~~

\* \* \*

#### Sec. 10. SMALL SCHOOL SUPPORT; TRANSITION

(a) In fiscal year 2017, any district that was eligible for small school support pursuant to 16 V.S.A. § 4015 in fiscal year 2016 but is not “eligible due to geographic necessity” for small school support in fiscal year 2017 shall receive small school support that is two-thirds of the amount it received in fiscal year 2016.

(b) In fiscal year 2018, any district that was eligible for small school support pursuant to 16 V.S.A. § 4015 in fiscal year 2016 but is not “eligible due to geographic necessity” for small school support in fiscal year 2018 shall receive small school support that is one-third of the amount it received in fiscal year 2016.

\* \* \* Declining Enrollment; Equalized Pupils; 3.5 Percent Limit \* \* \*

#### Sec. 11. 16 V.S.A. § 4010(f) is amended to read:

(f) For purposes of the calculation under this section, a district’s equalized pupils shall in no case be less than 96 and one-half percent of the district’s actual number of equalized pupils in the district in the previous year, prior to making any adjustment under this subsection.

#### Sec. 12. DECLINING ENROLLMENT; TRANSITION

(a) If a district’s equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 11 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district’s equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district’s equalized pupils shall in no case be less than 90 percent of the district’s equalized pupils in the previous year; and

(2) in fiscal year 2018, the district’s equalized pupils shall in no case be less than 80 percent of the district’s equalized pupils in the previous year.

#### Sec. 13. REPEAL

16 V.S.A. § 4010(f) (declining enrollment; hold-harmless provision) is repealed on July 1, 2020.

Sec. 14. DECLINING ENROLLMENT; 3.5 PERCENT HOLD-HARMLESS; GRANDFATHERED DISTRICTS

Beginning in fiscal year 2021, for purposes of determining weighted membership under 16 V.S.A. § 4010, a district's equalized pupils shall in no case be less than 96 and one-half percent of the actual number of equalized pupils in the district in the previous year, prior to making any adjustment under this section, if the district, on or before July 1, 2020:

(1) became eligible to receive incentives pursuant to Sec. 6 of this act (accelerated activity);

(2) met each of the criteria listed in Sec. 8(b)(1)–(5) of this act, regardless of whether the new district is eligible for a merger support grant, and became an operational unified union school district; or

(3) became eligible to receive incentives pursuant to 2010 Acts and Resolves No. 153, Sec. 4, as amended by 2012 Acts and Resolves No. 156, Sec. 13, and further amended by this act (REDs and eligible variations).

\* \* \* Current Incentives for Other Joint Activity \* \* \*

Sec. 15. CURRENT INCENTIVES FOR JOINT ACTIVITY; LIMITATIONS ON APPLICABILITY

(a) Notwithstanding the provisions of the following sections of law, the grants and reimbursements authorized by those sections shall be available only as provided in subsection (b) of this section:

(1) 2012 Acts and Resolves No. 156, Sec. 2 (reimbursement of fees of up to \$5,000.00 incurred by school districts or supervisory unions for initial exploration of joint activity).

(2) 2012 Acts and Resolves No. 156, Sec. 4 (reimbursement of analysis or transition costs of up to \$10,000.00 incurred by school districts or supervisory unions for joint activity other than a merger).

(3) 2012 Acts and Resolves No. 156, Sec. 5 (reimbursement of fees of up to \$20,000.00 incurred by supervisory unions for analysis relating to the advisability of merger of supervisory unions).

(4) 2012 Acts and Resolves No. 156, Sec. 6 (transition facilitation grant of \$150,000.00 for the successful merger of two or more supervisory unions).

(5) 2012 Acts and Resolves No. 156, Sec. 9 (reimbursement of fees of up to \$20,000.00 incurred by school districts for analysis relating to the advisability of merger other than a regional education district (RED)).

(6) 2012 Acts and Resolves No. 156, Sec. 11 (transition facilitation grant of the lesser of \$150,000.00 or five percent of the base education amount

multiplied by the combined enrollment for the successful merger of two or more districts other than a RED).

(b) A group of districts or supervisory unions shall receive one or more of the incentives listed in subsection (a) of this section only if it:

(1) meets the specific eligibility criteria for the incentive; and

(2) completes the specific requirements for eligibility on or before December 31, 2015.

\* \* \* Supervisory Unions; Local Education Agency \* \* \*

Sec. 16. 16 V.S.A. § 43(c) is amended to read:

(c) For purposes of determining pupil performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318, a ~~school district~~ supervisory union shall be a local education agency.

\* \* \* Duties of Supervisory Unions; Failure to Comply; Tax Rates \* \* \*

Sec. 17. 16 V.S.A. § 261a(c) is added to read:

(c)(1) After notice to the boards of a supervisory union and its member districts, the opportunity for a period of remediation, and the opportunity for a hearing, if the Secretary determines that a supervisory union or any one of its member districts is failing to comply with the any provision of subsection (a) of this section, then the Secretary shall notify the board of the supervisory union and the board of each of its member districts that the education property tax rates for nonresidential and homestead property shall be increased by five percent in each district within the supervisory union and the household income percentage shall be adjusted accordingly in the next fiscal year for which tax rates will be calculated. The districts' actual tax rates shall be increased by five percent, and the household income percentage adjusted, in each subsequent fiscal year until the fiscal year following the one in which the Secretary determines that the supervisory union and its districts are in compliance. If the Secretary determines that the failure to comply with the provisions of subsection (a) of this section is solely the result of the actions of the board of one member district, then the tax increase in this subsection (c) shall apply only to the tax rates for that district. Subject to Vermont Rule of Civil Procedure 75, the Secretary's determination shall be final.



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\* \* \* Transition of Employees \* \* \*

Sec. 18. 16 V.S.A. chapter 53, subchapter 3 is added to read:

Subchapter 3. TRANSITION OF EMPLOYEES

§ 1801. DEFINITIONS

As used in this subchapter:

(1) “New District” means a district created by the realignment or merger of two or more current districts into a new supervisory district, union school district, or any other form of merged or realigned district authorized by law, including by chapter 11, subchapter 1, of this title, regardless of whether one or more of the districts creating the New District (a Realigning District) is a town school district, a city school district, an incorporated school district, a union school district, a unified union school district, or a supervisory district.

(2) “New SU” means a supervisory union created from the merger or realignment of two or more current supervisory unions or of all or some of the districts in one or more current supervisory unions (a Realigning SU). “New SU” also means a supervisory union created by the State Board’s adjustment of the borders of one or more current supervisory unions or parts of supervisory unions pursuant to section 261 of this title or otherwise, regardless of whether the New SU is known by the name of one of the current supervisory unions or the adjustment is otherwise structured or considered to be one in which one current supervisory union (the Absorbing SU) is absorbing one or more other supervisory unions or parts of supervisory unions into the Absorbing SU.

(3) “Employees of a Realigning Entity” means the licensed and nonlicensed employees of a Realigning District or Realigning SU, or both, that create the New District or New SU, and includes employees of an Absorbing SU and employees of a Realigning SU whose functions will be performed by employees of a New District that is a supervisory district.

(4) “System” shall mean the Vermont Municipal Employees’ Retirement System created pursuant to 24 V.S.A. chapter 125.

(5) “Transitional Board” means the board created prior to the first day of a New District’s or a New SU’s existence in order to transition to the new structure by negotiating and entering into contracts, preparing an initial proposed budget, adopting policies, and otherwise planning for implementation of the New District or New SU, and includes the board of an Absorbing District to which members from the other Realigning SU or SUs have been added in order to perform transitional responsibilities.

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§ 1802. TRANSITION OF EMPLOYEES TO NEWLY CREATED EMPLOYER

(a) Prior to the first day of a New District's or a new SU's existence, upon creation of the Transitional Board, the Board shall:

(1) appoint a negotiations council for the New District or New SU for the purpose of negotiating with future employees' representatives; and

(2) recognize the representatives of the Employees of the Realigning Districts or Realigning SUs as the recognized representatives of the employees of the New District or New SU.

(b) Negotiations shall commence within 90 days after formation of the Transitional Board and shall be conducted pursuant to the provisions of chapter 57 of this title for teachers and administrators and pursuant to 21 V.S.A. chapter 22 for other employees.

(c) An Employee of a Realigning District or Realigning SU who was not a probationary employee shall not be considered a probationary employee of the New District or New SU.

(d) If a new agreement is not ratified by both parties prior to the first day of the New District's or New SU's existence, then:

(1) the parties shall comply with the existing agreements in place for Employees of the Realigning Districts or the Realigning SUs until a new agreement is reached;

(2) the parties shall adhere to the provisions of an agreement among the Employees of the Realigning Districts or the Realigning SUs, as represented by their respective recognized representatives, regarding how provisions under the existing contracts regarding issues of seniority, reduction in force, layoff, and recall will be reconciled during the period prior to ratification of a new agreement; and

(3) a new employee beginning employment after the first day of the New District's or New SU's existence shall be covered by the agreement in effect that applies to the largest bargaining unit for Employees of the Realigning Districts in the New District or for Employees of the Realigning SU in the New SU.

(e) On the first day of its existence, the New District or New SU shall assume the obligations of existing individual employment contracts, including accrued leaves and associated benefits, with the Employees of the Realigning Districts.

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§ 1803. VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

(a) A New District or New SU, on the first day of its existence, shall assume the responsibilities of any one or more of the Realigning Districts or Realigning SUs that have been participants in the system; provided, however, that this subsection shall not be construed to extend benefits to an employee who would not otherwise be a member of the system under any other provision of law.

(b) The existing membership and benefits of an Employee of a Realigning District or a Realigning SU shall not be impaired or reduced either by negotiations with the New District or New SU under 21 V.S.A. chapter 22 or otherwise.

(c) In addition to general responsibility for the operation of the System pursuant to 24 V.S.A. § 5062(a), the responsibility for implementation of all sections of this subchapter relating to the System is vested in the Retirement Board.

\* \* \* Unified Union School District; Definition \* \* \*

Sec. 19. 16 V.S.A. § 722 is amended to read:

§ 722. UNIFIED UNION DISTRICTS

~~If a union school district is organized to operate grades kindergarten through 12, it~~ (a) A union school district shall be known as a unified union district if it provides for the education of resident prekindergarten–grade 12 students, whether by:

(1) operating a school or schools for all grades;

(2) operating a school or schools for all students in one or more grades and paying tuition for all students in the remaining grade or grades; or

(3) paying tuition for all grades.

(b) On the date the unified union district becomes operative, unless another date is specified in the study committee report, it shall supplant all other school districts within its borders, and they shall cease to exist.

(c) If provided for in the committee report, the unified union ~~school~~ district school board may be elected and may conduct business for the limited purpose of preparing for the transition to unified union district administration while the proposed member school districts continue to operate schools.

(d) The functions of the legislative branch of each preexisting school district in warning meetings and conducting elections of unified union school district board members shall be performed by the corresponding board of

alderpersons of a city or city council, the selectboard of a town, or the trustees of an incorporated school district as appropriate.

\* \* \* Agencies of Human Services and of Education;  
Coordination; Report \* \* \*

## Sec. 20. COORDINATION OF EDUCATIONAL AND SOCIAL SERVICES; REPORT

(a) The Secretaries of Education and of Human Services, in consultation with school districts, supervisory unions, social service providers, and other interested parties, shall develop a plan for maximizing collaboration and coordination between the Agencies in delivering social services to Vermont public school students and their families. The plan shall:

(1) propose ways to improve access to and quality of social services provided to Vermont public school students and their families through systems-level planning and integration;

(2) propose sustainable ways to increase efficiencies in delivering social services to Vermont public school students and their families while maintaining access and quality, including ways to promote effective communication between the Agencies at the State and local levels;

(3) consider ways in which schools and social service providers can share services, personnel, and other resources, including the use of available space in school buildings by Agency of Human Services personnel;

(4) identify the amounts and sources of spending by the Agency of Human Services and the education system to provide social services to families with school-age children; and

(5) identify any barriers to increased efficiency, statutory or otherwise and including federal and State privacy protections, and propose ways to address these barriers, including any recommendations for legislative action.

(b) On or before January 15, 2016, the Secretaries shall present their plan and recommendations to the Senate Committees on Education and on Health and Welfare and the House Committees on Education and on Human Services.

\* \* \* Quality Assurance; Accountability \* \* \*

Sec. 21. 16 V.S.A. § 165(b)(1)–(4) are amended and subdivision (5) is added to read:

(1) the Agency continue to provide technical assistance for one more cycle of review;

(2) the State Board adjust supervisory union boundaries or responsibilities of the superintendency pursuant to section 261 of this title;

(3) the Secretary assume administrative control of an individual school, school district, or supervisory union, including budgetary control to ensure sound financial practices, only to the extent necessary to correct deficiencies; or

(4) the State Board close the an individual school or schools and require that the school district pay tuition to another public school or an approved independent school pursuant to chapter 21 of this title; or

(5) the State Board require two or more school districts to consolidate their governance structures.

## Sec. 22. QUALITY ASSURANCE; ACCOUNTABILITY

The Secretary of Education shall regularly review, evaluate, and keep the State Board of Education apprised of the following:

(1) the discussions, studies, and activity among districts to move voluntarily toward creating a unified union school district as set forth in Sec. 2(a) (preferred governance structure) of this act;

(2) the data collected from districts that vote prior to July 1, 2016, to merge into that preferred governance structure pursuant to Sec. 6 (accelerated activity) of this act and from other districts that have merged or do merge into a regional education district (RED) and their variations or that otherwise merge into the preferred governance structure set forth in Sec. 2(a) of this act; and

(3) the data and other information collected in connection with the Education Quality Standards, and related on-site education quality reviews, including data and information regarding the equity of educational opportunities, academic outcomes, personalization of learning, a safe school climate, high quality staffing, and financial efficiency.

\* \* \* Transition to Sustainable Governance Structures \* \* \*

## Sec. 23. VOLUNTARY SELF-EVALUATION, MEETINGS, AND DECLARATION

(a) The board of each school district in the State that has a governance structure different from the preferred structure set forth in Sec. 2(a) of this act or that does not expect to move or will not be moving into the preferred structure on or before July 1, 2020, may choose to pursue one or more of the following actions:

(1) Self-evaluation. The board may choose to evaluate the quality and variety of educational opportunities the district offers and the district's operational efficiencies, including its flexibility to manage, share, and transfer nonfinancial resources with other districts.

(2) Meetings.

(A) The board may choose to meet with the boards of one or more other districts, including those representing districts that have similar patterns of school operation and tuition payment, to discuss ways to promote improvement throughout the region in connection with:

(i) the quality, variety, and equity of available educational opportunities;

(ii) operational efficiencies, including the flexibility to manage, share, and transfer resources; and

(iii) transparency and accountability.

(B) The districts would not need to be contiguous and would not need to be within the same supervisory union.

(3) Declaration. A board of a district, solely on behalf of its own district or jointly with the boards of other districts, may choose to submit a letter to the Secretary of Education and the State Board of Education on or before June 30, 2017, that:

(A) declares the district's intention to retain its current governance structure or to work with other districts to form a different governance structure or otherwise enter into joint activity;

(B) demonstrates, through reference to enrollment projections, student-to-staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the intention stated in subdivision (A) of this subdivision supports the district's or districts' ability to:

(i) provide high-quality and varied educational opportunities that are substantially equitable when compared to opportunities available statewide;

(ii) to maximize operational efficiencies through increased flexibility to manage, share, and transfer resources among educational units; and

(iii) to promote transparency and accountability; and

(C) identifies detailed actions it would take to continue to improve its performance in each of the three areas set forth in subdivisions (B)(i)–(iii).

Sec. 24. TRANSITION TO SUSTAINABLE GOVERNANCE STRUCTURES

(a) Goals; Secretary's proposal. In order to provide substantial equity in the quality and variety of educational opportunities statewide; to maximize operational efficiencies through increased flexibility to manage, share, and

transfer resources; and to promote transparency and accountability, the Secretary of Education shall:

(1) Review the governance structures of the school districts and supervisory unions of the State as they will exist, or are anticipated to exist, on July 1, 2020. This review shall include consideration of any declarations submitted by districts or groups of districts pursuant to Sec. 23 of this act and conversations with those and other districts.

(2) On or before April 1, 2018, shall develop, publish on the Agency's website, and present a proposed plan to the State Board of Education that, to the extent necessary to promote the purpose stated at the beginning of this subsection (a), would move districts into the more sustainable, preferred model of governance set forth in Sec. 2(a) of this act. If it is not possible or practicable to develop a proposal that realigns districts, where necessary, in a manner that adheres to the protections of Sec. 3(c) (protection for tuition-paying and operating districts) or that otherwise meets all aspects of Sec. 2(a), then the proposal may include alternative governance structures as necessary, such as a supervisory union with member districts or a unified union school district with a smaller average daily membership; provided, however, that any proposed alternative governance structure shall be designed to:

(A) ensure adherence to the protections of Sec. 3(c); and

(B) promote equity of educational opportunities, financial efficiencies, accountability, and transparency in a sustainable governance structure.

(b) State Board's proposed plan. On or before December 31, 2018, the State Board shall review and analyze the Secretary's proposal under the provisions in subsection (a) of this section, may take testimony or ask for additional information from districts and supervisory unions, shall approve the proposal in either its original form or in an amended form that adheres to the provisions of subsection (a), and shall present to the General Assembly and publish on the Agency of Education's website a proposed plan realigning districts and supervisory unions where necessary.

(c) General Assembly. Upon review of the State Board's proposed plan and receipt of testimony from the public and interested parties, it is the intent of the General Assembly in 2015 that the 2019–2020 General Assembly shall enact the proposed plan either in its original form or in an amended form that:

(1) adheres to the provisions of subsection (a) of this section; and

(2) establishes a date by which any new districts and expanded or otherwise realigned supervisory unions that might be created under this section shall be operational.

(d) Applicability. This section shall not apply to:

(1) interstate school districts;

(2) regional career technical center school districts formed under 16 V.S.A. chapter 37, subchapter 5A; or

(3) districts that, between June 30, 2013, and July 2, 2020, have voluntarily created and have begun or will begin to operate as a unified union school district that:

(A) is a regional education district (RED) or a district eligible to receive RED incentives; or

(B) is formed pursuant to the preferred structure set forth Sec. 2(a) of this act.

\* \* \* Education Technical Assistant; Position \* \* \*

#### Sec. 25. EDUCATION TECHNICAL ASSISTANT

There is established one (1) new limited service exempt position – Education Technical Assistant – in the Agency of Education, authorized for fiscal years 2016 and 2017. The Education Technical Assistant shall work directly with school districts and supervisory unions to provide information and assistance regarding fiscal and demographic projections and the options available to address any necessary systems changes. The Agency’s authority to hire an individual for this purpose is contingent on its ability to obtain funding for the position solely through nonstate sources.

\* \* \* Effective Dates \* \* \*

#### Sec. 26. EFFECTIVE DATES

(a) Sec. 1 (findings) shall take effect on passage.

(b) Sec. 2 (preferred governance structure) shall take effect on passage.

(c) Sec. 3 (intent) shall take effect on passage.

(d) Secs. 4 and 5 (REDs; incentives; dates) shall take effect on passage.

(e) Sec. 6 (accelerated activity; increased incentives) shall take effect on passage.

(f) Sec. 7 (supervisory union boundaries) shall take effect on passage.

(g) Sec. 8 (Merger Support Grants) shall take effect on July 1, 2015.

(h) Secs. 9 and 10 (small school support; transition) shall take effect on July 1, 2016, and shall apply to grants made in fiscal year 2017 and after.



(i) Secs. 11 and 12 (declining enrollment; hold-harmless provision; transition) shall take effect on July 1, 2016.

(j) Sec. 13 (declining enrollment; hold-harmless provision; repeal) shall take effect on July 1, 2020.

(k) Sec. 14 (declining enrollment; hold-harmless provision; exception) shall take effect on July 1, 2020.

(l) Sec. 15 (existing incentives; applicability) shall take effect on July 1, 2015.

(m) Sec. 16 (supervisory unions; local education agency) shall take effect on July 1, 2015.

(n) Sec. 17 (supervisory union duties; failure to comply; tax rates) shall take effect on July 1, 2016; provided, however, that tax rates shall not be increased pursuant to this section prior to fiscal year 2018.

(o) Sec. 18 (transition of employees) shall take effect on passage and shall apply to a New District or New SU that has its first day of operation on or after that date; provided, however, that this section shall not apply to the transition of employees to the new joint contract school scheduled to be operated by the Pomfret and Bridgewater school districts beginning in the 2015–2016 academic year.

(p) Sec. 19 (unified union school district; definition) shall take effect on passage.

(q) Sec. 20 (Agencies of Education and of Human Services; coordination) shall take effect on passage.

(r) Sec. 21 (authorities of State Board of Education) shall take effect on July 1, 2020.

(s) Sec. 22 (review of data) shall take effect on July 1, 2015.

(t) Sec. 23 (optional self-evaluation, meetings, and proposal) shall take effect on July 1, 2015.

(u) Sec. 24 (optional self-evaluation; transition to sustainable governance structures) shall take effect on July 1, 2015.

(v) Sec. 25 (limited service exempt position) shall take effect on July 1, 2015.

(w) This section (effective dates) shall take effect on passage.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as recommended by the Committee on Education with the following amendment thereto:

First: In Sec. 6 (enhanced incentives), in subsection (a), by inserting a new subdivision (7) to read as follows:

(7) demonstrates in the study committee report presented to the State Board and district voters pursuant to 16 V.S.A. chapter 11 that the proposed governance changes will result in:

(A) increased equity in the quality and variety of educational opportunities;

(B) increased operational efficiencies, through enhanced flexibility to manage, share, and transfer resources;

(C) increased transparency and accountability; and

(D) reduced expenditures per equalized pupil;

And by renumbering existing subdivisions (7) and (8) to be numerically correct.)

Second: In Sec. 12 (declining enrollment; transition), by adding a new subsection to be subsection (c) to read as follows:

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 11 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection (c) if on or before July 1, 2016 it has formed a study committee pursuant to 16 V.S.A. chapter 11.

Third: After Sec. 25, by adding 13 new sections to be Secs. 26 through 38 to read as follows:

\* \* \* Yield; Dollar Equivalent \* \* \*

Sec. 26. 16 V.S.A. § 4001(13) is amended to read:

(13) "Base education amount" means a number used to calculate ~~tax~~ rates. The base education amount is categorical grants awarded under this title that is equal to \$6,800.00 per equalized pupil, adjusted as required under section 4011 of this title.

Sec. 27. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

\* \* \*

(13)(A) “District Education property tax spending adjustment” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the ~~base education amount~~ property dollar equivalent yield for the school year, as defined in 16 V.S.A. § 4001 subdivision (15) of this section. For a district that pays tuition to a public school or an approved independent school, or both, for all of its resident students in any year and which has decided by a majority vote of its school board to opt into this provision, the district spending adjustment shall be the average of the district spending adjustment calculated under this subdivision for the previous year and for the current year. Any district opting for a two year average under this subdivision may not opt out of such treatment, and the averaging shall continue until the district no longer qualifies for such treatment.

(B) “Education income tax spending adjustment” means the greater of: one or a fraction in which the numerator is the district’s education spending plus excess spending, per equalized pupil, for the school year; and the denominator is the income dollar equivalent yield for the school year, as defined in subdivision (16) of this section.

\* \* \*

(15) “Property dollar equivalent yield” means the amount of spending per equalized pupil that would result if the homestead tax rate were \$1.00 per \$100.00 of equalized education property value, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.

(16) “Income dollar equivalent yield” means the amount of spending per equalized pupil that would result if the applicable percentage in subdivision 6066(a)(2) of this title were 2.0 percent, and the statutory reserves under 16 V.S.A. § 4026 and section 5402b of this title were maintained.

Sec. 28. 32 V.S.A. § 5402 is amended to read:

§ 5402. EDUCATION PROPERTY TAX LIABILITY

(a) A ~~Statewide~~ statewide education tax is imposed on all nonresidential and homestead property at the following rates:

(1) The tax rate for nonresidential property shall be \$1.59 per \$100.00.

(2) The tax rate for homestead property shall be ~~\$1.40~~ \$1.00 multiplied by the ~~district~~ education property tax spending adjustment for the municipality, per \$100.00, of equalized education property value as most recently determined under section 5405 of this title. The homestead property tax rate for each municipality which is a member of a union or unified union school district shall be calculated as required under subsection (e) of this section.

(b) The ~~Statewide~~ statewide education tax shall be calculated as follows:

(1) The Commissioner of Taxes shall determine for each municipality the education tax rates under subsection (a) of this section, divided by the municipality's most recent common level of appraisal. The legislative body in each municipality shall then bill each property taxpayer at the homestead or nonresidential rate determined by the Commissioner under this subdivision, multiplied by the education property tax grand list value of the property, properly classified as homestead or nonresidential property and without regard to any other tax classification of the property. Tax bills shall show the tax due and the calculation of the rate determined under subsection (a) of this section, divided by the municipality's most recent common level of appraisal, multiplied by the current grand list value of the property to be taxed.

(2) Taxes assessed under this section shall be assessed and collected in the same manner as taxes assessed under chapter 133 of this title with no tax classification other than as homestead or nonresidential property.

(3) If a district has not voted a budget by June 30, an interim homestead education tax shall be imposed at the base rate determined under subdivision (a)(2) of this section, divided by the municipality's most recent common level of appraisal, but without regard to any ~~district~~ spending adjustment under subdivision 5401(13) of this title. Within 30 days after a budget is adopted and the deadline for reconsideration has passed, the Commissioner shall determine the municipality's homestead tax rate as required under subdivision (1) of this subsection.

\* \* \*

(d) A municipality which has upon its grand list an operating electric generating plant subject to the tax under chapter 213 of this title shall be subject to the nonresidential education property tax at three-quarters of the rate provided in subdivision (a)(1) of this section, as adjusted under section 5402b of this chapter; and shall be subject to the homestead education property tax at three-quarters of the base rate provided in subdivision (a)(2) of this section, as adjusted under section 5402b of this chapter, and multiplied by its ~~district~~ spending adjustment under subdivision 5401(13) of this title.

(e) The Commissioner of Taxes shall determine a homestead education tax rate for each municipality which is a member of a union or unified union school district as follows:

(1) For a municipality which is a member of a unified union school district, use the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based upon the education spending per equalized pupil of the unified union.

(2) For a municipality which is a member of a union school district:

(A) Determine the municipal district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based on the education spending per total equalized pupil in the municipality who attends a school other than the union school.

(B) Determine the union district homestead tax rate using the base rate determined under subdivision (a)(2) of this section and a ~~district~~ spending adjustment under subdivision 5401(13) of this title based on the education spending per equalized pupil of the union school district.

\* \* \*

Sec. 29. 32 V.S.A. § 6066(a)(2) is amended to read:

(2) “Applicable percentage” in this section means two percent, multiplied by the ~~district~~ education income tax spending adjustment under subdivision 5401(13)(~~B~~) of this title for the property tax year which begins in the claim year for the municipality in which the homestead residence is located; ~~but in no event shall the applicable percentage be less than two percent.~~

Sec. 30. REVISION AUTHORITY

Notwithstanding 4 V.S.A. § 424, the Office of Legislative Council is authorized to change all instances in statute of the term “applicable percentage” to “income percentage” in 32 V.S.A. chapters 135 and 154.

Sec. 31. 16 V.S.A. § 4031 is amended to read:

§ 4031. UNORGANIZED TOWNS AND GORES

(a) For a municipality that as of January 1, 2004 is an unorganized town or gore, its ~~district~~ education property tax spending adjustment under 32 V.S.A. § 5401(13) shall be one for purposes of determining the tax rate under 32 V.S.A. § 5402(a)(2).

(b) For purposes of a claim for property tax adjustment under 32 V.S.A. chapter 154 by a taxpayer in a municipality affected under this section, the

applicable percentage shall not be multiplied by a spending adjustment under 32 V.S.A. § 5401(13).

Sec. 32. 32 V.S.A. § 5402b is amended to read:

§ 5402b. STATEWIDE EDUCATION TAX RATE ADJUSTMENTS  
YIELDS; RECOMMENDATION OF THE COMMISSIONER

~~(a) Annually, by December 1, the Commissioner of Taxes shall recommend to the General Assembly, after consultation with the Agency of Education, the Secretary of Administration, and the Joint Fiscal Office, the following adjustments in the statewide education tax rates under subdivisions 5402(a)(1) and (2) of this title:~~

~~(1) If there is a projected balance in the Education Fund Budget Stabilization Reserve in excess of the five percent level authorized under 16 V.S.A. § 4026, the Commissioner shall recommend a reduction, for the following fiscal year only, in the statewide education tax rates which will retain the projected Education Fund Budget Stabilization Reserve at the five percent maximum level authorized and raise at least 34 percent of projected education spending from the tax on nonresidential property; and~~

~~(2) If there is a projected balance in the Education Fund Budget Stabilization Reserve of less than the three and one half percent level required under 16 V.S.A. § 4026, the Commissioner shall recommend an increase, for the following fiscal year only, in the statewide education tax rates which will retain the projected Education Fund Budget Stabilization Reserve at no less than the three and one half percent minimum level authorized under 16 V.S.A. § 4026, and raise at least 34 percent of projected education spending from the tax rate on nonresidential property.~~

~~(3) In any year following a year in which the nonresidential rate produced an amount of revenues insufficient to support 34 percent of education fund spending in the previous fiscal year, the Commissioner shall determine and recommend an adjustment in the nonresidential rate sufficient to raise at least 34 percent of projected education spending from the tax rate on nonresidential property.~~

~~(4) If in any year in which the nonresidential rate is less than the statewide average homestead rate, the Commissioner of Taxes shall determine the factors contributing to the deviation in the proportionality of the nonresidential and homestead rates and make a recommendation for adjusting statewide education tax rates accordingly.~~

~~(b) If the Commissioner makes a recommendation to the General Assembly to adjust the education tax rates under section 5402 of this title, the Commissioner shall also recommend a proportional adjustment to the~~

~~applicable percentage base for homestead income based adjustments under section 6066 of this title, but the applicable percentage base shall not be adjusted below 1.94 percent.~~

(a) Annually, no later than December 1, the Commissioner of Taxes, after consultation with the Secretary of Education, the Secretary of Administration, and the Joint Fiscal Office, shall calculate and recommend a property dollar equivalent yield and an income dollar equivalent yield for the following fiscal year. In making these calculations, the Commissioner shall assume:

(1) the homestead base tax rate in subdivision 5402(a)(2) of this title is 1.00 per \$100.00 of equalized education property value;

(2) the applicable percentage in subdivision 6066(a)(2) of this title is 2.0;

(3) the statutory reserves under 16 V.S.A. § 4026 and this section were maintained at five percent; and

(4) the percentage change in the median education tax bill applied to nonresidential property, the percentage change in the median education tax bill of homestead property, and the percentage change in the median education tax bill for taxpayers who claim an adjustment under subsection 6066(a) of this title are equal.

(b) For each fiscal year, the General Assembly shall set a property dollar equivalent yield and an income dollar equivalent yield, consistent with the definitions in this chapter.

\* \* \* Fiscal Year 2016 Education Property Tax Rates, Applicable Percentage,  
and Base Education Amount \* \* \*

### Sec. 33. FISCAL YEAR 2016 EDUCATION PROPERTY TAX RATES AND APPLICABLE PERCENTAGE

(a) For fiscal year 2016 only, the education property tax imposed under 32 V.S.A. § 5402(a) shall be reduced from the rates of \$1.59 and \$1.10 and shall instead be at the following rates:

(1) the tax rate for nonresidential property shall be \$1.535 per \$100.00; and

(2) the tax rate for homestead property shall be \$1.00 multiplied by the district spending adjustment for the municipality per \$100.00 of equalized property value as most recently determined under 32 V.S.A. § 5405.

(b) For claims filed in 2015 only, “applicable percentage” in 32 V.S.A. § 6066(a)(2) shall be reduced from 2.0 percent and instead shall be 1.82 percent multiplied by the fiscal year 2015 district spending adjustment for

the municipality in which the homestead residence is located; but in no event shall the applicable percentage be less than 1.82 percent.

Sec. 34. FISCAL YEAR 2016 BASE EDUCATION AMOUNT

As provided in 16 V.S.A. § 4011(b), the base education amount for fiscal year 2016 shall be \$9,459.00.

\* \* \* Tuition; Statewide Average Rate \* \* \*

Sec. 35. 16 V.S.A. § 823(b) is amended to read:

(b) Unless, in the case of a school located in Vermont, the electorate of a school district authorizes payment of a higher amount at an annual or special meeting warned for the purpose, the tuition paid to an approved independent elementary school or an independent school meeting school quality standards located in or outside Vermont shall not exceed the least of:

(1) the average announced tuition of Vermont union elementary schools for the year of attendance;

(2) the tuition charged by the approved independent school for the year of attendance; or

(3) the average per-pupil tuition the district pays for its other resident elementary students in the year in which the student is enrolled in the approved independent school.

Sec. 36. 16 V.S.A. § 824(c) is amended to read:

(c) The district shall pay an amount not to exceed the average announced tuition of Vermont union high schools for the year of attendance for its students enrolled in an approved independent school not functioning as a Vermont area career technical center, ~~or any;~~ provided, however, that the electorate may vote to pay a higher amount ~~approved by the electorate to a school located in Vermont~~ at an annual or special meeting warned for that purpose.

\* \* \* Socioeconomic Isolation \* \* \*

Sec. 37. SOCIOECONOMIC ISOLATION OF SCHOOL DISTRICTS

On or before January 15, 2016, the Secretary of Education shall:

(1) develop and establish guidelines and procedures by which the Agency and the State Board of Education can minimize the possibility that voluntary mergers and other education governance changes authorized, contemplated, or incentivized by this act will result in the isolation of districts with low fiscal capacity or with high percentages of students from economically deprived backgrounds; and



(2) report to the Senate and House Committees on Education, and to other standing committees upon request, regarding guidelines and procedures designed to minimize the possibility of such isolation and any requests for legislative action.

\* \* \* Systems Evaluation and Leadership Training \* \* \*

Sec. 38. SYSTEMS EVALUATION AND LEADERSHIP TRAINING

(a) The Secretary of Education, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont Principals' Association, shall evaluate and identify supervisory unions and school districts that are experiencing chronic leadership challenges, as revealed by high administrator turnover rates and other indicators. The Secretary may enter into contracts with one or more qualified entities to provide systems evaluation and joint leadership training to the superintendent, principals, and school board members of each identified supervisory union or school board, which shall be in addition to the training required by 16 V.S.A. § 561(b). The systems evaluations shall identify specific problems, including those associated with structure, communication, or delineation of roles and responsibilities, that limit successful outcomes for leadership within the identified districts and shall lead to recommendations for leadership improvement.

(b) Prior to any reversions, of the amount appropriated in fiscal year 2015 pursuant to 2014 Acts and Resolves No. 179, Sec. B.505, an amount not to exceed \$50,000.00 may be expended, if necessary, by the Agency of Education in fiscal year 2016 for purposes of this section.

And by renumbering the remaining section (effective dates) to be numerically correct.

Fourth: In Sec. 39 (effective dates), in subsection (m) (local education agency), by striking out the following: “2015” and inserting in lieu thereof the following: 2016

Fifth: In Sec. 39 (effective dates), by adding five new subsections to be subsections (x) through (bb) to read as follows:

(x) Secs. 26–32 (yield; dollar equivalent) shall take effect on July 1, 2015, and apply to fiscal year 2017 and after.

(y) Secs. 33–34 (fiscal year 2016; tax rates; base education amount) shall take effect on July 1, 2015, and apply to fiscal year 2016.

(z) Secs. 35–36 (tuition amounts) shall take effect on July 1, 2015 and shall apply to tuition paid in fiscal year 2017 (academic year 2016–2017) and after.

(aa) Sec. 37 (socioeconomic isolation) shall take effect on passage.

(bb) Sec. 38 (leadership training; authorization) shall take effect on passage.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as recommended by the Committee on Education, as amended by the Committee on Finance with the following amendments thereto:

First: By striking out Secs. 9 (small school support), and 10 (small school support transition) and inserting in lieu thereof the following:

Sec. 9. [Deleted.]

Sec. 10. [Deleted.]

Second: By adding a new section to be numbered Sec. 20a to read as follows:

Sec. 20a. REPORT ON METRICS FOR EVALUATION

(a) On or before December 15, 2015, the Agency of Education shall report to the General Assembly with recommendations for establishing a consistent method of evaluating the performance of:

(1) pre-kindergarten programs in each school district; and

(2) special education programs in each supervisory union or school district.

(b) The recommendations under subsection (a) of this section shall consider the findings of the report required under 2014 Acts and Resolves No. 95, Sec. 79a and shall be consistent with the efforts taken by the Agency to develop consistent longitudinal student and financial data in 2014 Acts and Resolves No. 179, Secs. E.500.1 through E.500.3, allowing for district-to-district comparisons to support education-related decisions at the State and local level.

Third: By striking out Secs. 35 and 36 (tuition; statewide average rate) and their related reader assistance heading and inserting in lieu thereof the following:

Sec. 35. [Deleted.]

Sec. 36. [Deleted.]

Fourth: By striking out Sec. 38 (systems evaluation) and its related reader assistance heading and inserting in lieu thereof the following:

Sec. 38. [Deleted.]

Fifth: In Sec. 39 (effective dates), by striking out subsections (g) (merger support grants), (h) (small school support), (q) (agency coordination), (z) (tuition amounts), and (bb) (systems evaluation) in their entirety, and inserting a new subsection (q) to read as follows:

(q) Secs. 20 (Agencies of Education and of Human Services; coordination) and 20a (report) shall take effect on passage.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance?, Senator Cummings requested that the *third* proposal of amendment of the Committee on Finance be voted on separately.

Thereupon, pending the question Shall the report of the Committee on Education be amended as recommended by the Committee on Finance in the *third* proposal of amendment?, Senator Cummings requested and was granted leave to withdraw her request.

Thereupon, Senators MacDonald, Ashe, Ayer, Lyons, Mullin and Sirotkin moved to amend the *third* proposal of amendment of the Committee on Finance in Sec. 33 (tax rates), in subdivision (a)(2), by striking out the following: “\$1.00” and inserting lieu thereof the following: \$0.99 and in subsection (b) by striking out the following: “1.82” and inserting in lieu thereof the following: 1.80 in all instances

Which was agreed to on a roll call, Yeas 29, Nays 1.

Senator Nitka having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, White, Zuckerman.

**The Senator who voted in the negative was:** Westman.

Thereupon, pending the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance?, Senator Cummings requested that the *third* proposal of amendment of the Committee on Finance be voted on separately.

Thereupon, the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance, as amended in the *third* proposal of amendment?, was agreed to on a roll call, Yeas 27, Nays 3.

Senator Degree having demanded the yeas and nays, they were taken and are as follows:

### Roll Call

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, White, Zuckerman.

**Those Senators who voted in the negative were:** Degree, McAllister, Westman.

Thereupon, the question, Shall the report of the Committee on Education be amended as recommended by the Committee on Finance, as amended in the *first, second, fourth and fifth* proposals of amendment?, was agreed to.

Thereupon, pending the question, Shall the recommendation of proposal of amendment of the Committee on Education, as amended, be amended as recommended by the Committee on Appropriations?, Senator Sears, requested that the *first* proposal of amendment be voted on separately.

Thereupon, pending the question, Shall the report of the Committee on Education as amended, be amended as recommended by the Committee on Appropriations in the *first* instance?, Senator Lyons moved to amend the *fourth* proposal of amendment as follows:

First: By striking Sec. 38 in its entirety, and inserting in lieu thereof a reader assistance heading and a Sec. 38 to read:

\* \* \* Systems Evaluation and Leadership Training \* \* \*

### Sec. 38. SYSTEMS EVALUATION AND LEADERSHIP TRAINING

The Secretary of Education, in consultation with the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont Principals' Association, shall evaluate and identify supervisory unions and school districts that are experiencing chronic leadership challenges, as revealed by high administrator turnover rates and other indicators. The Secretary may enter into contracts with one or more qualified entities to provide systems evaluation and joint leadership training to the superintendent, principals, and school board members of each identified supervisory union or school board, which shall be in addition to the training required by 16 V.S.A. § 561(b). The systems evaluations shall identify specific problems, including

those associated with structure, communication, or delineation of roles and responsibilities, that limit successful outcomes for leadership within the identified districts and shall lead to recommendations for leadership improvement.

Second: In Sec. 39 (effective dates) by inserting a subdivision (bb) to read:

(bb) Sec. 38 (leadership training) shall take effect on passage.

Thereupon, pending the question, Shall the *fourth* proposal of amendment of the Committee on Appropriations be amended as recommended by Senator Lyons, Senator Lyons requested and was granted leave to withdraw the proposal of amendment.

Thereupon, the question, Shall the report of the Committee on Education as amended, be amended as recommended by the Committee on Appropriations in the *first* proposal of amendment?, was agreed on a roll call, Yeas 23, Nays 7.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Doyle, Flory, Kitchel, Lyons, MacDonald, McAllister, McCormack, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman.

**Those Senators who voted in the negative were:** Ayer, Cummings, Degree, Mazza, Mullin, White, Zuckerman.

Thereupon, the question, Shall the report of the Committee on Education as amended, be amended as recommended by the Committee on Appropriations in the *second, third, fourth* and *fifth* proposals of amendment?, was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Education, as amended, was agreed to and third reading of the bill was ordered on a roll call, Yeas 27, Nays 3.

Senator Campbell having demanded the yeas and nays, they were taken and are as follows:

#### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, Mullin, Nitka, Rodgers, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

**Those Senators who voted in the negative were:** McCormack, Pollina, Sears.

**Recess**

On motion of Senator Campbell the Senate recessed until six o'clock and forty-five minutes.

**Evening**

The Senate was called to order by the President.

**Recess**

On motion of Senator Mazza the Senate recessed until the fall of the gavel.

**Called to Order**

The Senate was called to order by the President.

**Message from the House No. 62**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 355.** An act relating to licensing and regulating foresters.

In the passage of which the concurrence of the Senate is requested.

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

**S. 93.** An act relating to lobbying disclosures.

**S. 102.** An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations.

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

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

**H. 241.** An act relating to rulemaking on emergency involuntary procedures.

And has severally concurred therein.

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

**H. 488.** An act relating to the State's Transportation Program and miscellaneous changes to laws related to transportation.

And has severally concurred therein with a further proposal of amendment thereto, in the adoption of which the concurrence of the Senate is requested.

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

**S. 13.** An act relating to the Vermont Sex Offender Registry.

And has concurred therein.

**House Proposal of Amendment Concurred In with Amendment**

**S. 139.**

House proposal of amendment to Senate bill entitled:

An act relating to pharmacy benefit managers and hospital observation status.

Was taken up.

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

\* \* \* Pharmacy Benefit Managers \* \* \*

Sec. 1. 18 V.S.A. § 9471 is amended to read:

§ 9471. DEFINITIONS

As used in this subchapter:

\* \* \*

(6) "Maximum allowable cost" means the per unit drug product reimbursement amount, excluding dispensing fees, for a group of equivalent multisource generic prescription drugs.

Sec. 2. 18 V.S.A. § 9473 is amended to read:

§ 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO PHARMACIES

\* \* \*

(c) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

\* \* \* Notice of Hospital Observation Status \* \* \*

Sec. 3. 18 V.S.A. § 1905 is amended to read:

#### § 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

\* \* \*

(22) All hospitals shall provide oral and written notices to each individual that the hospital places in observation status as required by section 1911a of this title.

Sec. 4. 18 V.S.A. § 1911a is added to read:

#### 1911a. NOTICE OF HOSPITAL OBSERVATION STATUS

(a)(1) Each hospital shall provide oral and written notice to each Medicare beneficiary that the hospital places in observation status as soon as possible but no later than 24 hours following such placement, unless the individual is discharged or leaves the hospital before the 24-hour period expires. The written notice shall be a uniform form developed by the Department of Health, in consultation with interested stakeholders, for use in all hospitals.



(2) If a patient is admitted to the hospital as an inpatient before the notice of observation has been provided, and under Medicare rules the observation services may be billed as part of the inpatient stay, the hospital shall not be required to provide notice of observation status.

(b) Each oral and written notice shall include:

(1) a statement that the individual is under observation as an outpatient and is not admitted to the hospital as an inpatient;

(2) a statement that observation status may affect the individual's Medicare coverage for hospital services, including medications and pharmaceutical supplies, and for rehabilitative or skilled nursing services at a skilled nursing facility if needed upon discharge from the hospital; and

(3) a statement that the individual may contact the Office of the Health Care Advocate or the Vermont State Health Insurance Assistance Program to understand better the implications of placement in observation status.

(c) Each written notice shall include the name and title of the hospital representative who gave oral notice; the date and time oral and written notice were provided; the means by which written notice was provided, if not provided in person; and contact information for the Office of the Health Care Advocate and the Vermont State Health Insurance Assistance Program.

(d) Oral and written notice shall be provided in a manner that is understandable by the individual placed in observation status or by his or her representative or legal guardian.

(e) The hospital representative who provided the written notice shall request a signature and date from the individual or, if applicable, his or her representative or legal guardian, to verify receipt of the notice. If a signature and date were not obtained, the hospital representative shall document the reason.

#### **Sec. 4a. NOTICE OF OBSERVATION STATUS FOR PATIENTS WITH COMMERCIAL INSURANCE**

The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate consider the appropriate notice of hospital observation status that patients with commercial insurance should receive and the circumstances under which such notice should be provided. The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate provide their findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare on or before January 15, 2016.

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\* \* \* Reports \* \* \*

## Sec. 5. VERMONT HEALTH CARE INNOVATION PROJECT; UPDATES

The Project Director of the Vermont Health Care Innovation Project (VHCIP) shall provide an update at least quarterly to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee regarding VHCIP implementation and the use of the federal State Innovation Model (SIM) grant funds. The Project Director's update shall include information regarding:

(1) the VHCIP pilot projects and other initiatives undertaken using SIM grant funds, including a description of the projects and initiatives, the timing of their implementation, the results achieved, and the replicability of the results;

(2) how the VHCIP projects and initiatives fit with other payment and delivery system reforms planned or implemented in Vermont;

(3) how the VHCIP projects and initiatives meet the goals of improving health care access and quality and reducing costs;

(4) how the VHCIP projects and initiatives will reduce administrative costs;

(5) how the VHCIP projects and initiatives compare to the principles expressed in 2011 Acts and Resolves No. 48;

(6) what will happen to the VHCIP projects and initiatives when the SIM grant funds are no longer available; and

(7) how to protect the State's interest in any health information technology and security functions, processes, or other intellectual property developed through the VHCIP.

## Sec. 6. REDUCING DUPLICATION OF SERVICES; REPORT

(a) The Agency of Human Services shall evaluate the services offered by each entity licensed, administered, or funded by the State, including the designated agencies, to provide services to individuals receiving home- and community-based long-term care services or who have developmental disabilities, mental health needs, or substance use disorder. The Agency shall determine areas in which there are gaps in services and areas in which programs or services are inconsistent with the Health Resource Allocation Plan or are overlapping, duplicative, or otherwise not delivered in the most efficient, cost-effective, and high-quality manner and shall develop recommendations for consolidation or other modification to maximize high-quality services, efficiency, service integration, and appropriate use of public funds.

(b) On or before January 15, 2016, the Agency shall report its findings and recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

\* \* \* Strengthening Affordability and Access to Health Care \* \* \*

Sec. 7. 33 V.S.A. § 1812(b) is amended to read:

(b)(1) An individual or family with income at or below 300 percent of the federal poverty guideline shall be eligible for cost-sharing assistance, including a reduction in the out-of-pocket maximums established under Section 1402 of the Affordable Care Act.

(2) The Department of Vermont Health Access shall establish cost-sharing assistance on a sliding scale based on modified adjusted gross income for the individuals and families described in subdivision (1) of this subsection. Cost-sharing assistance shall be established as follows:

(A) for households with income at or below 150 percent of the federal poverty level (FPL): 94 percent actuarial value;

(B) for households with income above 150 percent FPL and at or below 200 percent FPL: 87 percent actuarial value;

(C) for households with income above 200 percent FPL and at or below 250 percent FPL: ~~77~~ 83 percent actuarial value;

(D) for households with income above 250 percent FPL and at or below 300 percent FPL: ~~73~~ 79 percent actuarial value.

(3) Cost-sharing assistance shall be available for the same qualified health benefit plans for which federal cost-sharing assistance is available and administered using the same methods as set forth in Section 1402 of the Affordable Care Act.

Sec. 8. COST-SHARING SUBSIDY; APPROPRIATION

(a) Increasing the cost-sharing subsidies available to Vermont residents will not only make it easier for people with incomes below 300 percent of the federal poverty level to access health care services, but it may encourage some residents without insurance to enroll for coverage if they know they will be able to afford to use it.

(b) The sum of \$761,308.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 for the Exchange cost-sharing subsidies for individuals at the actuarial levels in effect on January 1, 2015.

(c) The sum of \$2,000,000.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 to increase

Exchange cost-sharing subsidies beginning on January 1, 2016 to provide coverage at an 83 percent actuarial value for individuals with incomes between 200 and 250 percent of the federal poverty level and at a 79 percent actuarial value for individuals with incomes between 250 and 300 percent of the federal poverty level.

\* \* \* Strengthening Primary Care \* \* \*

#### Sec. 9. INVESTING IN PRIMARY CARE SERVICES

The sum of \$7,000,000.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase reimbursement rates for primary care providers for services provided to Medicaid beneficiaries.

#### Sec. 10. BLUEPRINT FOR HEALTH INCREASES

(a) The sum of \$4,085,826.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase payments to patient-centered medical homes and community health teams pursuant to 18 V.S.A. § 702.

(b) In its use of the funds appropriated in this section, the Blueprint for Health shall work collaboratively to begin including family-centered approaches and adverse childhood experience screenings consistent with the report entitled “Integrating ACE-Informed Practice into the Blueprint for Health.” Considerations should include prevention, early identification, and screening, as well as reducing the impact of adverse childhood experiences through trauma-informed treatment and suicide prevention initiatives.

#### Sec. 11. AREA HEALTH EDUCATION CENTERS

The sum of \$700,000.00 in Global Commitment funds is appropriated to the Department of Health in fiscal year 2016 for a grant to the Area Health Education Centers for repayment of educational loans for health care providers and health care educators.

\* \* \* Investing in Structural Reform for Long-Term Savings \* \* \*

#### Sec. 12. GREEN MOUNTAIN CARE BOARD; ALL-PAYER WAIVER; RATE-SETTING

(a) The sum of \$862,767.00 is appropriated to the Green Mountain Care Board in fiscal year 2016, of which \$184,636.00 comes from the General Fund, \$224,774.00 is in Global Commitment funds, \$393,357.00 comes from the Board’s bill-back authority pursuant to 18 V.S.A. § 9374(h), and \$60,000.00 comes from the Health IT-Fund.

(b) Of the funds appropriated pursuant to this section, the Board shall use:

(1) \$502,767.00 for positions and operating expenses related to the Board's provider rate-setting authority, the all-payer model, and the Medicaid cost shift;

(2) \$300,000.00 for contracts and third-party services related to the all-payer model, provider rate-setting, and the Medicaid cost shift; and

(3) \$60,000.00 to provide oversight of the budget and activities of the Vermont Information Technology Leaders, Inc.

#### Sec. 13. GREEN MOUNTAIN CARE BOARD; POSITIONS

(a) On July 1, 2015, two classified positions are created for the Green Mountain Care Board.

(b) On July 1, 2015, one exempt position, attorney, is created for the Green Mountain Care Board.

\* \* \* Consumer Information, Assistance, and Representation \* \* \*

#### Sec. 14. OFFICE OF THE HEALTH CARE ADVOCATE; APPROPRIATION; INTENT

(a) The Office of the Health Care Advocate has a critical function in the Vermont's health care system. The Health Care Advocate provides information and assistance to Vermont residents who are navigating the health care system and represents their interests in interactions with health insurers, health care providers, Medicaid, the Green Mountain Care Board, the General Assembly, and others. The continuation of the Office of the Health Care Advocate is necessary to achieve additional health care reform goals.

(b) The sum of \$40,000.00 is appropriated from the General Fund to the Agency of Administration in fiscal year 2016 for its contract with the Office of the Health Care Advocate.

(c) It is the intent of the General Assembly that, beginning with the 2017 fiscal year budget, the Governor's budget proposal developed pursuant to 32 V.S.A. chapter 5 should include a separate provision identifying the aggregate sum to be appropriated from all State sources to the Office of the Health Care Advocate.

#### Sec. 15. CONSUMER INFORMATION AND PRICE TRANSPARENCY

The Green Mountain Care Board shall evaluate potential models for providing consumers with information about the cost and quality of health care services available across the State, including a consideration of the models used in Maine, Massachusetts, and New Hampshire, as well as any platforms developed and implemented by health insurers doing business in this State. On

or before October 1, 2015, the Board shall report its findings and a proposal for a robust Internet-based consumer health care information system to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

\* \* \* Universal Primary Care \* \* \*

Sec. 16. PURPOSE

The purpose of Secs. 16 through 20 of this act is to establish the administrative framework and reduce financial barriers as preliminary steps to the implementation of the principles set forth in 2011 Acts and Resolves No. 48 to enable Vermonters to receive necessary health care and examine the cost of providing primary care to all Vermonters without deductibles, coinsurance, or co-payments or, if necessary, with limited cost-sharing.

Sec. 17. [Deleted.]

Sec. 18. DEFINITION OF PRIMARY CARE

As used in Secs. 16 through 20 of this act, “primary care” means health services provided by health care professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and includes pediatrics, internal and family medicine, gynecology, primary mental health services, and other health services commonly provided at federally qualified health centers. Primary care does not include dental services.

Sec. 19. COST ESTIMATES FOR UNIVERSAL PRIMARY CARE

(a) On or before October 15, 2015, the Joint Fiscal Office, in consultation with the Green Mountain Care Board and the Secretary of Administration or designee, shall provide to the Joint Fiscal Committee, the Health Reform Oversight Committee, the House Committees on Appropriations, on Health Care, and on Ways and Means, and the Senate Committees on Appropriations, on Health and Welfare, and on Finance an estimate of the costs of providing primary care to all Vermont residents, with and without cost-sharing by the patient, beginning on January 1, 2017.

(b) The report shall include an estimate of the cost of primary care to those Vermonters who access it if a universal primary care plan is not implemented, and the sources of funding for that care, including employer-sponsored and individual private insurance, Medicaid, Medicare, and other government-sponsored programs, and patient cost-sharing such as deductibles, coinsurance, and co-payments.

(c) Departments and agencies of State government and the Green Mountain Care Board shall provide such data to the Joint Fiscal Office as needed to permit the Joint Fiscal Office to perform the estimates and analysis required by this section. If necessary, the Joint Fiscal Office may enter into confidentiality agreements with departments, agencies, and the Board to ensure that confidential information provided to the Office is not further disclosed.

Sec. 20. APPROPRIATION

Up to \$200,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2016 to be used for assistance in the calculation of the cost estimates required in Sec. 19 of this act; provided, however, that the appropriation shall be reduced by the amount of any external funds received by the Office to carry out the estimates and analysis required by Sec. 19.

\* \* \* Green Mountain Care Board \* \* \*

Sec. 21. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

\* \* \*

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. Vermont Information Technology Leaders, Inc. shall be an interested party in the Board's review.

(B) Review and approve the criteria required for health care providers and health care facilities to create or maintain connectivity to the State's health information exchange as set forth in section 9352 of this title. Within 90 days following this approval, the Board shall issue an order explaining its decision.

(C) Annually review and approve the budget, consistent with available funds, and the core activities associated with public funding, of the Vermont Information Technology Leaders, Inc., which shall include establishing the interconnectivity of electronic medical records held by health care professionals, and the storage, management, and exchange of data received from such health care professionals, for the purpose of improving the quality of and efficiently providing health care to Vermonters. This review shall take into account the Vermont Information Technology Leaders' responsibilities in section 9352 of this title and shall be conducted according to a process established by the Board by rule pursuant to 3 V.S.A. chapter 25.

\* \* \*

Sec. 21a. 18 V.S.A. § 9376(b)(2) is amended to read:

(2) Nothing in this subsection shall be construed to:

(A) limit the ability of a health care professional to accept less than the rate established in subdivision (1) of this subsection from a patient without health insurance or other coverage for the service or services received; or

(B) reduce or limit the covered services offered by Medicare or Medicaid.

\* \* \* Vermont Information Technology Leaders \* \* \*

Sec. 22. 18 V.S.A. § 9352 is amended to read:

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. ~~The General Assembly and the Governor shall each appoint one representative to the~~ Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise the following:

(A) one member of the General Assembly, appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, who shall be entitled to the same per diem compensation and expense reimbursement pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the General Assembly;

(B) one individual appointed by the Governor;

(C) one representative of the business community;

(D) one representative of health care consumers;

(E) one representative of Vermont hospitals;

(F) one representative of Vermont physicians;

(G) one practicing clinician licensed to practice medicine in Vermont;

(H) one representative of a health insurer licensed to do business in Vermont;

(I) the President of VITL, who shall be an ex officio, nonvoting member;



(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and

(K) two at-large members.

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

(b) Conflict of interest. In carrying out their responsibilities under this section, Directors of VITL shall be subject to conflict of interest policies established by the Secretary of Administration to ensure that deliberations and decisions are fair and equitable.

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. The After the Green Mountain Care Board approves VITL's core activities and budget pursuant to chapter 220 of this title, the Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to 8 V.S.A. § 4089k. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the contrary, upon request of the Secretary of Administration, the Department of Information and Innovation shall review VITL's technology for security, privacy, and interoperability with State government information technology, consistent with the State's health information technology plan required by section 9351 of this title.

\* \* \*

\* \* \* Referral Registry \* \* \*

## Sec. 23. REFERRAL REGISTRY

On or before October 1, 2015, the Department of Mental Health and the Division of Alcohol and Drug Abuse Programs in the Department of Health shall develop jointly a registry of mental health and addiction services providers in Vermont, organized by county. The registry shall be updated at least annually and shall be made available to primary care providers participating in the Blueprint for Health and to the public.

## \* \* \* Ambulance Reimbursement \* \* \*

## Sec. 24. MEDICAID; AMBULANCE REIMBURSEMENT

The Department of Vermont Health Access shall evaluate the methodology used to determine reimbursement amounts for ambulance and emergency medical services delivered to Medicaid beneficiaries to determine the basis for the current reimbursement amounts and the rationale for the current level of reimbursement, and shall consider any possible adjustments to revise the methodology in a way that is budget neutral or of minimal fiscal impact to the Agency of Human Services for fiscal year 2016. On or before December 1, 2015, the Department shall report its findings and recommendations to the House Committees on Health Care and on Human Services, the Senate Committee on Health and Welfare, and the Health Reform Oversight Committee.

## \* \* \* Direct Enrollment for Individuals \* \* \*

## Sec. 25. 33 V.S.A. § 1803(b)(4) is amended to read:

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified individuals and qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

## Sec. 26. 33 V.S.A. § 1811(b) is amended to read:

~~(b)(1) No person may provide a health benefit plan to an individual unless the plan is offered through the Vermont Health Benefit Exchange~~ To the extent permitted by the U.S. Department of Health and Human Services, an individual may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under contract with the Vermont Health Benefit Exchange, if the carrier elects to make direct enrollment available. A registered carrier enrolling individuals in health benefit plans directly shall comply with all open enrollment and special enrollment periods applicable to the Vermont Health Benefit Exchange.

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a ~~health insurer~~ registered carrier under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

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\* \* \* Extension of Presuit Mediation \* \* \*

Sec. 27. 12 V.S.A. chapter 215, subchapter 2 is added to read:

Subchapter 2. Mediation Prior to Filing a Complaint of Malpractice

§ 7011. PURPOSE

The purpose of mediation prior to filing a medical malpractice case is to identify and resolve meritorious claims and reduce areas of dispute prior to litigation, which will reduce the litigation costs, reduce the time necessary to resolve claims, provide fair compensation for meritorious claims, and reduce malpractice-related costs throughout the system.

§ 7012. PRESUIT MEDIATION; SERVICE

(a) A potential plaintiff may serve upon each known potential defendant a request to participate in presuit mediation prior to filing a civil action in tort or in contract alleging that an injury or death resulted from the negligence of a health care provider and to recover damages resulting from the personal injury or wrongful death.

(b) Service of the request required in subsection (a) of this section shall be in letter form and shall be served on all known potential defendants by certified mail. The date of mailing such request shall toll all applicable statutes of limitations.

(c) The request to participate in presuit mediation shall name all known potential defendants, contain a brief statement of the facts that the potential plaintiff believes are grounds for relief, and be accompanied by a certificate of merit prepared pursuant to section 1051 of this title, and may include other documents or information supporting the potential plaintiff's claim.

(d) Nothing in this chapter precludes potential plaintiffs and defendants from presuit negotiation or other presuit dispute resolution to settle potential claims.

§ 7013. MEDIATION RESPONSE

(a) Within 60 days of service of the request to participate in presuit mediation, each potential defendant shall accept or reject the potential plaintiff's request for presuit mediation by mailing a certified letter to counsel or if the party is unrepresented to the potential plaintiff.

(b) If the potential defendant agrees to participate, within 60 days of the service of the request to participate in presuit mediation, each potential defendant shall serve a responsive certificate on the potential plaintiff by mailing a certified letter indicating that he or she, or his or her counsel, has consulted with a qualified expert within the meaning of section 1643 of this

title and that expert is of the opinion that there are reasonable grounds to defend the potential plaintiff's claims of medical negligence. Notwithstanding the potential defendant's acceptance of the request to participate, if the potential defendant does not serve such a responsive certificate within the 60-day period, then the potential plaintiff need not participate in the presuit mediation under this title and may file suit. If the potential defendant is willing to participate, presuit mediation may take place without a responsive certificate of merit from the potential defendant at the plaintiff's election.

#### § 7014. PROCESS; TIME FRAMES

(a) The mediation shall take place within 60 days of the service of all potential defendants' acceptance of the request to participate in presuit mediation. The parties may agree to an extension of time. If in good faith the mediation cannot be scheduled within the 60-day time period, the potential plaintiff need not participate and may proceed to file suit.

(b) If presuit mediation is not agreed to, the mediator certifies that mediation is not appropriate, or mediation is unsuccessful, the potential plaintiff may initiate a civil action as provided in the Vermont Rules of Civil Procedure. The action shall be filed upon the later of the following:

(1) within 90 days of the potential plaintiff's receipt of the potential defendant's letter refusing mediation, the failure of the potential defendant to file a responsive certificate of merit within the specified time period, or the mediator's signed letter certifying that mediation was not appropriate or that the process was complete; or

(2) prior to the expiration of the applicable statute of limitations.

(c) If presuit mediation is attempted unsuccessfully, the parties shall not be required to participate in mandatory mediation under Rule 16.3 of the Vermont Rules of Civil Procedure.

#### § 7015. CONFIDENTIALITY

All written and oral communications made in connection with or during the mediation process set forth in this chapter shall be confidential. The mediation process shall be treated as a settlement negotiation under Rule 408 of the Vermont Rules of Evidence.

\* \* \* Blueprint for Health; Reports \* \* \*

#### Sec. 28. BLUEPRINT FOR HEALTH; REPORTS

(a) The 2016 annual report of the Blueprint for Health shall present an analysis of the value-added benefits and return on investment to the Medicaid program of the new funds appropriated in the fiscal year 2016 budget,

including the identification of any costs avoided that can be directly attributed to those funds, and the means of the analysis that was used to draw any such conclusions.

(b) The Blueprint for Health shall explore and report back to the General Assembly on or before January 15, 2016 on potential wellness incentives.

#### Sec. 28a. PREVENTABLE ILLNESSES RELATED TO OBESITY

While the General Assembly is adjourned during fiscal year 2016, the Health Reform Oversight Committee shall review existing data on expenditures from the treatment of preventable illnesses related to obesity, including costs borne by the private sector, and shall survey existing and proposed policy measures to reduce the incidence of obesity in Vermont.

\* \* \* Green Mountain Care Board; Payment Reform \* \* \*

#### Sec. 29. PAYMENT REFORM AND DIFFERENTIAL PAYMENTS TO PROVIDERS

In implementing an all-payer model and provider rate-setting, the Green Mountain Care Board shall consider:

(1) the benefits of prioritizing and expediting payment reform in primary care that shifts away from fee-for-service models;

(2) the impact of hospital acquisitions of independent physician practices on the health care system costs, including any disparities between reimbursements to hospital-owned practices and reimbursements to independent physician practices;

(3) the effects of differential reimbursement for different types of providers when providing the same services billed under the same codes; and

(4) the advantages and disadvantages of allowing health care providers to continue to set their own rates for customers without health insurance or other health care coverage.

\* \* \* Independent Analysis of Exchange Alternatives \* \* \*

#### Sec. 29a. INDEPENDENT ANALYSIS; JOINT FISCAL OFFICE

(a) The Joint Fiscal Office shall conduct a preliminary, independent risk analysis of the advantages and disadvantages, including the costs and the quantitative and qualitative benefits, of alternative options for the Vermont Health Benefit Exchange, including continuing the current State-based marketplace known as Vermont Health Connect, transitioning to a federally facilitated State-based marketplace, and other available options. The Chief of Health Care Reform shall provide the Joint Fiscal Office with regular updates on the Agency of Administration's analysis of alternative options. The Joint

Fiscal Office may enter into contracts for assistance in performing some or all of the analysis and shall provide the results of the analysis to the Joint Fiscal Committee and the Health Reform Oversight Committee on or before September 15, 2015.

(b) The sum of \$85,000.00 is appropriated from the General Fund to the Joint Fiscal Office in fiscal year 2016 to conduct the analysis required by this section.

\* \* \* Exchange Reports \* \* \*

Sec. 29b. VERMONT HEALTH CONNECT REPORTS

The Chief of Health Care Reform shall provide monthly reports to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee regarding:

(1) the schedule, cost, and scope status of the Vermont Health Connect system's Release 1 and Release 2 development efforts, including whether any critical path items did not meet their milestone dates and the corrective actions being taken;

(2) an update on the status of current risks in Vermont Health Connect's implementation;

(3) an update on the actions taken to address the recommendations in the Auditor's report on Vermont Health Connect dated April 14, 2015 and any other audits of Vermont Health Connect; and

(4) an update on the preliminary analysis of alternatives to Vermont Health Connect.

Sec. 29c. INDEPENDENT REVIEW OF VERMONT HEALTH CONNECT

The Chief of Health Care Reform shall provide the Joint Fiscal Office with the materials provided by the Independent Verification and Validation (IVV) firms evaluating Vermont Health Connect. The reports shall be provided in a manner that protects security and confidentiality as required by any memoranda of understanding entered into by the Joint Fiscal Office and the Executive Branch. For the period between July 1, 2015 and January 1, 2016, the Joint Fiscal Office shall analyze the reports and shall provide information regarding Vermont Health Connect information technology systems at least once every two months to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee.

\* \* \* Alternatives to Vermont Health Connect \* \* \*

Sec. 29d. VERMONT HEALTH CONNECT OUTCOMES;  
ALTERNATIVES TO VERMONT HEALTH CONNECT

(a) The Agency of Administration shall explore all feasible alternatives to Vermont Health Connect.

(b) The General Assembly expects Vermont Health Connect to achieve the following milestones with respect to qualified health plans offered in the individual market:

(1) On or before May 31, 2015, the vendor under contract with the State to implement the Vermont Health Benefit Exchange shall deliver the information technology release providing the "back end" of the technology supporting changes in circumstances and changes in information to allow for a significant reduction, as described in subdivision (5) of this subsection, in the amount of time necessary for the State to process changes requested by individuals and families enrolled in qualified health plans.

(2) On or before May 31, 2015, the State shall complete a contract to ensure automated renewal functionality for qualified health plans offered to individuals and families that has been reviewed and agreed to by the State, by registered carriers offering qualified health plans, and by the chosen vendor. The contract shall be sent to the Centers for Medicare and Medicaid Services for its review by the same date.

(3) On or before August 1, 2015, Vermont Health Connect shall develop a contingency plan for renewing qualified health plans offered to individuals and families for calendar year 2016 and shall ensure that the registered carriers offering these qualified health plans agree to the process.

(4) On or before October 1, 2015, the vendor under contract with the State for automated renewal of qualified health plans offered to individuals and families shall deliver the information technology release providing for the automated renewal of those qualified health plans.

(5) On or before October 1, 2015, Vermont Health Connect customer service representatives shall begin processing new requests for changes in circumstances and for changes in information received in the first half of a month in time to be reflected on the next invoice and shall begin processing requests for changes received in the latter half of the month in time to be reflected on one of the next two invoices.

(6) On or before October 1, 2015, registered carriers that offer qualified health plans and wish to enroll individuals and families directly shall have completed implementation of any necessary information technology upgrades.

(c) If Vermont Health Connect fails to meet one or more of the milestones set forth in subsection (b) of this section, the Agency of Administration shall begin exploring with the U.S. Department of Health and Human Services a transition to a federally supported State-based marketplace (FSSBM). The Chief of Health Care Reform shall report on the status of the exploration at the next scheduled meetings of the Joint Fiscal Committee and the Health Reform Oversight Committee.

(d) The Joint Fiscal Committee may at any time direct the Chief of Health Care Reform to prepare an analysis and potential implementation plan regarding a transition from Vermont Health Connect to a different model for Vermont's health benefit exchange, including an FSSBM, and to present information about such a transition, including:

(1) the outcome of King v. Burwell, Docket No. 14-114 (U.S. Supreme Court), relating to whether federal advance premium tax credits will be available to reduce the cost of health insurance provided through a federally facilitated exchange, and the likely impacts on Vermont individuals and families if the State moves to an FSSBM or to another exchange model;

(2) whether it is feasible to offer State premium and cost-sharing assistance to individuals and families purchasing qualified health plans through an FSSBM or through another exchange model, how such assistance could be implemented, whether federal financial participation would be available through the Medicaid program, and applicable cost implications;

(3) how the Department of Financial Regulation's and Green Mountain Care Board's regulatory authority over health insurers and qualified health plans would be affected, including the timing of health insurance rate and form review;

(4) any impacts on the State's other health care reform efforts, including the Blueprint for Health and payment reform initiatives;

(5) any available estimates of the costs attributable to a transition from a State-based exchange to an FSSBM or to another exchange model; and

(6) whether any new developments have occurred that affect the availability of additional alternatives that would be more beneficial to Vermonters by minimizing negative effects on individuals and families enrolling in qualified health plans, reducing the financial impacts of the transition to an alternative model, lessening the administrative burden of the transition on the registered carriers, and decreasing the potential impacts on the State's health insurance regulatory framework.



(e) On or before November 15, 2015, the Chief of Health Care Reform shall provide the Joint Fiscal Committee and Health Reform Oversight Committee with a recommendation regarding the future of Vermont's health benefit exchange, including a proposed timeline for 2016. The Chief's recommendation shall include an analysis of whether the recommended course of action would be likely to minimize any negative effects on individuals and families enrolling in qualified health plans, the financial impacts of the transition, the ability of the registered carriers to accomplish the transition, and the potential impacts of the transition on the State's health insurance regulatory framework.

(1)(A) If the Chief of Health Care Reform recommends requesting approval from the U.S. Department of Health and Human Services to allow Vermont to transition to an FSSBM, then on or before December 1, 2015, the Joint Fiscal Committee shall determine whether to concur with the recommendation. In determining whether to concur, the Joint Fiscal Committee shall consider whether the transition to an FSSBM would be likely to minimize any negative effects on individuals and families enrolling in qualified health plans, the financial impacts of the transition, the ability of the registered carriers to accomplish the transition, and the potential impacts of the transition on the State's health insurance regulatory framework. The Joint Fiscal Committee shall also consider relevant input offered by legislative committees of jurisdiction.

(B) If the Chief of Health Care Reform recommends requesting approval from the U.S. Department of Health and Human Services to allow Vermont to transition from a State-based exchange to an FSSBM and the Joint Fiscal Committee concurs with that recommendation, the Chief of Health Care Reform and the Commissioner of Vermont Health Access shall:

(i) prior to December 31, 2015, request that the U.S. Department of Health and Human Services begin the approval process with the Department of Vermont Health Access; and

(ii) on or before January 15, 2016, provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance the recommended statutory changes necessary to align with operating an FSSBM if approved by the U.S. Department of Health and Human Services.

(2) If the Chief of Health Care Reform either does not recommend that Vermont transition to an FSSBM or the Joint Fiscal Committee does not concur with the Chief's recommendation to transition to an FSSBM, the Chief of Health Care Reform shall submit information to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance

on or before January 15, 2016 regarding the advantages and disadvantages of alternative models and options for Vermont's health benefit exchange and the proposed statutory changes that would be necessary to accomplish them.

\* \* \* Cigarette and Tobacco Taxes \* \* \*

Sec. 30. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

\* \* \*

(d) The tax imposed under this section shall be at the rate of ~~137.5~~ 142.5 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 30a. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except tobacco substitutes, which shall be taxed at a rate of 46 percent of the wholesale price, snuff, which shall be taxed at ~~\$2.29~~ \$2.38 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.29~~ \$2.38 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.75~~ \$2.85 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed

wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 30b. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2014~~ 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2014~~ 2015, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2014~~ 2015, and on which cigarette stamps have been affixed before July 1, ~~2014~~ 2015. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2014~~ 2015, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.13~~ \$0.10 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, ~~2014~~ 2015, file a report to the Commissioner in such form as the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2014~~ 2015, and the amount of tax due thereon. The tax imposed by this section shall be

due and payable on or before July 25, ~~2014~~ 2015, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

Sec. 30c. 32 V.S.A. § 7771 is amended to read:

§ 7771. RATE OF TAX

\* \* \*

(d) The tax imposed under this section shall be at the rate of ~~142.5~~ 154 mills per cigarette or little cigar and for each 0.0325 ounces of roll-your-own tobacco. The interest and penalty provisions of section 3202 of this title shall apply to liabilities under this section.

Sec. 30d. 32 V.S.A. § 7811 is amended to read:

§ 7811. IMPOSITION OF TOBACCO PRODUCTS TAX

There is hereby imposed and shall be paid a tax on all other tobacco products, snuff, and new smokeless tobacco possessed in the State of Vermont by any person for sale on and after July 1, 1959 which were imported into the State or manufactured in the State after that date, except that no tax shall be imposed on tobacco products sold under such circumstances that this State is without power to impose such tax, or sold to the United States, or sold to or by a voluntary unincorporated organization of the U.S. Armed Forces operating a place for the sale of goods pursuant to regulations promulgated by the appropriate executive agency of the United States. The tax is intended to be imposed only once upon the wholesale sale of any other tobacco product and shall be at the rate of 92 percent of the wholesale price for all tobacco products except tobacco substitutes, which shall be taxed at a rate of 46 percent of the wholesale price, snuff, which shall be taxed at ~~\$2.38~~ \$2.57 per ounce, or fractional part thereof, new smokeless tobacco, which shall be taxed at the greater of ~~\$2.38~~ \$2.57 per ounce or, if packaged for sale to a consumer in a package that contains less than 1.2 ounces of the new smokeless tobacco, at the rate of ~~\$2.85~~ \$3.08 per package, and cigars with a wholesale price greater than \$2.17, which shall be taxed at the rate of \$2.00 per cigar if the wholesale price of the cigar is greater than \$2.17 and less than \$10.00, and at the rate of \$4.00 per cigar if the wholesale price of the cigar is \$10.00 or more. Provided, however, that upon payment of the tax within 10 days, the distributor or dealer may deduct from the tax two percent of the tax due. It shall be presumed that all other tobacco products, snuff, and new smokeless tobacco within the State

are subject to tax until the contrary is established and the burden of proof that any other tobacco products, snuff, and new smokeless tobacco are not taxable hereunder shall be upon the person in possession thereof. Licensed wholesalers of other tobacco products, snuff, and new smokeless tobacco shall state on the invoice whether the price includes the Vermont tobacco products tax.

Sec. 30e. 32 V.S.A. § 7814 is amended to read:

§ 7814. FLOOR STOCK TAX

(a) Snuff. A floor stock tax is hereby imposed upon every retail dealer of snuff in this State in the amount by which the new tax exceeds the amount of the tax already paid on the snuff. The tax shall apply to snuff in the possession or control of the retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2016, but shall not apply to retail dealers who hold less than \$500.00 in wholesale value of such snuff. Each retail dealer subject to the tax shall, on or before July 25, ~~2015~~ 2016, file a report to the Commissioner in such form as the Commissioner may prescribe showing the snuff on hand at 12:01 a.m. on July 1, ~~2015~~ 2016, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before August 25, ~~2015~~ 2016, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the retail dealer may deduct from the tax due two percent of the tax. Any snuff with respect to which a floor stock tax has been imposed and paid under this section shall not again be subject to tax under section 7811 of this title.

(b) Cigarettes, little cigars, or roll-your-own tobacco. Notwithstanding the prohibition against further tax on stamped cigarettes, little cigars, or roll-your-own tobacco under section 7771 of this title, a floor stock tax is hereby imposed upon every dealer of cigarettes, little cigars, or roll-your-own tobacco in this State who is either a wholesaler, or a retailer who at 12:01 a.m. on July 1, ~~2015~~ 2016, has more than 10,000 cigarettes or little cigars or who has \$500.00 or more of wholesale value of roll-your-own tobacco, for retail sale in his or her possession or control. The amount of the tax shall be the amount by which the new tax exceeds the amount of the tax already paid for each cigarette, little cigar, or roll-your-own tobacco in the possession or control of the wholesaler or retail dealer at 12:01 a.m. on July 1, ~~2015~~ 2016, and on which cigarette stamps have been affixed before July 1, ~~2015~~ 2016. A floor stock tax is also imposed on each Vermont cigarette stamp in the possession or control of the wholesaler at 12:01 a.m. on July 1, ~~2015~~ 2016, and not yet affixed to a cigarette package, and the tax shall be at the rate of ~~\$0.13~~ \$0.23 per stamp. Each wholesaler and retail dealer subject to the tax shall, on or before July 25, ~~2015~~ 2016, file a report to the Commissioner in such form as

the Commissioner may prescribe showing the cigarettes, little cigars, or roll-your-own tobacco and stamps on hand at 12:01 a.m. on July 1, ~~2015~~ 2016, and the amount of tax due thereon. The tax imposed by this section shall be due and payable on or before July 25, ~~2015~~ 2016, and thereafter shall bear interest at the rate established under section 3108 of this title. In case of timely payment of the tax, the wholesaler or retail dealer may deduct from the tax due two and three-tenths of one percent of the tax. Any cigarettes, little cigars, or roll-your-own tobacco with respect to which a floor stock tax has been imposed under this section shall not again be subject to tax under section 7771 of this title.

\* \* \* Meals and Room Tax \* \* \*

Sec. 30f. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

\* \* \*

(10) "Taxable meal" means:

(A) Any food or beverage furnished within the State by a restaurant for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises.

(B) Where furnished by other than a restaurant, any nonprepackaged food or beverage furnished within the State and for which a charge is made, including admission and minimum charges, whether furnished for consumption on or off the premises. Fruits, vegetables, candy, flour, nuts, coffee beans, and similar unprepared grocery items sold self-serve for take-out from bulk containers are not subject to tax under this subdivision.

(C) Regardless where sold and whether or not prepackaged:

- (i) sandwiches of any kind except frozen;
- (ii) food or beverage furnished from a salad bar;
- (iii) heated food or beverage;
- (iv) food or beverage sold through a vending machine.

\* \* \*

(19) "Vending machine" means a machine operated by coin, currency, credit card, slug, token, coupon, or similar device that dispenses food or beverages.

Sec. 30g. 32 V.S.A. § 9271 is amended to read:

§ 9271. LICENSES REQUIRED

Each operator prior to commencing business shall register with the Commissioner each place of business within the ~~state~~ State where he or she operates a hotel or sells taxable meals or alcoholic beverages; provided however, that an operator who sells taxable meals through a vending machine shall not be required to hold a license for each individual machine. Upon receipt of an application in such form and containing such information as the Commissioner may require for the proper administration of this chapter, the Commissioner shall issue without charge a license for each such place in such form as he or she may determine, attesting that such registration has been made. No person shall engage in serving taxable meals or alcoholic beverages or renting hotel rooms without the license provided in this section. The license shall be nonassignable and nontransferable and shall be surrendered to the Commissioner, if the business is sold or transferred or if the registrant ceases to do business at the place named.

\* \* \* Sales Tax \* \* \*

Sec. 30h. 32 V.S.A. § 9701(31) is amended to read:

(31) “Food and food ingredients” means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. “Food and food ingredients” does not include alcoholic beverages ~~or~~, tobacco, soft drinks, or candy.

\* \* \*

(53) “Soft drink” means nonalcoholic beverages that contain natural or artificial sweeteners. “Soft drinks” do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than 50 percent of vegetable or fruit juice by volume.

(54) “Candy” means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. “Candy” shall not include any preparation containing flour and shall require no refrigeration.

\* \* \* Nonresidential Education Property Tax Rate \* \* \*

Sec. 30i. FISCAL YEAR 2016 NONRESIDENTIAL PROPERTY TAX RATE

Notwithstanding any other provision of law, for fiscal year 2016 only, the nonresidential education property tax imposed under 32 V.S.A. § 5402(a)(1) shall be reduced from the rate of \$1.59 to \$1.515.

## Sec. 30j. ELECTRONIC CIGARETTES; REVENUE

Notwithstanding the provisions of 32 V.S.A. § 7823 and 33 V.S.A. § 1910d, the Department of Finance and Management shall determine the amount to be raised by the taxation of electronic cigarettes by this act in fiscal year 2016 and shall reserve that amount in the Tobacco Trust Fund established pursuant to 18 V.S.A. § 9502.

\* \* \* Electronic Cigarettes \* \* \*

Sec. 31a. 7 V.S.A. § 1003(d) is amended to read:

~~(d)(1) No person holding a tobacco license shall display or store tobacco products or tobacco substitutes where those products are accessible to consumers without direct assistance by the sales personnel~~ Persons holding a tobacco license may only display or store tobacco products or tobacco substitutes:

(A) behind a sales counter in an area accessible only to sales personnel; or

(B) in a locked container that is not located on a sales counter.

(2) This subsection shall not apply to the following:

~~(1)(A)~~ A a display of tobacco products that is located in a commercial establishment in which by law no person younger than 18 years of age is permitted to enter at any time;

~~(2)(B)~~ Cigarettes cigarettes in unopened cartons and smokeless tobacco in unopened multipack containers of 10 or more packages, any of which shall be displayed in plain view and under the control of a responsible employee so that removal of the cartons or multipacks from the display can be readily observed by that employee; or

~~(3)(C)~~ Cigars cigars and pipe tobacco stored in a humidor on the sales counter in plain view and under the control of a responsible employee so that the removal of these products from the humidor can be readily observed by that employee.

Sec. 31b. 18 V.S.A. § 1421 is amended to read:

§ 1421. SMOKING IN THE WORKPLACE; PROHIBITION

(a) The use of lighted tobacco products and tobacco substitutes is prohibited in any workplace.

(b)(1) As used in this subchapter, “workplace” means an enclosed structure where employees perform services for an employer, including restaurants, bars, and other establishments in which food or drinks, or both, are served. In



the case of an employer who assigns employees to departments, divisions, or similar organizational units, “workplace” means the enclosed portion of a structure to which the employee is assigned.

(2) Except for schools, workplace does not include areas commonly open to the public or any portion of a structure that also serves as the employee’s or employer’s personal residence.

(3) For schools, workplace includes any enclosed location where instruction or other school-sponsored functions are occurring.

(4) For lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, workplace includes the sleeping quarters and adjoining rooms rented to guests.

(5) The prohibition on using tobacco substitutes in a workplace shall not apply to a business that does not sell food or beverages but is established for the purpose of providing a setting for patrons to purchase and use electronic cigarettes and related paraphernalia.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont ~~veterans’ home~~ Veterans’ Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

Sec. 31c. 18 V.S.A. § 1741 is amended to read:

§ 1741. DEFINITIONS

As used in this chapter:

\* \* \*

(5) “Tobacco substitutes” shall have the same meaning as in 7 V.S.A. § 1001.

Sec. 31d. 18 V.S.A. § 1742 is amended to read:

§ 1742. RESTRICTIONS ON SMOKING IN PUBLIC PLACES

(a) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited in:

(1) the common areas of all enclosed indoor places of public access and publicly owned buildings and offices;

(2) all enclosed indoor places in lodging establishments used for transient traveling or public vacationing, such as resorts, hotels, and motels, including sleeping quarters and adjoining rooms rented to guests;

(3) designated smoke-free areas of property or grounds owned by or leased to the State; and

(4) any other area within 25 feet of State-owned buildings and offices, except that to the extent that any portion of the 25-foot zone is not on State property, smoking is prohibited only in that portion of the zone that is on State property unless the owner of the adjoining property chooses to designate his or her property smoke-free.

(b) The possession of lighted tobacco products or use of tobacco substitutes in any form is prohibited on the grounds of any hospital or secure residential recovery facility owned or operated by the State, including all enclosed places in the hospital or facility and the surrounding outdoor property.

(c) Nothing in this section shall be construed to restrict the ability of residents of the Vermont Veterans' Home to use lighted tobacco products or tobacco substitutes in the indoor area of the facility in which smoking is permitted.

(d) Nothing in this chapter shall be construed to prohibit the use of tobacco substitutes in a business that does not sell food or beverages but is established for the purpose of providing a setting for patrons to purchase and use electronic cigarettes and related paraphernalia.

Sec. 31e. 18 V.S.A. § 1743 is amended to read:

§ 1743. EXCEPTIONS

The restrictions in this chapter on possession of lighted tobacco products and use of tobacco substitutes do not apply to areas not commonly open to the public of owner-operated businesses with no employees.

Sec. 31f. 18 V.S.A. § 1745 is amended to read:

§ 1745. ENFORCEMENT

A proprietor, or the agent or employee of a proprietor, who observes a person in possession of lighted tobacco products or using tobacco substitutes in apparent violation of this chapter shall ask the person to extinguish all lighted tobacco products or cease using the tobacco substitutes. If the person persists in the possession of lighted tobacco products or use of tobacco substitutes, the proprietor, agent, or employee shall ask the person to leave the premises.

Sec. 31g. 23 V.S.A. § 1134b is amended to read:

§ 1134b. SMOKING IN MOTOR VEHICLE WITH CHILD PRESENT

(a) A person shall not possess a lighted tobacco product or use a tobacco substitute in a motor vehicle that is occupied by a child required to be properly restrained in a federally approved child passenger restraining system pursuant to subdivision 1258(a)(1) or (2) of this title.

(b) A person who violates subsection (a) of this section shall be subject to a fine of not more than \$100.00. No points shall be assessed for a violation of this section.

Sec. 31h. 32 V.S.A. § 7702(15) is amended to read:

(15) “Other tobacco products” means any product manufactured from, derived from, or containing tobacco that is intended for human consumption by smoking, chewing, or in any other manner, including products sold as a tobacco substitute, as defined in 7 V.S.A. § 1001(8); but shall not include cigarettes, little cigars, roll-your-own tobacco, snuff, or new smokeless tobacco as defined in this section.

\* \* \* Repeal \* \* \*

Sec. 32. REPEAL

12 V.S.A. chapter 215, subchapter 2 (presuit mediation) is repealed on July 1, 2018.

\* \* \* Effective Dates \* \* \*

Sec. 33. EFFECTIVE DATES

(a) Secs. 1 and 2 (pharmacy benefit managers), 4a (report on observation status), 5 and 6 (reports), 15 (consumer information), 21 (Green Mountain Care Board duties), 21a (impact of rate-setting authority), 22 (VITL), 23 (referral registry), 24 (ambulance reimbursement), 27 (extension of presuit mediation), 28 (Blueprint for Health; reports), 28a (obesity data review), 29 (Green Mountain Care Board; payment reform), 29a–29d (Exchange alternatives and reports), 32 (repeal), and this section shall take effect on passage.

(b) Secs. 7 and 8 (Exchange cost-sharing subsidies), 9 (primary care provider increases), 10 (Blueprint increases), 11 (AHEC appropriation), 12 (Green Mountain Care Board appropriation), 13 (Green Mountain Care Board positions), 14 (Health Care Advocate), and 16–20 (primary care study) shall take effect on July 1, 2015.

(c) Secs. 25 and 26 (direct enrollment in Exchange plans) shall take effect on July 1, 2015 and shall apply beginning with the 2016 open enrollment period.

(d) Secs. 3 and 4 (notice of hospital observation status) shall take effect on December 1, 2015.

(e) Secs. 30 (cigarette tax), 30a (tobacco products tax), 30b (floor stock tax), 30f (meals and rooms tax definitions), 30g (meals and rooms tax licenses), 30h (sales tax definitions), 30i (property tax), 30j (electronic

cigarette revenue), 31a–31g (electronic cigarettes), and 31h (tax on electronic cigarettes) shall take effect July 1, 2015. The Tax Department shall provide to vendors subject to the sales tax under this act outreach, education, and ongoing support to implement the tax effectively.

(f) Secs. 30c (cigarette tax), 30d (tobacco products tax), and 30e (floor stock tax) shall take effect July 1, 2016.

and that after passage the title of the bill be amended to read: "An act relating to health care".

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, Senator Kitchel moved that the Senate concur in the House proposal of amendment with an amendment as follows:

By striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Cost Containment Measures \* \* \*

#### Sec. 1. ALL-PAYER MODEL; SCOPE

The Secretary of Administration or designee and the Green Mountain Care Board shall jointly explore an all-payer model, which may be achieved through a waiver from the Centers for Medicare and Medicaid Services. The Secretary or designee and the Board shall consider a model that includes payment for a broad array of health services, a model applicable to hospitals only, and a model that enables the State to establish global hospital budgets for each hospital licensed in Vermont.

\* \* \* Pharmacy Benefit Managers \* \* \*

Sec. 2. 18 V.S.A. § 9471 is amended to read:

#### § 9471. DEFINITIONS

As used in this subchapter:

\* \* \*

(6) "Maximum allowable cost" means the per unit drug product reimbursement amount, excluding dispensing fees, for a group of equivalent multisource generic prescription drugs.

Sec. 3. 18 V.S.A. § 9473 is amended to read:

#### § 9473. PHARMACY BENEFIT MANAGERS; REQUIRED PRACTICES WITH RESPECT TO PHARMACIES

\* \* \*

(c) For each drug for which a pharmacy benefit manager establishes a maximum allowable cost in order to determine the reimbursement rate, the pharmacy benefit manager shall do all of the following:

(1) Make available, in a format that is readily accessible and understandable by a pharmacist, the actual maximum allowable cost for each drug and the source used to determine the maximum allowable cost.

(2) Update the maximum allowable cost at least once every seven calendar days. In order to be subject to maximum allowable cost, a drug must be widely available for purchase by all pharmacies in the State, without limitations, from national or regional wholesalers and must not be obsolete or temporarily unavailable.

(3) Establish or maintain a reasonable administrative appeals process to allow a dispensing pharmacy provider to contest a listed maximum allowable cost.

(4) Respond in writing to any appealing pharmacy provider within 10 calendar days after receipt of an appeal, provided that a dispensing pharmacy provider shall file any appeal within 10 calendar days from the date its claim for reimbursement is adjudicated.

\* \* \* Notice of Hospital Observation Status \* \* \*

Sec. 4. 18 V.S.A. § 1905 is amended to read:

#### § 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

\* \* \*

(22) All hospitals shall provide oral and written notices to each individual that the hospital places in observation status as required by section 1911a of this title.

Sec. 5. 18 V.S.A. § 1911a is added to read:

#### 1911a. NOTICE OF HOSPITAL OBSERVATION STATUS

(a)(1) Each hospital shall provide oral and written notice to each Medicare beneficiary that the hospital places in observation status as soon as possible but no later than 24 hours following such placement, unless the individual is discharged or leaves the hospital before the 24-hour period expires. The written notice shall be a uniform form developed by the Department of Health, in consultation with interested stakeholders, for use in all hospitals.

(2) If a patient is admitted to the hospital as an inpatient before the notice of observation has been provided, and under Medicare rules the observation services may be billed as part of the inpatient stay, the hospital shall not be required to provide notice of observation status.

(b) Each oral and written notice shall include:

(1) a statement that the individual is under observation as an outpatient and is not admitted to the hospital as an inpatient;

(2) a statement that observation status may affect the individual's Medicare coverage for hospital services, including medications and pharmaceutical supplies, and for rehabilitative or skilled nursing services at a skilled nursing facility if needed upon discharge from the hospital; and

(3) a statement that the individual may contact the Office of the Health Care Advocate or the Vermont State Health Insurance Assistance Program to understand better the implications of placement in observation status.

(c) Each written notice shall include the name and title of the hospital representative who gave oral notice; the date and time oral and written notice were provided; the means by which written notice was provided, if not provided in person; and contact information for the Office of the Health Care Advocate and the Vermont State Health Insurance Assistance Program.

(d) Oral and written notice shall be provided in a manner that is understandable by the individual placed in observation status or by his or her representative or legal guardian.

(e) The hospital representative who provided the written notice shall request a signature and date from the individual or, if applicable, his or her representative or legal guardian, to verify receipt of the notice. If a signature and date were not obtained, the hospital representative shall document the reason.

#### **Sec. 6. NOTICE OF OBSERVATION STATUS FOR PATIENTS WITH COMMERCIAL INSURANCE**

The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate consider the appropriate notice of hospital observation status that patients with commercial insurance should receive and the circumstances under which such notice should be provided. The General Assembly requests that the Vermont Association of Hospitals and Health Systems and the Office of the Health Care Advocate provide their findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare on or before January 15, 2016.

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\* \* \* Telemedicine \* \* \*

Sec. 7. 33 V.S.A. § 1901i is added to read:

§ 1901i. MEDICAID COVERAGE FOR PRIMARY CARE  
TELEMEDICINE

(a) Beginning on October 1, 2015, the Department of Vermont Health Access shall provide reimbursement for Medicaid-covered primary care consultations delivered through telemedicine to Medicaid beneficiaries outside a health care facility. The Department shall reimburse health care professionals for telemedicine consultations in the same manner as if the services were provided through in-person consultation. Coverage provided pursuant to this section shall comply with all federal requirements imposed by the Centers for Medicare and Medicaid Services.

(b) Medicaid shall only provide coverage for services delivered through telemedicine outside a health care facility that have been determined by the Department's Chief Medical Officer to be clinically appropriate. The Department shall not impose limitations on the number of telemedicine consultations a Medicaid beneficiary may receive or on which Medicaid beneficiaries may receive primary care consultations through telemedicine that exceed limitations otherwise placed on in-person Medicaid covered services.

(c) As used in this section:

(1) "Health care facility" shall have the same meaning as in 18 V.S.A. § 9402.

(2) "Health care provider" means a physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a naturopathic physician licensed pursuant to 26 V.S.A. chapter 81, an advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28, subchapter 3, or a physician assistant licensed pursuant to 26 V.S.A. chapter 31.

(3) "Telemedicine" means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

**Sec. 8. TELEMEDICINE; IMPLEMENTATION REPORT**

On or before April 15, 2016, the Department of Vermont Health Access shall submit to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance a report providing data regarding the first six months of implementation of Medicaid coverage for

primary care consultations delivered through telemedicine outside a health care facility. The report shall include demographic information regarding Medicaid beneficiaries receiving the telemedicine services, the types of services received, and an analysis of the effects of providing primary care consultations through telemedicine outside a health care facility on health care costs, quality, and access.

\* \* \* Green Mountain Care Board; Duties \* \* \*

Sec. 9. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

(1) Oversee the development and implementation, and evaluate the effectiveness, of health care payment and delivery system reforms designed to control the rate of growth in health care costs and maintain health care quality in Vermont, including ensuring that the payment reform pilot projects set forth in this chapter are consistent with such reforms.

(A) Implement by rule, pursuant to 3 V.S.A. chapter 25, methodologies for achieving payment reform and containing costs that may include the participation of Medicare and Medicaid, which may include the creation of health care professional cost-containment targets, global payments, bundled payments, global budgets, risk-adjusted capitated payments, or other uniform payment methods and amounts for integrated delivery systems, health care professionals, or other provider arrangements.

(i) The Board shall work in collaboration with providers to develop payment models that preserve access to care and quality in each community.

(ii) The rule shall take into consideration current Medicare designations and payment methodologies, including critical access hospitals, prospective payment system hospitals, graduate medical education payments, Medicare dependent hospitals, and federally qualified health centers.

(iii) The payment reform methodologies developed by the Board shall encourage coordination and planning on a regional basis, taking into account existing local relationships between providers and human services organizations.

\* \* \*

(2)(A) Review and approve Vermont's statewide Health Information Technology Plan pursuant to section 9351 of this title to ensure that the necessary infrastructure is in place to enable the State to achieve the principles expressed in section 9371 of this title. In performing its review, the Board shall consult with and consider any recommendations regarding the plan received from the Vermont Information Technology Leaders, Inc. (VITL).



(B) Review and approve the criteria required for health care providers and health care facilities to create or maintain connectivity to the State's health information exchange as set forth in section 9352 of this title. Within 90 days following this approval, the Board shall issue an order explaining its decision.

(C) Annually review the budget and all activities of VITL and approve the budget, consistent with available funds, and the core activities associated with public funding, which shall include establishing the interconnectivity of electronic medical records held by health care professionals and the storage, management, and exchange of data received from such health care professionals, for the purpose of improving the quality of and efficiently providing health care to Vermonters. This review shall take into account VITL's responsibilities pursuant to 18 V.S.A. § 9352 and the availability of funds needed to support those responsibilities.

\* \* \*

Sec. 10. 18 V.S.A. § 9376(b)(2) is amended to read:

(2) Nothing in this subsection shall be construed to:

(A) limit the ability of a health care professional to accept less than the rate established in subdivision (1) of this subsection from a patient without health insurance or other coverage for the service or services received; or

(B) reduce or limit the covered services offered by Medicare or Medicaid.

\* \* \* Vermont Information Technology Leaders \* \* \*

Sec. 11. 18 V.S.A. § 9352 is amended to read:

§ 9352. VERMONT INFORMATION TECHNOLOGY LEADERS

(a)(1) Governance. ~~The General Assembly and the Governor shall each appoint one representative to the~~ Vermont Information Technology Leaders, Inc. (VITL) Board of Directors shall consist of no fewer than nine nor more than 14 members. The term of each member shall be two years, except that of the members first appointed, approximately one-half shall serve a term of one year and approximately one-half shall serve a term of two years, and members shall continue to hold office until their successors have been duly appointed. The Board of Directors shall comprise the following:

(A) one member of the General Assembly, appointed jointly by the Speaker of the House and the President Pro Tempore of the Senate, who shall be entitled to the same per diem compensation and expense reimbursement pursuant to 2 V.S.A. § 406 as provided for attendance at sessions of the General Assembly;

(B) one individual appointed by the Governor;

(C) one representative of the business community;

(D) one representative of health care consumers;

(E) one representative of Vermont hospitals;

(F) one representative of Vermont physicians;

(G) one practicing clinician licensed to practice medicine in Vermont;

(H) one representative of a health insurer licensed to do business in Vermont;

(I) the President of VITL, who shall be an ex officio, nonvoting member;

(J) two individuals familiar with health information technology, at least one of whom shall be the chief technology officer for a health care provider; and

(K) two at-large members.

(2) Except for the members appointed pursuant to subdivisions (1)(A) and (B) of this subsection, whenever a vacancy on the Board occurs, the members of the Board of Directors then serving shall appoint a new member who shall meet the same criteria as the member he or she replaces.

(b) Conflict of interest. In carrying out their responsibilities under this section, Directors of VITL shall be subject to conflict of interest policies established by the Secretary of Administration to ensure that deliberations and decisions are fair and equitable.

(c)(1) Health information exchange operation. VITL shall be designated in the Health Information Technology Plan pursuant to section 9351 of this title to operate the exclusive statewide health information exchange network for this State. ~~The~~ After the Green Mountain Care Board approves VITL's core activities and budget pursuant to chapter 220 of this title, the Secretary of Administration or designee shall enter into procurement grant agreements with VITL pursuant to 8 V.S.A. § 4089k. Nothing in this chapter shall impede local community providers from the exchange of electronic medical data.

(2) Notwithstanding any provision of 3 V.S.A. § 2222 or 2283b to the contrary, upon request of the Secretary of Administration, the Department of Information and Innovation shall review VITL's technology for security, privacy, and interoperability with State government information technology, consistent with the State's health information technology plan required by section 9351 of this title.

\* \* \*

(f) Funding authorization. VITL is authorized to seek matching funds to assist with carrying out the purposes of this section. In addition, it may accept any and all donations, gifts, and grants of money, equipment, supplies, materials, and services from the federal or any local government, or any agency thereof, and from any person, firm, foundation, or corporation for any of its purposes and functions under this section and may receive and use the same, subject to the terms, conditions, and regulations governing such donations, gifts, and grants. VITL shall not use any State funds for health care consumer advertising, marketing, lobbying, or similar services.

\* \* \* Ambulance Reimbursement \* \* \*

## Sec. 12. MEDICAID; AMBULANCE REIMBURSEMENT

The Department of Vermont Health Access shall evaluate the methodology used to determine reimbursement amounts for ambulance and emergency medical services delivered to Medicaid beneficiaries to determine the basis for the current reimbursement amounts and the rationale for the current level of reimbursement, and shall consider any possible adjustments to revise the methodology in a way that is budget neutral or of minimal fiscal impact to the Agency of Human Services for fiscal year 2016. On or before December 1, 2015, the Department shall report its findings and recommendations to the House Committees on Health Care and on Human Services, the Senate Committee on Health and Welfare, and the Health Reform Oversight Committee.

\* \* \* Direct Enrollment for Individuals \* \* \*

## Sec. 13. 33 V.S.A. § 1803(b)(4) is amended to read:

(4) To the extent permitted by the U.S. Department of Health and Human Services, the Vermont Health Benefit Exchange shall permit qualified individuals and qualified employers to purchase qualified health benefit plans through the Exchange website, through navigators, by telephone, or directly from a health insurer under contract with the Vermont Health Benefit Exchange.

## Sec. 14. 33 V.S.A. § 1811(b) is amended to read:

~~(b)(1) No person may provide a health benefit plan to an individual unless the plan is offered through the Vermont Health Benefit Exchange~~ To the extent permitted by the U.S. Department of Health and Human Services, an individual may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under contract with the Vermont Health Benefit Exchange, if the carrier elects to

make direct enrollment available. A registered carrier enrolling individuals in health benefit plans directly shall comply with all open enrollment and special enrollment periods applicable to the Vermont Health Benefit Exchange.

(2) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a health benefit plan through the Exchange website, through navigators, by telephone, or directly from a ~~health insurer~~ registered carrier under contract with the Vermont Health Benefit Exchange.

(3) No person may provide a health benefit plan to an individual or small employer unless the plan complies with the provisions of this subchapter.

\* \* \* Large Group Insurance Market \* \* \*

Sec. 15. 33 V.S.A. § 1802 is amended to read:

#### § 1802. DEFINITIONS

As used in this subchapter:

\* \* \*

(5) “Qualified employer”:

(A) means an entity which employed an average of not more than 50 employees on working days during the preceding calendar year and which:

(i) has its principal place of business in this State and elects to provide coverage for its eligible employees through the Vermont Health Benefit Exchange, regardless of where an employee resides; or

(ii) elects to provide coverage through the Vermont Health Benefit Exchange for all of its eligible employees who are principally employed in this State.

(B) on and after January 1, 2016, shall include an entity which:

(i) employed an average of not more than 100 employees on working days during the preceding calendar year; and

(ii) meets the requirements of subdivisions (A)(i) and (A)(ii) of this subdivision (5).

(C) on and after January 1, ~~2017~~ 2018, shall include all employers meeting the requirements of subdivisions (A)(i) and (ii) of this subdivision (5), regardless of size.

\* \* \*

Sec. 16. 33 V.S.A. § 1804(c) is amended to read:

(c) On and after January 1, ~~2017~~ 2018, a qualified employer shall be an employer of any size which elects to make all of its full-time employees eligible for one or more qualified health plans offered in the Vermont Health Benefit Exchange, and the term “qualified employer” includes self-employed persons. A full-time employee shall be an employee who works more than 30 hours per week.

Sec. 17. LARGE GROUP MARKET; IMPACT ANALYSIS

The Green Mountain Care Board, in consultation with the Department of Financial Regulation, shall analyze the projected impact on rates in the large group health insurance market if large employers are permitted to purchase qualified health plans through the Vermont Health Benefit Exchange beginning in 2018. The analysis shall estimate the impact on premiums for employees in the large group market if the market were to transition from experience rating to community rating beginning with the 2018 plan year.

\* \* \* Universal Primary Care \* \* \*

Sec. 18. PURPOSE

The purpose of Secs. 18 through 21 of this act is to establish the administrative framework and reduce financial barriers as preliminary steps to the implementation of the principles set forth in 2011 Acts and Resolves No. 48 to enable Vermonters to receive necessary health care and examine the cost of providing primary care to all Vermonters without deductibles, coinsurance, or co-payments or, if necessary, with limited cost-sharing.

Sec. 19. DEFINITION OF PRIMARY CARE

As used in Secs. 18 through 21 of this act, “primary care” means health services provided by health care professionals who are specifically trained for and skilled in first-contact and continuing care for individuals with signs, symptoms, or health concerns, not limited by problem origin, organ system, or diagnosis, and includes pediatrics, internal and family medicine, gynecology, primary mental health services, and other health services commonly provided at federally qualified health centers. Primary care does not include dental services.

Sec. 20. COST ESTIMATES FOR UNIVERSAL PRIMARY CARE

(a) On or before October 15, 2015, the Secretary of Administration or designee, in consultation with the Green Mountain Care Board and the Joint Fiscal Office, shall provide to the Joint Fiscal Office a draft estimate of the costs of providing primary care to all Vermont residents, with and without cost-sharing by the patient, beginning on January 1, 2017. The Joint Fiscal

Office shall conduct an independent review of the draft estimate and shall provide its comments and feedback to the Secretary or designee on or before December 2, 2015. On or before December 16, 2015, the Secretary of Administration or designee shall provide to the Joint Fiscal Committee, the Health Reform Oversight Committee, the House Committees on Appropriations, on Health Care, and on Ways and Means, and the Senate Committees on Appropriations, on Health and Welfare, and on Finance a finalized report of the costs of providing primary care to all Vermont residents, with and without cost-sharing by the patient, beginning on January 1, 2017. The Joint Fiscal Office shall present its independent review to the same committees by January 6, 2016.

(b) The report shall include an estimate of the cost of primary care to those Vermonters who access it if a universal primary care plan is not implemented, and the sources of funding for that care, including employer-sponsored and individual private insurance, Medicaid, Medicare, and other government-sponsored programs, and patient cost-sharing such as deductibles, coinsurance, and co-payments.

(c) The Secretary of Administration or designee, in collaboration with the Joint Fiscal Office, shall arrange for the actuarial services needed to perform the estimates and analysis required by this section. Departments and agencies of State government and the Green Mountain Care Board shall provide such data to the Joint Fiscal Office as needed to permit the Joint Fiscal Office to perform the estimates and analysis. If necessary, the Joint Fiscal Office may enter into confidentiality agreements with departments, agencies, and the Board to ensure that confidential information provided to the Office is not further disclosed.

#### Sec. 21. APPROPRIATION

Up to \$100,000.00 is appropriated from the General Fund to the Agency of Administration, Secretary's Office in fiscal year 2016 to be used for assistance in the calculation of the cost estimates required in Sec. 20 of this act; provided, however, that the appropriation shall be reduced by the amount of any external funds received to carry out the estimates and analysis required by Sec. 20.

\* \* \* Consumer Information \* \* \*

Sec. 22. 18 V.S.A. § 9413 is added to read:

#### § 9413. HEALTH CARE QUALITY AND PRICE COMPARISON

Each health insurer with more than 200 covered lives in this State shall establish an Internet-based tool to enable its members to compare the price of medical care in Vermont by service or procedure, including office visits, emergency care, radiologic services, and preventive care such as

mammography and colonoscopy. The tool shall include provider quality information as available and to the extent consistent with other applicable laws and regulations. The tool shall allow members to compare price by selecting a specific service or procedure and a geographic region of the State. Based on the criteria specified, the tool shall provide the member with an estimate for each provider of the amount the member would pay for the service or procedure, an estimate of the amount the insurance plan would pay, and an estimate of the combined payments. The price information shall reflect the cost-sharing applicable to a member's specific plan, as well as any remaining balance on the member's deductible for the plan year.

\* \* \* Public Employees' Health Benefits \* \* \*

#### Sec. 23. PUBLIC EMPLOYEES' HEALTH BENEFITS; REPORT

(a) The Director of Health Care Reform in the Agency of Administration shall identify options and considerations for providing health care coverage to all public employees, including State and judiciary employees, school employees, municipal employees, and State and teacher retirees, in a cost-effective manner that will not trigger the excise tax on high-cost, employer-sponsored health insurance plans imposed pursuant to 26 U.S.C. § 4980I. One of the options to be considered shall be an intermunicipal insurance agreement, as described in 24 V.S.A. chapter 121, subchapter 6.

(b) The Director shall consult with representatives of the Vermont-NEA, the Vermont School Boards Association, the Vermont Education Health Initiative, the Vermont State Employees' Association, the Vermont Troopers Association, the Vermont League of Cities and Towns, the Department of Human Resources, the Office of the Treasurer, and the Joint Fiscal Office.

(c) On or before November 1, 2015, the Director shall report his or her findings and recommendations to the House Committees on Appropriations, on Education, on General, Housing, and Military Affairs, on Government Operations, on Health Care, and on Ways and Means; the Senate Committees on Appropriations, on Education, on Economic Development, Housing, and General Affairs, on Government Operations, on Health and Welfare, and on Finance; and the Health Reform Oversight Committee.

\* \* \* Provider Payment Parity \* \* \*

#### Sec. 24. PAYMENT REFORM AND DIFFERENTIAL REIMBURSEMENT TO PROVIDERS

(a) In implementing an all-payer model and provider rate-setting, the Green Mountain Care Board shall consider the effects of differential reimbursement for professional services provided by health care providers

employed by academic medical centers and other health care providers and methods for reducing or eliminating such differences, as appropriate.

(b) The Board shall require any health insurer as defined in 18 V.S.A. § 9402 with more than 5,000 covered lives for major medical insurance to develop and submit to the Board, on or before July 1, 2016, an implementation plan for providing fair and equitable reimbursement amounts for professional services to promote parity between professional services provided by academic medical centers and other professionals. Each plan shall ensure that proposed changes to reimbursement create no increase in health insurance premiums or public funding of health care. Any academic medical center located in Vermont shall collaborate in the development of the plan. Upon receipt of such a plan, the Board may direct the health insurer to submit modifications to the plan and may approve, modify, or reject the plan. If the Board approves a plan pursuant to this section, the Board shall require any Vermont academic medical center to accept the reimbursements included in the plan, through the hospital budget process and other appropriate enforcement mechanisms.

(c) The Board shall include a description of its progress on the issues identified in this section in the annual report required by 18 V.S.A. § 9375(d).

\* \* \* Green Mountain Care Board; Payment Reform \* \* \*

#### Sec. 25. PAYMENT REFORM AND DIFFERENTIAL PAYMENTS TO PROVIDERS

In implementing an all-payer model and provider rate-setting, the Green Mountain Care Board shall consider:

(1) the benefits of prioritizing and expediting payment reform in primary care that shifts away from fee-for-service models;

(2) the impact of hospital acquisitions of independent physician practices on the health care system costs, including any disparities between reimbursements to hospital-owned practices and reimbursements to independent physician practices;

(3) the effects of differential reimbursement for different types of providers when providing the same services billed under the same codes; and

(4) the advantages and disadvantages of allowing health care providers to continue to set their own rates for customers without health insurance or other health care coverage.



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\* \* \* Reports \* \* \*

## Sec. 26. VERMONT HEALTH CARE INNOVATION PROJECT; UPDATES

The Project Director of the Vermont Health Care Innovation Project (VHCIP) shall provide an update at least quarterly to the House Committees on Health Care and on Ways and Means, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee regarding VHCIP implementation and the use of the federal State Innovation Model (SIM) grant funds. The Project Director's update shall include information regarding:

(1) the VHCIP pilot projects and other initiatives undertaken using SIM grant funds, including a description of the projects and initiatives, the timing of their implementation, the results achieved, and the replicability of the results;

(2) how the VHCIP projects and initiatives fit with other payment and delivery system reforms planned or implemented in Vermont;

(3) how the VHCIP projects and initiatives meet the goals of improving health care access and quality and reducing costs;

(4) how the VHCIP projects and initiatives will reduce administrative costs;

(5) how the VHCIP projects and initiatives compare to the principles expressed in 2011 Acts and Resolves No. 48;

(6) what will happen to the VHCIP projects and initiatives when the SIM grant funds are no longer available; and

(7) how to protect the State's interest in any health information technology and security functions, processes, or other intellectual property developed through the VHCIP.

## Sec. 27. REDUCING DUPLICATION OF SERVICES; REPORT

(a) The Agency of Human Services shall evaluate the services offered by each entity licensed, administered, or funded by the State, including the designated agencies, to provide services to individuals receiving home- and community-based long-term care services or who have developmental disabilities, mental health needs, or substance use disorder. The Agency shall determine areas in which there are gaps in services and areas in which programs or services are inconsistent with the Health Resource Allocation Plan or are overlapping, duplicative, or otherwise not delivered in the most efficient, cost-effective, and high-quality manner and shall develop recommendations for consolidation or other modification to maximize high-quality services, efficiency, service integration, and appropriate use of public funds.

(b) On or before January 15, 2016, the Agency shall report its findings and recommendations to the House Committee on Human Services and the Senate Committee on Health and Welfare.

Sec. 28. REPURPOSING EXCESS HOSPITAL FUNDS

(a) The 2014 Vermont Household Health Insurance Survey indicates that the number of uninsured Vermonters has decreased from 6.8 percent in 2012 to 3.7 percent in 2014, which is a 46 percent reduction in the rate of uninsured. Over the same time, however, hospital funds to support the uninsured have not declined in a manner that is proportionate to the reduction in the number of uninsured the funds are intended to support. Disproportionate Share Hospital (DSH) payments have remained unchanged and will total \$38,289,419.00 in fiscal year 2015, and the amount of “free care” charges in approved hospital budgets was \$53,034,419.00 in fiscal year 2013 and \$58,652,440.00 in fiscal year 2015. The reduction in the number of uninsured Vermonters has increased costs to the General Fund, but the funds allocated in hospital budgets to serve those Vermonters have not “followed the customer.” In essence, these funds are stranded in the hospital budgets to pay for “phantom” uninsured patients.

(b) The Green Mountain Care Board, in its fiscal year 2016 hospital budget review process, shall analyze proposed hospital budgets to identify any stranded dollars and shall report its findings on or before October 15, 2015 to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, the Health Reform Oversight Committee, and the Joint Fiscal Committee. It is the intent of the General Assembly to repurpose the stranded dollars to enhance State spending on the Blueprint for Health.

\* \* \* Medicaid Rates \* \* \*

Sec. 29. PROVIDER RATE SETTING; MEDICAID

(a) The Department of Disabilities, Aging, and Independent Living and the Division of Rate Setting in the Agency of Human Services shall review current reimbursement rates for providers of enhanced residential care, assitive community care, and other long term home-and community-based care services and shall consider ways to:

(1) ensure that rates are reviewed regularly and are sustainable, reasonable, and adequately reflect economic conditions, new home- and community-based services rules, and health system reforms; and

(2) encourage providers to accept residents without regard to their source of payment.

(b) On or before January 15, 2016, the Department and the Agency shall provide their findings and recommendations to the House Committee on Human Services and the Senate Committees on Health and Welfare and on Finance.

\* \* \* Designated Agency Budgets \* \* \*

Sec. 30. GREEN MOUNTAIN CARE BOARD; DESIGNATED AGENCY BUDGETS

The Green Mountain Care Board shall analyze the budget and Medicaid rates of one or more designated agencies providing services to Vermont residents using criteria similar to the Board's review of hospital budgets pursuant to 18 V.S.A. § 9456. The Board shall also consider whether to include designated and specialized service agencies in the all-payer model. On or before January 31, 2016, the Board shall recommend to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations, on Health and Welfare, and on Finance whether the Board should be responsible for the annual review of all designated agency budgets and whether designated and specialized service agencies should be included in the all-payer model.

\* \* \* Rate Increases for Designated Agencies \* \* \*

Sec. 31. DESIGNATED AGENCIES; SPECIALIZED SERVICE AGENCIES; EFFECT OF MEDICAID RATE INCREASE

(a)(1) A designated agency or specialized service agency shall use any additional funding the agency receives as a result of a Medicaid rate increase to provide additional compensation or benefits, or both, to the agency's direct care workers or other employees.

(2) The designated agency or specialized service agency shall designate the direct care workers or other employees who will receive additional compensation or benefits pursuant to subdivision (1) of this subsection, and shall provide the additional compensation and benefits in a manner that the agency determines will best address its recruitment and retention needs.

(3) If the designated agency or specialized service agency is a party to a collective bargaining agreement for the direct care workers or other employees that the agency has designated to receive an increase in compensation or benefits pursuant to subdivision (1) of this subsection, the amount and terms of the increased compensation or benefits shall be determined through collective bargaining between the agency and the exclusive representative of the workers or employees. Nothing in this subsection is intended to prevent a party to the collective bargaining agreement from indicating during negotiations that its previous or current proposal regarding compensation or benefits accounts for

an actual or anticipated increase in funding received by the agency as a result of a Medicaid rate increase.

(b) Each designated agency and specialized service agency shall report to the Agency of Human Services regarding its compliance with this section.

\* \* \* Presuit Mediation for Medical Malpractice Claims \* \* \*

Sec. 32. 12 V.S.A. chapter 215, subchapter 2 is added to read:

Subchapter 2. Mediation Prior to Filing a Complaint of Malpractice

§ 7011. PURPOSE

The purpose of mediation prior to filing a medical malpractice case is to identify and resolve meritorious claims and reduce areas of dispute prior to litigation, which will reduce the litigation costs, reduce the time necessary to resolve claims, provide fair compensation for meritorious claims, and reduce malpractice-related costs throughout the system.

§ 7012. PRESUIT MEDIATION; SERVICE

(a) A potential plaintiff may serve upon each known potential defendant a request to participate in presuit mediation prior to filing a civil action in tort or in contract alleging that an injury or death resulted from the negligence of a health care provider and to recover damages resulting from the personal injury or wrongful death.

(b) Service of the request required in subsection (a) of this section shall be in letter form and shall be served on all known potential defendants by certified mail. The date of mailing such request shall toll all applicable statutes of limitations.

(c) The request to participate in presuit mediation shall name all known potential defendants, contain a brief statement of the facts that the potential plaintiff believes are grounds for relief, and be accompanied by a certificate of merit prepared pursuant to section 1051 of this title, and may include other documents or information supporting the potential plaintiff's claim.

(d) Nothing in this chapter precludes potential plaintiffs and defendants from presuit negotiation or other presuit dispute resolution to settle potential claims.

§ 7013. MEDIATION RESPONSE

(a) Within 60 days of service of the request to participate in presuit mediation, each potential defendant shall accept or reject the potential plaintiff's request for presuit mediation by mailing a certified letter to counsel or if the party is unrepresented to the potential plaintiff.

(b) If the potential defendant agrees to participate, within 60 days of the service of the request to participate in presuit mediation, each potential defendant shall serve a responsive certificate on the potential plaintiff by mailing a certified letter indicating that he or she, or his or her counsel, has consulted with a qualified expert within the meaning of section 1643 of this title and that expert is of the opinion that there are reasonable grounds to defend the potential plaintiff's claims of medical negligence. Notwithstanding the potential defendant's acceptance of the request to participate, if the potential defendant does not serve such a responsive certificate within the 60-day period, then the potential plaintiff need not participate in the presuit mediation under this title and may file suit. If the potential defendant is willing to participate, presuit mediation may take place without a responsive certificate of merit from the potential defendant at the plaintiff's election.

#### § 7014. PROCESS; TIME FRAMES

(a) The mediation shall take place within 60 days of the service of all potential defendants' acceptance of the request to participate in presuit mediation. The parties may agree to an extension of time. If in good faith the mediation cannot be scheduled within the 60-day time period, the potential plaintiff need not participate and may proceed to file suit.

(b) If presuit mediation is not agreed to, the mediator certifies that mediation is not appropriate, or mediation is unsuccessful, the potential plaintiff may initiate a civil action as provided in the Vermont Rules of Civil Procedure. The action shall be filed:

(1) within 90 days of the potential plaintiff's receipt of the potential defendant's letter refusing mediation, the failure of the potential defendant to file a responsive certificate of merit within the specified time period, or the mediator's signed letter certifying that mediation was not appropriate or that the process was complete; or

(2) prior to the expiration of the applicable statute of limitations, whichever is later.

(c) If presuit mediation is attempted unsuccessfully, the parties shall not be required to participate in mandatory mediation under Rule 16.3 of the Vermont Rules of Civil Procedure.

#### § 7015. CONFIDENTIALITY

All written and oral communications made in connection with or during the mediation process set forth in this chapter shall be confidential. The mediation process shall be treated as a settlement negotiation under Rule 408 of the Vermont Rules of Evidence.

## Sec. 33. REPORT

On or before December 1, 2019, the Secretary of Administration or designee shall report to the Senate Committees on Health and Welfare and on Judiciary and the House Committees on Health Care and on Judiciary on the impacts of 12 V.S.A. § 1042 (certificate of merit) and 12 V.S.A. chapter 215, subchapter 2 (presuit mediation). The report shall address the impacts that these reforms have had on:

- (1) consumers, physicians, and the provision of health care services;
- (2) the rights of consumers to due process of law and to access to the court system; and
- (3) any other service, right, or benefit that was or may have been affected by the establishment of the medical malpractice reforms in 12 V.S.A. § 1042 and 12 V.S.A. chapter 215, subchapter 2.

\* \* \* Transferring Department of Financial Regulation Duties \* \* \*

Sec. 34. 8 V.S.A. § 4062 is amended to read:

## § 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

\* \* \*

(e) Within 30 calendar days after making the rate filing and analysis available to the public pursuant to subsection (d) the time period set forth in subdivision (a)(2)(A) of this section, the Board shall:

- (1) conduct a public hearing, at which the Board shall:
  - (A) call as witnesses the Commissioner of Financial Regulation or designee and the Board's contracting actuary, if any, unless all parties agree to waive such testimony; and
  - (B) provide an opportunity for testimony from the insurer; the Office of the Health Care Advocate; and members of the public;
- (2) at a public hearing, announce the Board's decision of whether to approve, modify, or disapprove the proposed rate; and
- (3) issue its decision in writing.

\* \* \*

(h)(1) The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income,

long-term care, student health insurance coverage, Medicare supplemental coverage, or other limited benefit coverage, or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred. Premium rates and rules for the classification of risk for Medicare supplemental insurance policies shall be governed by sections 4062b and 4080e of this title.

\* \* \*

~~(3) Medicare supplemental insurance policies shall be exempt only from the requirement in subdivisions (a)(1) and (2) of this section for the Green Mountain Care Board's approval on rate requests and shall be subject to the remaining provisions of this section. [Repealed.]~~

\* \* \*

Sec. 35. 8 V.S.A. § 4089b(g) is amended to read:

~~(g) On or before July 15 of each year, health insurance companies doing business in Vermont whose individual share of the commercially insured Vermont market, as measured by covered lives, comprises at least five percent of the commercially insured Vermont market, shall file with the Commissioner, in accordance with standards, procedures, and forms approved by the Commissioner:~~

~~(1) A report card on the health insurance plan's performance in relation to quality measures for the care, treatment, and treatment options of mental and substance abuse conditions covered under the plan, pursuant to standards and procedures adopted by the Commissioner by rule, and without duplicating any reporting required of such companies pursuant to Rule H 2009-03 of the Division of Health Care Administration and regulation 95-2, "Mental Health Review Agents," of the Division of Insurance, as amended, including:~~

~~(A) the discharge rates from inpatient mental health and substance abuse care and treatment of insureds;~~

~~(B) the average length of stay and number of treatment sessions for insureds receiving inpatient and outpatient mental health and substance abuse care and treatment;~~

~~(C) the percentage of insureds receiving inpatient and outpatient mental health and substance abuse care and treatment;~~

~~(D) the number of insureds denied mental health and substance abuse care and treatment;~~

~~(E) the number of denials appealed by patients reported separately from the number of denials appealed by providers;~~

~~(F) the rates of readmission to inpatient mental health and substance abuse care and treatment for insureds with a mental condition;~~

~~(G) the level of patient satisfaction with the quality of the mental health and substance abuse care and treatment provided to insureds under the health insurance plan; and~~

~~(H) any other quality measure established by the Commissioner.~~

~~(2) The health insurance plan's revenue loss and expense ratio relating to the care and treatment of mental conditions covered under the health insurance plan. The expense ratio report shall list amounts paid in claims for services and administrative costs separately. A managed care organization providing or administering coverage for treatment of mental conditions on behalf of a health insurance plan shall comply with the minimum loss ratio requirements pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, applicable to the underlying health insurance plan with which the managed care organization has contracted to provide or administer such services. The health insurance plan shall also bear responsibility for ensuring the managed care organization's compliance with the minimum loss ratio requirement pursuant to this subdivision. [Repealed.]~~

Sec. 36. 18 V.S.A. § 9402 is amended to read:

#### § 9402. DEFINITIONS

As used in this chapter, unless otherwise indicated:

\* \* \*

~~(4) "Division" means the division of health care administration. [Repealed.]~~

\* \* \*

(10) "Health resource allocation plan" means the plan adopted by the ~~commissioner of financial regulation~~ Green Mountain Care Board under section 9405 of this title.

\* \* \*

Sec. 37. 18 V.S.A. § 9404 is amended to read:

#### § 9404. ADMINISTRATION

(a) The Commissioner and the Green Mountain Care Board shall supervise and direct the execution of all laws vested in the Department and the Board.



respectively, by this chapter, and shall formulate and carry out all policies relating to this chapter.

(b) The Commissioner and the Board may:

(1) apply for and accept gifts, grants, or contributions from any person for purposes consistent with this chapter;

(2) adopt rules necessary to implement the provisions of this chapter; and

(3) enter into contracts and perform such acts as are necessary to accomplish the purposes of this chapter.

~~(c) There is hereby created a fund to be known as the Health Care Administration Regulatory and Supervision Fund for the purpose of providing the financial means for the Commissioner of Financial Regulation to administer this chapter and 33 V.S.A. § 6706. All fees and assessments received by the Department pursuant to such administration shall be credited to this Fund. All fines and administrative penalties, however, shall be deposited directly into the General Fund.~~

~~(1) All payments from the Health Care Administration Regulatory and Supervision Fund for the maintenance of staff and associated expenses, including contractual services as necessary, shall be disbursed from the State Treasury only upon warrants issued by the Commissioner of Finance and Management, after receipt of proper documentation regarding services rendered and expenses incurred.~~

~~(2) The Commissioner of Finance and Management may anticipate receipts to the Health Care Administration Regulatory and Supervision Fund and issue warrants based thereon. [Repealed.]~~

Sec. 38. 18 V.S.A. § 9410 is amended to read:

§ 9410. HEALTH CARE DATABASE

(a)(1) The Board shall establish and maintain a unified health care database to enable the ~~Commissioner and the~~ Board to carry out ~~their~~ its duties under this chapter, chapter 220 of this title, and Title 8, including:

(A) determining the capacity and distribution of existing resources;

(B) identifying health care needs and informing health care policy;

(C) evaluating the effectiveness of intervention programs on improving patient outcomes;

(D) comparing costs between various treatment settings and approaches;

(E) providing information to consumers and purchasers of health care; and

(F) improving the quality and affordability of patient health care and health care coverage.

~~(2)(A) The program authorized by this section shall include a consumer health care price and quality information system designed to make available to consumers transparent health care price information, quality information, and such other information as the Board determines is necessary to empower individuals, including uninsured individuals, to make economically sound and medically appropriate decisions.~~

~~(B) The Commissioner may require a health insurer covering at least five percent of the lives covered in the insured market in this State to file with the Commissioner a consumer health care price and quality information plan in accordance with rules adopted by the Commissioner.~~

~~(C) The Board shall adopt such rules as are necessary to carry out the purposes of this subdivision. The Board's rules may permit the gradual implementation of the consumer health care price and quality information system over time, beginning with health care price and quality information that the Board determines is most needed by consumers or that can be most practically provided to the consumer in an understandable manner. The rules shall permit health insurers to use security measures designed to allow subscribers access to price and other information without disclosing trade secrets to individuals and entities who are not subscribers. The rules shall avoid unnecessary duplication of efforts relating to price and quality reporting by health insurers, health care providers, health care facilities, and others, including activities undertaken by hospitals pursuant to their community report obligations under section 9405b of this title. [Repealed.]~~

\* \* \*

(i) On or before January 15, 2008 2018 and every three years thereafter, the Commissioner of Health shall submit a recommendation to the General Assembly for conducting a survey of the health insurance status of Vermont residents. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

\* \* \*

Sec. 39. 18 V.S.A. § 9414 is amended to read:

§ 9414. QUALITY ASSURANCE FOR MANAGED CARE ORGANIZATIONS

(a) ~~The commissioner~~ Commissioner shall have the power and responsibility to ensure that each managed care organization provides quality health care to its members, in accordance with the provisions of this section.

\* \* \*

(4) The Commissioner or designee may resolve any consumer complaint arising out of this subsection as though the managed care organization were an insurer licensed pursuant to Title 8.

\* \* \*

(d)(1) In addition to its internal quality assurance program, each managed care organization shall evaluate the quality of health and medical care provided to members. The organization shall use and maintain a patient record system which will facilitate documentation and retrieval of statistically meaningful clinical information.

(2) A managed care organization may evaluate the quality of health and medical care provided to members through an independent accreditation organization, ~~provided that the commissioner has established criteria for such independent evaluations.~~

~~(e) The commissioner shall review a managed care organization's performance under the requirements of this section at least once every three years and more frequently as the commissioner deems proper. If upon review the commissioner determines that the organization's performance with respect to one or more requirements warrants further examination, the commissioner shall conduct a comprehensive or targeted examination of the organization's performance. The commissioner may designate another organization to conduct any evaluation under this subsection. Any such independent designee shall have a confidentiality code acceptable to the commissioner, or shall be subject to the confidentiality code adopted by the commissioner under subdivision (f)(3) of this section. In conducting an evaluation under this subsection, the commissioner or the commissioner's designee shall employ, retain, or contract with persons with expertise in medical quality assurance. [Repealed.]~~

(f)(1) For the purpose of evaluating a managed care organization's performance under the provisions of this section, the ~~commissioner~~ Commissioner may examine and review information protected by the provisions of the patient's privilege under 12 V.S.A. § 1612(a), or otherwise required by law to be held confidential, ~~except that the commissioner's access to and use of minutes and records of a peer review committee established under subsection (c) of this section shall be governed by subdivision (2) of this subsection.~~

~~(2) Notwithstanding the provisions of 26 V.S.A. § 1443, for the sole purpose of reviewing a managed care organization's internal quality assurance program, and enforcing compliance with the provisions of subsection (c) of this section, the commissioner or the commissioner's designee shall have reasonable access to the minutes or records of any peer review or comparable committee required by subdivision (c)(6) of this section, provided that such access shall not disclose the identity of patients, health care providers, or other individuals. [Repealed.]~~

\* \* \*

~~(i) Upon review of the managed care organization's clinical data, or after consideration of claims or other data, the commissioner may:~~

~~(1) identify quality issues in need of improvement; and~~

~~(2) direct the managed care organization to propose quality improvement initiatives to remediate those issues. [Repealed.]~~

Sec. 40. 18 V.S.A. § 9418(1) is amended to read:

(1) Nothing in this section shall be construed to prohibit a health plan from applying payment policies that are consistent with applicable federal or State laws and regulations, or to relieve a health plan from complying with payment standards established by federal or State laws and regulations, ~~including rules adopted by the Commissioner pursuant to section 9408 of this title relating to claims administration and adjudication standards, and rules adopted by the Commissioner pursuant to section 9414 of this title and 8 V.S.A. § 4088h relating to pay for performance or other payment methodology standards.~~

Sec. 41. 18 V.S.A. § 9418b(f) is amended to read:

(f) Nothing in this section shall be construed to prohibit a health plan from applying payment policies that are consistent with applicable federal or State laws and regulations, or to relieve a health plan from complying with payment standards established by federal or State laws and regulations, ~~including rules adopted by the Commissioner pursuant to section 9408 of this title, relating to claims administration and adjudication standards, and rules adopted by the Commissioner pursuant to section 9414 of this title and 8 V.S.A. § 4088h, relating to pay for performance or other payment methodology standards.~~

Sec. 42. 18 V.S.A. § 9420 is amended to read:

#### § 9420. CONVERSION OF NONPROFIT HOSPITALS

(a) Policy and purpose. The ~~state~~ State has a responsibility to assure that the assets of nonprofit entities, which are impressed with a charitable trust, are managed prudently and are preserved for their proper charitable purposes.

(b) Definitions. As used in this section:

\* \* \*

(2) ~~“Commissioner” is the commissioner of financial regulation.~~  
[Repealed.]

\* \* \*

(10) “Green Mountain Care Board” or “Board” means the Green Mountain Care Board established in chapter 220 of this title.

(c) Approval required for conversion of qualifying amount of charitable assets. A nonprofit hospital may convert a qualifying amount of charitable assets only with the approval of the ~~commissioner~~ Green Mountain Care Board, and either the ~~attorney general~~ Attorney General or the ~~superior court~~ Superior Court, pursuant to the procedures and standards set forth in this section.

(d) Exception for conversions in which assets will be owned and controlled by a nonprofit corporation:

(1) Other than subsection (q) of this section and subdivision (2) of this subsection, this section shall not apply to conversions in which the party receiving assets of a nonprofit hospital is a nonprofit corporation.

(2) In any conversion that would have required an application under subsection (e) of this section but for the exception set forth in subdivision (1) of this subsection, notice to or written waiver by the ~~attorney general~~ Attorney General shall be given or obtained as if required under 11B V.S.A. § 12.02(g).

(e) Application. Prior to consummating any conversion of a qualifying amount of charitable assets, the parties shall submit an application to the ~~attorney general~~ Attorney General and the ~~commissioner~~ Green Mountain Care Board, together with any attachments complying with subsection (f) of this section. If any material change occurs in the proposal set forth in the filed application, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the ~~attorney general~~ Attorney General and the ~~commissioner~~ Board within two business days, or as soon thereafter as practicable, after any party to the conversion learns of such change. If the conversion involves a hospital system, and one or more of the hospitals in the system desire to convert charitable assets, the ~~attorney general~~ Attorney General, in consultation with the ~~commissioner~~ Board, shall determine whether an application shall be required from the hospital system.

(f) Completion and contents of application.

(1) Within 30 days of receipt of the application, or within 10 days of receipt of any amendment thereto, whichever is longer, the ~~attorney general~~ Attorney General, with the ~~commissioner's~~ Green Mountain Care Board's agreement, shall determine whether the application is complete. The Attorney General shall promptly notify the parties of the date the application is deemed complete, or of the reasons for a determination that the application is incomplete. A complete application shall include the following:

\* \* \*

(N) any additional information the ~~attorney general~~ Attorney General or ~~commissioner~~ Green Mountain Care Board finds necessary or appropriate for the full consideration of the application.

(2) The parties shall make the contents of the application reasonably available to the public prior to any hearing for public comment described in subsection (g) of this section to the extent that they are not otherwise exempt from disclosure under 1 V.S.A. § 317(b).

(g) Notice and hearing for public comment on application.

(1) The ~~attorney general~~ Attorney General and ~~commissioner~~ the Green Mountain Care Board shall hold one or more public hearings on the transaction or transactions described in the application. A record shall be made of any hearing. The hearing shall commence within 30 days of the determination by the ~~attorney general~~ Attorney General that the application is complete. If a hearing is continued or multiple hearings are held, any hearing shall be completed within 60 days of the ~~attorney general's~~ Attorney General's determination that an application is complete. In determining the number, location, and time of hearings, the ~~attorney general~~ Attorney General, in consultation with the ~~commissioner~~ Board, shall consider the geographic areas and populations served by the nonprofit hospital and most affected by the conversion and the interest of the public in commenting on the application.

(2) The ~~attorney general~~ Attorney General shall provide reasonable notice of any hearing to the parties, the ~~commissioner~~ Board, and the public, and may order that the parties bear the cost of notice to the public. Notice to the public shall be provided in newspapers having general circulation in the region affected and shall identify the applicants and the proposed conversion. A copy of the public notice shall be sent to the ~~state~~ State health care and long-term care ombudspersons and to the ~~senators~~ Senators and members of the ~~house of representatives~~ House of Representatives representing the county and district and to the ~~clerk, chief municipal officer~~ Clerk, Chief Municipal Officer, and legislative body, of the municipality in which the nonprofit hospital is principally located. Upon receipt, the ~~clerk~~ Clerk shall post notice in or near the ~~clerk's~~ Clerk's office and in at least two other public places in

the municipality. Any person may testify at a hearing under this section and, within such reasonable time as the ~~attorney-general~~ Attorney General may prescribe, file written comments with the ~~attorney-general~~ Attorney General and ~~commissioner~~ Board concerning the proposed conversion.

(h) Determination by ~~commissioner~~ the Green Mountain Care Board.

(1) The ~~commissioner~~ Green Mountain Care Board shall consider the application, together with any report and recommendations from the Board's staff ~~of the department~~ requested by the ~~commissioner~~ Board, and any other information submitted into the record, and approve or deny it within 50 days following the last public hearing held pursuant to subsection (g) of this section, unless the ~~commissioner~~ Board extends such time up to an additional 60 days with notice prior to its expiration to the ~~attorney-general~~ Attorney General and the parties.

(2) The ~~commissioner~~ Board shall approve the proposed transaction if the ~~commissioner~~ Board finds that the application and transaction will satisfy the criteria established in section 9437 of this title. For purposes of applying the criteria established in section 9437, the term "project" shall include a conversion or other transaction subject to the provisions of this subchapter.

(3) A denial by the ~~commissioner~~ Board may be appealed to the ~~supreme court~~ Supreme Court pursuant to ~~the procedures and standards set forth in 8 V.S.A. § 16~~ section 9381 of this title. If no appeal is taken or if the ~~commissioner's~~ Board's order is affirmed by the ~~supreme court~~ supreme court, the application shall be terminated. A failure of the ~~commissioner~~ Board to approve of an application in a timely manner shall be considered a final order in favor of the applicant.

(i) Determination by ~~attorney-general~~ Attorney General. The ~~attorney-general~~ Attorney General shall make a determination as to whether the conversion described in the application meets the standards provided in subsection (j) of this section.

(1) If the ~~attorney-general~~ Attorney General determines that the conversion described in the application meets the standards set forth in subsection (j) of this section, the ~~attorney-general~~ Attorney General shall approve the conversion and so notify the parties in writing.

(2) If the ~~attorney-general~~ Attorney General determines that the conversion described in the application does not meet such standards, the ~~attorney-general~~ Attorney General may not approve the conversion and shall so notify the parties of such disapproval and the basis for it in writing, including identification of the standards listed in subsection (j) of this section that the ~~attorney-general~~ Attorney General finds not to have been met by the proposed

conversion. Nothing in this subsection shall prevent the parties from amending the application to meet any objections of the ~~attorney-general~~ Attorney General.

(3) The notice of approval or disapproval by the ~~attorney-general~~ Attorney General under this subsection shall be provided no later than either 60 days following the date of the last hearing held under subsection (g) of this section or ten days following approval of the conversion by the ~~commissioner~~ Board, whichever is later. The ~~attorney-general~~ Attorney General, for good cause, may extend this period an additional 60 days.

(j) Standards for ~~attorney-general's~~ Attorney General's review. In determining whether to approve a conversion under subsection (i) of this section, the ~~attorney-general~~ Attorney General shall consider whether:

\* \* \*

(7) the application contains sufficient information and data to permit the ~~attorney-general~~ Attorney General and ~~commissioner~~ the Green Mountain Care Board to evaluate the conversion and its effects on the public's interests in accordance with this section; and

(8) the conversion plan has made reasonable provision for reports, upon request, to the ~~attorney-general~~ Attorney General on the conduct and affairs of any person that, as a result of the conversion, is to receive charitable assets or proceeds from the conversion to carry on any part of the public purposes of the nonprofit hospital.

(k) Investigation by ~~attorney-general~~ Attorney General. The ~~attorney-general~~ Attorney General may conduct an investigation relating to the conversion pursuant to the procedures set forth generally in 9 V.S.A. § 2460. The ~~attorney-general~~ Attorney General may contract with such experts or consultants the ~~attorney-general~~ Attorney General deems appropriate to assist in an investigation of a conversion under this section. The ~~attorney-general~~ Attorney General may order any party to reimburse the ~~attorney-general~~ Attorney General for all reasonable and actual costs incurred by the ~~attorney-general~~ Attorney General in retaining outside professionals to assist with the investigation or review of the conversion.

(l) Superior ~~court~~ Court action. If the ~~attorney-general~~ Attorney General does not approve the conversion described in the application and any amendments, the parties may commence an action in the ~~superior-court~~ Superior Court of Washington County, or with the agreement of the ~~attorney-general~~ Attorney General, of any other county, within 60 days of the ~~attorney-general's~~ Attorney General's notice of disapproval provided to the parties under subdivision (i)(2) of this section. The parties shall notify the



~~commissioner~~ Green Mountain Care Board of the commencement of an action under this subsection. The ~~commissioner~~ Board shall be permitted to request that the ~~court~~ Court consider the ~~commissioner's~~ Board's determination under subsection (h) of this section in its decision under this subsection.

(m) Court determination and order.

\* \* \*

(4) Nothing herein shall prevent the ~~attorney-general~~ Attorney General, while an action brought under subsection (l) of this section is pending, from approving the conversion described in the application, as modified by such terms as are agreed between the parties, the ~~attorney-general~~ Attorney General, and the ~~commissioner~~ Green Mountain Care Board to bring the conversion into compliance with the standards set forth in subsection (j) of this section.

(n) Use of converted assets or proceeds of a conversion approved pursuant to this section. If at any time following a conversion, the ~~attorney-general~~ Attorney General has reason to believe that converted assets or the proceeds of a conversion are not being held or used in a manner consistent with information provided to the ~~attorney-general~~ Attorney General, the ~~commissioner~~ Board, or a court in connection with any application or proceedings under this section, the ~~attorney-general~~ Attorney General may investigate the matter pursuant to procedures set forth generally in 9 V.S.A. § 2460 and may bring an action in Washington ~~superior-court~~ Superior Court or in the ~~superior-court~~ Superior Court of any county where one of the parties has a principal place of business. The ~~court~~ Court may order appropriate relief in such circumstances, including avoidance of the conversion or transfer of the converted assets or proceeds or the amount of any private inurement to a person or party for use consistent with the purposes for which the assets were held prior to the conversion, and the award of costs of investigation and prosecution under this subsection, including the reasonable value of legal services.

(o) Remedies and penalties for violations.

(1) The ~~attorney-general~~ Attorney General may bring or maintain a civil action in the Washington ~~superior-court~~ Superior Court, or any other county in which one of the parties has its principal place of business, to enjoin, restrain, or prevent the consummation of any conversion which has not been approved in accordance with this section or where approval of the conversion was obtained on the basis of materially inaccurate information furnished by any party to the ~~attorney-general~~ Attorney General or the ~~commissioner~~ Board.

\* \* \*

(p) Conversion of less than a qualifying amount of assets.

(1) The ~~attorney-general~~ Attorney General may conduct an investigation relating to a conversion pursuant to the procedures set forth generally in 9 V.S.A. § 2460 if the ~~attorney-general~~ Attorney General has reason to believe that a nonprofit hospital has converted or is about to convert less than a qualifying amount of its assets in such a manner that would:

(A) if it met the qualifying amount threshold, require an application under subsection (e) of this section; and

(B) constitute a conversion that does not meet one or more of the standards set forth in subsection (j) of this section.

(2) The ~~attorney-general~~ Attorney General, in consultation with the ~~commissioner~~ Green Mountain Care Board, may bring an action with respect to any conversion of less than a qualifying amount of assets, according to the procedures set forth in subsection (n) of this section. The ~~attorney-general~~ Attorney General shall notify the ~~commissioner~~ Board of any action commenced under this subsection. The ~~commissioner~~ Board shall be permitted to investigate and determine whether the transaction satisfies the criteria established in subdivision (g)(2) of this section, and to request that the ~~court~~ Court consider the ~~commissioner's~~ Board's recommendation in its decision under this subsection. In such an action, the ~~superior court~~ Superior Court may enjoin or void any transaction and may award any other relief as provided under subsection (n) of this section.

(3) In any action brought by the ~~attorney-general~~ Attorney General under this subdivision, the ~~attorney-general~~ Attorney General shall have the burden to establish that the conversion:

(A) violates one or more of the standards listed in subdivision (j)(1), (3), (4), or (6); or

(B) substantially violates one or more of the standards set forth in subdivisions (j)(2) and (5) of this section.

(q) Other preexisting authority.

(1) Nothing in this section shall be construed to limit the authority of the ~~commissioner~~ Green Mountain Care Board, ~~attorney-general~~ Attorney General, ~~department of health~~ Department of Health, or a court of competent jurisdiction under existing law, or the interpretation or administration of a charitable gift under 14 V.S.A. § 2328.

(2) This section shall not be construed to limit the regulatory and enforcement authority of the ~~commissioner~~ Board, or exempt any applicant or other person from requirements for licensure or other approvals required by law.

Sec. 43. 18 V.S.A. § 9440 is amended to read:

§ 9440. PROCEDURES

\* \* \*

(c) The application process shall be as follows:

(1) Applications shall be accepted only at such times as the Board shall establish by rule.

(2)(A) Prior to filing an application for a certificate of need, an applicant shall file an adequate letter of intent with the Board no less than 30 days or, in the case of review cycle applications under section 9439 of this title, no less than 45 days prior to the date on which the application is to be filed. The letter of intent shall form the basis for determining the applicability of this subchapter to the proposed expenditure or action. A letter of intent shall become invalid if an application is not filed within six months of the date that the letter of intent is received or, in the case of review cycle applications under section 9439 of this title, within such time limits as the Board shall establish by rule. ~~Except for requests for expedited review under subdivision (5) of this subsection, The Board shall post public notice of such letters of intent shall be provided in newspapers having general circulation in the region of the State affected by the letter of intent on its website electronically within five business days of receipt.~~ The public notice shall identify the applicant, the proposed new health care project, and the date by which a competing application or petition to intervene must be filed. ~~In addition, a copy of the public notice shall be sent to the clerk of the municipality in which the health care facility is located. Upon receipt, the clerk shall post the notice in or near the clerk's office and in at least two other public places in the municipality.~~

(B) Applicants who agree that their proposals are subject to jurisdiction pursuant to section 9434 of this title shall not be required to file a letter of intent pursuant to subdivision (A) of this subdivision (2) and may file an application without further process. Public notice of the application shall be ~~provided upon filing~~ posted electronically on the Board's website as provided for in subdivision (A) of this subdivision (2) for letters of intent.

\* \* \*

(5) An applicant seeking expedited review of a certificate of need application may simultaneously file ~~a letter of intent and~~ with the Board a request for expedited review and an application ~~with the Board.~~ Upon After receiving the request and an application, the Board shall issue public notice of the request and application in the manner set forth in subdivision (2) of this subsection. At least 20 days after the public notice was issued, if no competing application has been filed and no party has sought and been granted, nor is

likely to be granted, interested party status, the Board, upon making a determination that the proposed project may be uncontested and does not substantially alter services, as defined by rule, or upon making a determination that the application relates to a health care facility affected by bankruptcy proceedings, ~~the Board shall issue public notice of the application and the request for expedited review and identify a date by which a competing application or petition for interested party status must be filed. If a competing application is not filed and no person opposing the application is granted interested party status, the Board may formally declare the application uncontested and may issue a certificate of need without further process, or with such abbreviated process as the Board deems appropriate. If a competing application is filed or a person opposing the application is granted interested party status, the applicant shall follow the certificate of need standards and procedures in this section, except that in the case of a health care facility affected by bankruptcy proceedings, the Board after notice and an opportunity to be heard may issue a certificate of need with such abbreviated process as the Board deems appropriate, notwithstanding the contested nature of the application.~~

\* \* \*

Sec. 44. 18 V.S.A. § 9445 is amended to read:

§ 9445. ENFORCEMENT

(a) Any person who offers or develops any new health care project within the meaning of this subchapter without first obtaining a certificate of need as required herein, or who otherwise violates any of the provisions of this subchapter, may be subject to the following administrative sanctions by the Board, after notice and an opportunity to be heard:

(1) The Board may order that no license or certificate permitted to be issued by ~~the Department or any other~~ State agency may be issued to any health care facility to operate, offer, or develop any new health care project for a specified period of time, or that remedial conditions be attached to the issuance of such licenses or certificates.

(2) The Board may order that payments or reimbursements to the entity for claims made under any health insurance policy, subscriber contract, or health benefit plan offered or administered by any public or private health insurer, including the Medicaid program and any other health benefit program administered by the State be denied, reduced, or limited, and in the case of a hospital that the hospital's annual budget approved under subchapter 7 of this chapter be adjusted, modified, or reduced.

(b) In addition to all other sanctions, if any person offers or develops any new health care project without first having been issued a certificate of need or certificate of exemption for the project, or violates any other provision of this subchapter or any lawful rule adopted pursuant to this subchapter, the Board, ~~the Commissioner~~, the Office of the Health Care Advocate, the State Long-Term Care Ombudsman, and health care providers and consumers located in the State shall have standing to maintain a civil action in the Superior Court of the county in which such alleged violation has occurred, or in which such person may be found, to enjoin, restrain, or prevent such violation. Upon written request by the Board, it shall be the duty of the Vermont Attorney General to furnish appropriate legal services and to prosecute an action for injunctive relief to an appropriate conclusion, which shall not be reimbursed under subdivision (a)(2) of this section.

\* \* \*

Sec. 45. 18 V.S.A. § 9456(h) is amended to read:

(h)(1) If a hospital violates a provision of this section, the Board may maintain an action in the Superior Court of the county in which the hospital is located to enjoin, restrain, or prevent such violation.

\* \* \*

(3)(A) The Board shall require the officers and directors of a hospital to file under oath, on a form and in a manner prescribed by the ~~Commissioner~~ Board, any information designated by the Board and required pursuant to this subchapter. The authority granted to the Board under this subsection is in addition to any other authority granted to the Board under law.

(B) A person who knowingly makes a false statement under oath or who knowingly submits false information under oath to the Board or to a hearing officer appointed by the Board or who knowingly testifies falsely in any proceeding before the Board or a hearing officer appointed by the Board shall be guilty of perjury and punished as provided in 13 V.S.A. § 2901.

Sec. 46. SUSPENSION; PROHIBITION ON MODIFICATION OF UNIFORM FORMS

The Department of Financial Regulation shall not modify the existing common forms, procedures, and rules based on 18 V.S.A. §§ 9408, 9408a(b), 9408a(e), and 9418(f) prior to January 1, 2017. The Commissioner of Financial Regulation may review and examine, at his or her own discretion or in response to a complaint, a managed care organization's administrative policies and procedures, quality management and improvement procedures, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, member services, financial incentives or

disincentives, disenrollment, provider contracting, and systems and data reporting capacities described in 18 V.S.A. § 9414(a)(1).

Sec. 47. UNIFORM FORMS; EVALUATION

(a) The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall evaluate:

(1) the necessity of maintaining provisions regarding common claims forms and procedures, uniform provider credentialing, and suspension of interest accrual for failure to pay claims if the failure was not within the insurer's control, as those provisions are codified in 18 V.S.A. §§ 9408, 9408a(b), 9408a(e), and 9418(f);

(2) the necessity of maintaining provisions requiring the Commissioner to review and examine a managed care organization's administrative policies and procedures, quality management and improvement procedures, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, member services, financial incentives or disincentives, disenrollment, provider contracting, and systems and data reporting capacities, as those provisions are codified in 18 V.S.A. § 9414(a)(1);

(3) the appropriate entity to assume responsibility for any such function that should be retained and the appropriate enforcement process; and

(4) the requirements in federal law applicable to the Department of Vermont Health Access in its role as a public managed care organization in order to identify opportunities for greater alignment between federal law and 18 V.S.A. § 9414(a)(1).

(b) In performing the evaluation required by subsection (a) of this section, the Director shall consult regularly with interested stakeholders, including health insurance and managed care organizations, as defined in 18 V.S.A. 9402; health care providers; and the Office of the Health Care Advocate.

(c) On or before December 15, 2015, the Director shall provide his or her findings and recommendations to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Health Reform Oversight Committee.

\* \* \* Appropriations \* \* \*

Sec. 48. MAINTAINING EXCHANGE COST-SHARING SUBSIDIES

The sum of \$761,308.00 is appropriated from the General Fund to the Department of Vermont Health Access in fiscal year 2016 for Exchange cost-sharing subsidies for individuals at the actuarial levels in effect on January 1, 2015.

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Sec. 49. AREA HEALTH EDUCATION CENTERS

The sum of \$667,111.00 in Global Commitment funds is appropriated to the Department of Health in fiscal year 2016 for a grant to the Area Health Education Centers for repayment of educational loans for health care providers and health care educators.

Sec. 50. OFFICE OF THE HEALTH CARE ADVOCATE;  
APPROPRIATION; INTENT

(a) The Office of the Health Care Advocate has a critical function in Vermont's health care system. The Health Care Advocate provides information and assistance to Vermont residents who are navigating the health care system and represents their interests in interactions with health insurers, health care providers, Medicaid, the Green Mountain Care Board, the General Assembly, and others. The continuation of the Office of the Health Care Advocate is necessary to achieve additional health care reform goals.

(b) The sum of \$40,000.00 is appropriated from the General Fund to the Agency of Administration in fiscal year 2016 for its contract with the Office of the Health Care Advocate.

(c) It is the intent of the General Assembly that, beginning with the 2017 fiscal year budget, the Governor's budget proposal developed pursuant to 32 V.S.A. chapter 5 should include a separate provision identifying the aggregate sum to be appropriated from all State sources to the Office of the Health Care Advocate.

Sec. 51. GREEN MOUNTAIN CARE BOARD; ALL-PAYER WAIVER;  
RATE-SETTING; VITL OVERSIGHT

(a) The following appropriations and adjustments are made to the Green Mountain Care Board in fiscal year 2016 for positions, contracts, and operating expenses related to the Board's provider rate-setting authority, the all-payer model, and the Medicaid cost shift:

(1) \$83,054.00 is appropriated from the General Fund;

(2) \$268,524.00 is appropriated from special funds;

(3) \$97,968.00 is appropriated from federal funds;

(4) a negative adjustment in the amount of -\$35,919.00 is made to the Global Commitment funds appropriated; and

(5) a negative adjustment in the amount of -\$128,693.00 is made to the interdepartmental transfer funds appropriated.

(b) The sum of \$60,000.00 is appropriated from the Health-IT Fund to the Green Mountain Care Board in fiscal year 2016 to provide oversight of the budget and activities of the Vermont Information Technology Leaders, Inc.

## Sec. 52. BLUEPRINT FOR HEALTH INCREASES

The sum of \$1,402,900.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase payments to patient-centered medical homes and community health teams pursuant to 18 V.S.A. § 702 beginning on January 1, 2016.

## Sec. 53. INVESTING IN PRIMARY CARE SERVICES

The sum of \$2,732,677.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 to increase reimbursement rates to primary care providers beginning on January 1, 2016 for services provided to Medicaid beneficiaries. It is the intent of the General Assembly that these amounts shall be increased on July 1, 2016 by an amount sufficient to provide a cumulative annualized increase of \$7,500,000.00.

## Sec. 54. RATE INCREASES FOR OTHER MEDICAID PROVIDERS

(a) The sum of \$3,394,058.00 in Global Commitment funds is appropriated to the Agency of Human Services in fiscal year 2016 for the purpose of increasing reimbursement rates beginning on January 1, 2016 for providers under contract with the Departments of Disabilities, Aging, and Independent Living, of Mental Health, of Corrections, of Health, and for Children and Families to provide services to Vermont Medicaid beneficiaries. In allocating the Global Commitment funds appropriated pursuant to this section, the Agency shall direct:

(1) \$1,180,989.00 to the Department of Mental Health;

(2) \$284,376.00 to the Department of Health, Division of Alcohol and Drug Abuse Programs;

(3) \$1,458,931.00 to the Department of Disabilities, Aging, and Independent Living for developmental disability services; and

(4) the remaining \$469,763.00 for distribution to other departments' appropriation line items within the Agency for Medicaid-eligible services from contract providers.

(b) The sum of \$569,543.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 for the purpose of increasing reimbursement rates for home- and community-based services in the Choices for Care program beginning on January 1, 2016.

## Sec. 55. INDEPENDENT MENTAL HEALTH PROFESSIONALS

The sum of \$421,591.00 in Global Commitment funds is appropriated to the Department of Vermont Health Access in fiscal year 2016 for the purpose of increasing Medicaid reimbursement rates beginning on January 1, 2016 to



mental health professionals not affiliated with a designated agency who provide mental health services to Medicaid beneficiaries.

Sec. 56. RATE INCREASES FOR DENTAL SERVICES; INTENT

It is the intent of the General Assembly that Medicaid reimbursement rates for providers of dental services to Medicaid beneficiaries shall be increased by an amount estimated to be equivalent to \$485,000.00 beginning on July 1, 2016.

Sec. 57. AGENCY OF HUMAN SERVICES; GLOBAL COMMITMENT APPROPRIATION

(a) The following appropriations and adjustments are made to ensure that the Agency of Human Services' Global Commitment budget line item comports with the appropriations made in Secs. 48-56 of this act:

(1) the sum of \$5,100,000.00 is appropriated from the State Health Care Resources Fund in fiscal year 2016;

(2) the sum of \$5,016,557.00 is appropriated from federal funds in fiscal year 2016; and

(3) a negative adjustment in the amount of -\$968,210.00 to the General Funds appropriated in fiscal year 2016.

(b) The appropriations and adjustments made in Secs. 39-48 of this act shall be in addition to or applied to amounts appropriated for fiscal year 2016 in other acts of the 2015 legislative session and shall be reconciled to the greatest extent possible. Where it is not possible to reconcile, the provisions of this act shall supersede conflicting appropriations and adjustments for fiscal year 2016 in other acts of the 2015 legislative session.

\* \* \* Positions \* \* \*

Sec. 58. GREEN MOUNTAIN CARE BOARD; POSITIONS

(a) On July 1, 2015, two classified positions are created for the Green Mountain Care Board.

(b) On July 1, 2015, one exempt position, attorney, is created for the Green Mountain Care Board.

\* \* \* Repeals \* \* \*

Sec. 59. REPEALS

(a) 18 V.S.A. §§ 9411 (other powers and duties of the Commissioner of Financial Regulation) and 9415 (allocation of expenses) are repealed.

(b) 12 V.S.A. chapter 215, subchapter 2 shall be repealed on July 1, 2020.

\* \* \* Effective Dates \* \* \*

#### Sec. 60. EFFECTIVE DATES

(a) Secs. 1 (all-payer model), 2 and 3 (pharmacy benefit managers), 6 (report on observation status), 9 and 10 (Green Mountain Care Board duties), 11 (VITL), 12 (ambulance reimbursement), 13 and 14 (direct enrollment in Exchange plans), 15–17 (large group market), 18–20 (universal primary care study), 23 (public employees' health benefits), 24 (provider payment parity), 25 (Green Mountain Care Board; payment reform), 26–28 (reports), 29 (provider rate setting), 30 (designated agency budgets), 32 and 33 (presuit mediation), and this section shall take effect on passage.

(b) Secs. 21 (universal primary care appropriation), 31 (effect of designated agency rate increase), 34–45 (transfer of DFR duties), 46 and 47 (suspension and review of uniform forms), 48–57 (appropriations), 58 (positions), and 59 (repeals) shall take effect on July 1, 2015.

(c) Secs. 7 and 8 (telemedicine) shall take effect on October 1, 2015.

(d) Secs. 4 and 5 (notice of hospital observation status) shall take effect on December 1, 2015.

(e) Sec. 22 (consumer price comparison) shall take effect on July 1, 2016.

And that after passage the title of the bill be amended to read:

An act relating to health care.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment with further proposal of amendment?, Senator Mullin moved to amend the proposal of amendment of Senator Kitchel as follows:

First: By striking out Sec. 14, 33 V.S.A. § 1811(b), in its entirety and inserting in lieu thereof a reader assistance heading and five new sections to be numbered Secs. 14–14d to read as follows:

\* \* \* Allowing Purchase of Non-Exchange Plans \* \* \*

Sec. 14. 8 V.S.A. § 4080g(a) is amended to read:

(a) Application. Notwithstanding the provisions of ~~33 V.S.A. § 1811~~ section 4080h of this title, on and after January 1, 2014, the provisions of this section shall apply to an individual, small group, or association plan that qualifies as a grandfathered health plan under Section 1251 of the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152) (Affordable Care Act). In the event that a plan no longer qualifies as

a grandfathered health plan under the Affordable Care Act, the provisions of this section shall not apply and the provisions of ~~33 V.S.A. § 1811~~ section 4080h of this title shall govern the plan.

Sec. 14a. 8 V.S.A. § 4080h is added to read:

§ 4080h. INDIVIDUAL AND SMALL GROUP PLANS

(a) As used in this section:

(1) “Affordable Care Act” means the federal Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), and as may be further amended.

(2) “Health benefit plan” means a health insurance policy, a nonprofit hospital or medical service corporation service contract, or a health maintenance organization health benefit plan issued to an individual or to an employee of a small employer. The term does not include coverage only for accident or disability income insurance, liability insurance, coverage issued as a supplement to liability insurance, workers’ compensation or similar insurance, automobile medical payment insurance, credit-only insurance, coverage for on-site medical clinics, or other similar insurance coverage in which benefits for health services are secondary or incidental to other insurance benefits as provided under the Affordable Care Act. The term also does not include stand-alone dental or vision benefits, long-term care insurance, specific disease or other limited benefit coverage, Medicare supplemental health benefits, Medicare Advantage plans, and other similar benefits excluded under the Affordable Care Act.

(3) “Qualified employer” shall have the same meaning as in 33 V.S.A. § 1802.

(4) “Qualified health benefit plan” means a health benefit plan that meets the requirements set forth in 33 V.S.A. § 1806.

(5) “Registered carrier” means any person, except an insurance agent, broker, appraiser, or adjuster, that issues a health benefit plan and that has a registration in effect with the Commissioner of Financial Regulation as required by this section.

(6) “Small employer” means an entity that employed an average of not more than 100 employees on working days during the preceding calendar year, using the methodology set forth in 26 U.S.C. § 4980H(c)(2). The term includes self-employed persons to the extent permitted under the Affordable Care Act. A small employer may be a qualified employer or a nonqualified employer.

(7) “Vermont Health Benefit Exchange” or “Exchange” means the Vermont Health Benefit Exchange established pursuant to 33 V.S.A. chapter 18, subchapter 1.

(b)(1) A health benefit plan shall comply with the requirements of the Affordable Care Act, including providing the essential health benefits package, offering only plans with at least a 60 percent actuarial value, adhering to limitations on deductibles and out-of-pocket expenses, and offering plans with a bronze-, silver-, gold-, or platinum-level actuarial value. A health benefit plan available for purchase through the Vermont Health Benefit Exchange shall also comply with the requirements of 33 V.S.A. § 1806.

(2) To the extent permitted by the U.S. Department of Health and Human Services, an individual may purchase a qualified health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under contract with the Vermont Health Benefit Exchange, if the carrier elects to make direct enrollment available. A registered carrier enrolling individuals in qualified health benefit plans directly shall comply with all open enrollment and special enrollment periods applicable to the Vermont Health Benefit Exchange.

(3) To the extent permitted by the U.S. Department of Health and Human Services, a small employer or an employee of a small employer may purchase a qualified health benefit plan through the Exchange website, through navigators, by telephone, or directly from a registered carrier under contract with the Vermont Health Benefit Exchange.

(4) An individual, small employer, or employee of a small employer may purchase a nonqualified health benefit plan directly from a registered carrier, through an agent or broker, or by other lawful means.

(c) No person may provide a qualified or nonqualified health benefit plan to an individual or small employer unless such person is a registered carrier. The Commissioner of Financial Regulation shall establish, by rule, the minimum financial, marketing, service, and other requirements for registration. Such registration shall be effective upon approval by the Commissioner and shall remain in effect until revoked or suspended by the Commissioner for cause or until withdrawn by the carrier. A carrier may withdraw its registration upon at least six months’ prior written notice to the Commissioner. A registration filed with the Commissioner shall be deemed to be approved unless it is disapproved by the Commissioner within 30 days of filing.

(d) A registered carrier shall guarantee acceptance of all individuals, small employers, and employees of small employers, and each dependent of such individuals and employees, for any qualified or nonqualified health benefit plan offered by the carrier.

(e) A registered carrier shall offer a health benefit plan rate structure that at least differentiates between single-person, two-person, and family rates.

(f)(1) A registered carrier shall use a community rating method acceptable to the Green Mountain Care Board for determining premiums for health benefit plans. Except as provided in subdivision (2) of this subsection, the following risk classification factors are prohibited from use in rating individuals, small employers, or employees of small employers, or the dependents of such individuals or employees:

(A) demographic rating, including age and gender rating;

(B) geographic area rating;

(C) industry rating;

(D) medical underwriting and screening;

(E) experience rating;

(F) tier rating; or

(G) durational rating.

(2)(A) The Green Mountain Care Board may, by rule, adopt standards and a process for permitting registered carriers to use one or more risk classifications in their community rating method, provided that the Board's rules shall not permit any medical underwriting and screening, shall give due consideration to the need for affordability and accessibility of health insurance, and shall comply with the provisions of 45 C.F.R. § 147.102.

(B) The Board may adopt, to the extent permitted under federal law, rules to permit a carrier, including a hospital or medical service corporation and a health maintenance organization, to establish rewards, premium discounts, split benefit designs, rebates, or otherwise waive or modify applicable co-payments, deductibles, or other cost-sharing amounts in return for adherence by a member or subscriber to programs of health promotion and disease prevention. The Board shall consult with the Commissioner of Health, the Director of the Blueprint for Health, and the Commissioner of Vermont Health Access in the development of health promotion and disease prevention rules that are consistent with the Blueprint for Health. Such rules shall, to the extent permitted under federal law:

(i) limit any reward, discount, rebate, or waiver or modification of cost-sharing amounts to not more than a total of 15 percent of the cost of the premium for the applicable coverage tier, provided that the sum of any rate deviations under subdivision (A) of this subdivision (2) does not exceed 30 percent;

(ii) be designed to promote good health or prevent disease for individuals in the program and not be used as a subterfuge for imposing higher costs on an individual based on a health factor;

(iii) provide that the reward under the program is available to all similarly situated individuals and shall comply with the nondiscrimination provisions of the federal Health Insurance Portability and Accountability Act of 1996; and

(iv) provide a reasonable alternative standard to obtain the reward to any individual for whom it is unreasonably difficult due to a medical condition or other reasonable mitigating circumstance to satisfy the otherwise applicable standard for the discount and disclose in all plan materials that describe the discount program the availability of a reasonable alternative standard.

(C) The Board's rules shall include:

(i) standards and procedures for health promotion and disease prevention programs based on the best scientific, evidence-based medical practices as recommended by the Commissioner of Health;

(ii) standards and procedures for evaluating an individual's adherence to programs of health promotion and disease prevention; and

(iii) any other standards and procedures necessary or desirable to carry out the purposes of this subdivision (2).

(D) The Green Mountain Care Board may require a registered carrier to identify the percentage of a requested premium increase that is attributed to the following categories: hospital inpatient costs, hospital outpatient costs, pharmacy costs, primary care, other medical costs, administrative costs, and projected reserves or profit. Reporting of this information shall occur at the time a rate increase is sought and shall be in the manner and form directed by the Board. Such information shall be made available to the public in a manner that is easy to understand.

(g) A registered carrier shall file with the Commissioner an annual certification by a member of the American Academy of Actuaries of the carrier's compliance with this section. The requirements for certification shall be as the Commissioner prescribes by rule.

(h) A registered carrier shall notify an applicant for individual coverage of the income thresholds for eligibility for State and federal premium tax credits and cost-sharing subsidies in qualified health benefit plans purchased through the Vermont Health Benefit Exchange.

(i) The plan year for a qualified or nonqualified health benefit plan shall begin on January 1. A registered carrier shall guarantee the rates on a health benefit plan for a minimum of 12 months.

(j) The Green Mountain Care Board shall disapprove any rates filed by any registered carrier, whether initial or revised, for insurance policies unless the anticipated medical loss ratios for the entire period for which rates are computed are at least 80 percent, as required by the Affordable Care Act.

(k) The guaranteed acceptance provision of subsection (d) of this section shall not be construed to limit an employer's discretion in contracting with his or her employees for insurance coverage.

Sec. 14b. 8 V.S.A. § 4085 is amended to read:

**§ 4085. REBATES AND COMMISSIONS PROHIBITED FOR NONGROUP AND SMALL GROUP POLICIES AND PLANS OFFERED THROUGH THE VERMONT HEALTH BENEFIT EXCHANGE**

(a) No insurer doing business in this State and no insurance agent or broker shall offer, promise, allow, give, set off, or pay, directly or indirectly, any rebate of or part of the premium payable on a plan issued pursuant to section 4080g or 4080h of this title ~~or 33 V.S.A. § 1811~~ or earnings, profits, dividends, or other benefits founded, arising, accruing or to accrue thereon or therefrom, or any special advantage in date of policy or age of issue, or any paid employment or contract for services of any kind or any other valuable consideration or inducement to or for insurance on any risk in this State, now or hereafter to be written, or for or upon any renewal of any such insurance, which is not specified in the policy contract of insurance, or offer, promise, give, option, sell, purchase any stocks, bonds, securities, or property or any dividends or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance or in connection therewith, or any renewal thereof, which is not specified in the plan.

(b) No person insured under a plan issued pursuant to section 4080g or 4080h of this title ~~or 33 V.S.A. § 1811~~ or party or applicant for such plan shall directly or indirectly receive or accept or agree to receive or accept any rebate of premium or of any part thereof, or any favor or advantage, or share in any benefit to accrue under any plan issued pursuant to section 4080g or 4080h of this title ~~or 33 V.S.A. § 1811~~, or any valuable consideration or inducement, other than such as is specified in the plan.

(c) Nothing in this section shall be construed as prohibiting any insurer from allowing or returning to its participating policyholders dividends, savings, or unused premium deposits; or as prohibiting any insurer from returning or otherwise abating, in full or in part, the premiums of its

policyholders out of surplus accumulated from nonparticipating insurance; or as prohibiting the taking of a bona fide obligation, with interest not exceeding six percent per annum, in payment of any premium.

(d)(1) No insurer shall pay any commission, fee, or other compensation, directly or indirectly, to a licensed or unlicensed agent, broker, or other individual in connection with the sale of a health insurance plan issued pursuant to section 4080g or 4080h of this title or ~~33 V.S.A. § 1811~~, nor shall an insurer include in an insurance rate for a health insurance plan issued pursuant to section 4080g or 4080h of this title or ~~33 V.S.A. § 1811~~ any sums related to services provided by an agent, broker, or other individual. A health insurer may provide to its employees wages, salary, and other employment-related compensation in connection with the sale of health insurance plans, but may not structure any such compensation in a manner that promotes the sale of particular health insurance plans over other plans offered by that insurer.

(2) Nothing in this subsection shall be construed to prohibit the Vermont Health Benefit Exchange established in 33 V.S.A. chapter 18, subchapter 1 from structuring compensation for agents or brokers in the form of an additional commission, fee, or other compensation outside insurance rates or from compensating agents, brokers, or other individuals through the procedures and payment mechanisms established pursuant to 33 V.S.A. § 1805(17).

Sec. 14c. 8 V.S.A. § 4085a(a) is amended to read:

(a) As used in this section, “group insurance” means any policy described in section 4079 of this title, except that it shall not include any small group policy issued pursuant to section ~~4080a or~~ 4080g or 4080h of this title ~~or to 33 V.S.A. § 1811~~.

Sec. 14d. 33 V.S.A. § 1802 is amended to read:

## § 1802. DEFINITIONS

As used in this subchapter:

\* \* \*

(7) “Qualified health benefit plan” means a health benefit plan ~~which~~ that meets the requirements set forth in 8 V.S.A. § 4080h and section 1806 of this title.

\* \* \*

Second: In Sec. 59, repeals, by adding a subsection (c) to read as follows:

(c) 33 V.S.A. § 1811 (Exchange plans) is repealed on January 1, 2017.



Third: In Sec. 60, effective dates, in subsection (a), following the number “13”, by striking out “and 14”, and by adding a subsection (f) to read as follows:

(f) Secs. 14–14d shall take effect on July 1, 2015 for coverage beginning on January 1, 2017.

Which was disagreed to on a roll call, Yeas 9, Nays 19.

Senator Benning having demanded the yeas and nays, they were taken and are as follows:

### **Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Benning, Collamore, Degree, Doyle, Flory, Mullin, Snelling, Westman.

**Those Senators who voted in the negative were:** Ayer, Balint, Baruth, Bray, Campbell, Campion, Cummings, Kitchel, Lyons, MacDonald, Mazza, McCormack, Nitka, Rodgers, Sears, Sirotkin, Starr, White, Zuckerman.

**Those Senators absent and not voting were:** McAllister, Pollina.

Thereupon, the question Shall the Senate concur in the House proposal of amendment with further proposal of amendment was decided in the affirmative.

### **Committee of Conference Appointed**

#### **S. 9.**

An act relating to improving Vermont’s system for protecting children from abuse and neglect.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Sears  
Senator Flory  
Senator Lyons

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

### **Committee of Conference Appointed**

#### **S. 122.**

An act relating to miscellaneous changes to laws related to motor vehicles, motorboats, and other vehicles.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Mazza  
Senator Degree  
Senator Westman

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

### **Rules Suspended; Bills Messaged**

On motion of Senator Campbell, the rules were suspended, and the following bills were severally ordered messaged to the House forthwith:

**S. 9, S. 122, S. 139, H. 18.**

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until ten o'clock and thirty minutes in the morning.

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## **FRIDAY, MAY 8, 2015**

The Senate was called to order by the President.

### **Devotional Exercises**

A moment of silence was observed in lieu of devotions.

### **Message from the Governor Appointments Referred**

A message was received from the Governor, by Susan Allen, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Lees, Robert of White River Junction - Member of the Vermont State Housing Authority, - from April 28, 2015, to February 28, 2018.

To the Committee on Economic Development, Housing & General Affairs.

Murray, Rilla of Montpelier - Member of the Human Services Board, - from April 28, 2015, to February 28, 2021.

To the Committee on Health & Welfare.

### **Bill Referred**

House bill of the following title was read the first time and referred:

**H. 355.**

An act relating to licensing and regulating foresters.

To the Committee on Rules.

**Proposals of Amendment; Bill Passed in Concurrence with Proposal of Amendment****H. 361.**

House bill entitled:

An act relating to making amendments to education funding, education spending, and education governance.

Was taken up.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the Senate proposal of amendment as follows:

First: By adding a reader assistance heading and two new sections to be numbered Secs. 34a–34c to read as follows:

\* \* \* Education Property Tax Rate Incentives \* \* \*

Sec. 34a. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

\* \* \*

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fund raising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

\* \* \*

(B) ~~For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:~~

~~(i) Spending during the budget year for approved school capital construction for a project that received preliminary approval under section 3448 of this title, including interest paid on the debt; provided the district shall~~

~~not be reimbursed or otherwise receive State construction aid for the approved school capital construction.~~

~~(ii) For a project that received final approval for State construction aid under chapter 123 of this title:~~

~~(I) spending for approved school capital construction during the budget year that represents the district's share of the project, including interest paid on the debt;~~

~~(II) payment during the budget year of interest on funds borrowed under subdivision 563(21) of this title in anticipation of receiving State aid for the project.~~

~~(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the State Board of Education, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title.~~

~~(iv) Spending attributable to the cost of planning the merger of a small school, which for purposes of this subdivision means a school with an average grade size of 20 or fewer students, with one or more other schools.~~

~~(v) Spending attributable to the district's share of special education spending in excess of \$50,000.00 for any one student in the fiscal year occurring two years prior.~~

~~(vi) A budget deficit in a district that pays tuition to a public school or an approved independent school or both for all of its resident students in any year in which the deficit is solely attributable to tuition paid for one or more new students who moved into the district after the budget for the year creating the deficit was passed.~~

~~(vii) For a district that pays tuition for all of its resident students and into which additional students move after the end of the census period defined in subdivision (1)(A) of this section, the number of students that exceeds the district's most recent average daily membership and for whom the district will pay tuition in the subsequent year multiplied by the district's average rate of tuition paid in that year.~~

~~(viii) Tuition paid by a district that does not operate a school and pays tuition for all resident students in kindergarten through grade 12, except in a district in which the electorate has authorized payment of an amount~~

~~higher than the statutory rate pursuant to subsection 823(b) or 824(e) of this title.~~

~~(ix) The assessment paid by the employer of teachers who become members of the State Teachers' Retirement System of Vermont on or after July 1, 2015, pursuant to section 1944d of this title. [Repealed.]~~

Sec. 34b. 32 V.S.A. § 5401 is amended to read:

§ 5401. DEFINITIONS

As used in this chapter:

\* \* \*

(12) ~~"Excess spending" means:~~

~~(A) The per-equalized pupil amount of the district's education spending, as defined in 16 V.S.A. § 4001(6), plus any amount required to be added from a Capital Construction Reserve Fund under 24 V.S.A. § 2804(b).~~

~~(B) In excess of 123 percent of the statewide average district education spending per equalized pupil increased by inflation, as determined by the Secretary of Education on or before November 15 of each year based on the passed budgets to date. As used in this subdivision, "increased by inflation" means increasing the statewide average district education spending per equalized pupil for fiscal year 2014 by the most recent New England Economic Project cumulative price index, as of November 15, for state and local government purchases of goods and services, from fiscal year 2014 through the fiscal year for which the amount is being determined.~~

(A) "Excess spending" means 25 percent of the per-equalized-pupil amount of the district's education spending, as defined in 16 V.S.A. § 4001(6), that is in excess of the statewide per pupil spending amount from the prior fiscal year.

(B) "Lower spending" means 25 percent of the difference between the statewide per pupil spending amount from the prior fiscal year minus the actual per-equalized-pupil amount of the district's education spending, as defined in 16 V.S.A. § 4001(6).

(13) "District spending adjustment" means the greater of: one or a fraction in which the numerator is the district's education spending per equalized pupil, plus excess spending or minus lower spending, per equalized pupil, for the school year; and the denominator is the base education amount for the school year, as defined in 16 V.S.A. § 4001. For a district that pays tuition to a public school or an approved independent school, or both, for all of its resident students in any year and which has decided by a majority vote of its

school board to opt into this provision, the district spending adjustment shall be the average of the district spending adjustment calculated under this subdivision for the previous year and for the current year. Any district opting for a two-year average under this subdivision may not opt out of such treatment, and the averaging shall continue until the district no longer qualifies for such treatment.

\* \* \*

(15) “Statewide per pupil spending amount” means an amount equal to the statewide average education spending per equalized pupil in fiscal year 2016, increased in successive fiscal years by the most recent New England Economic Project Cumulative Price Index, as of November 15 of each year, for State and local government purchases of goods and services from fiscal year 2016 through the fiscal year for which the statewide per pupil spending amount is being determined.

#### Sec. 34c. REPEALS

The following are repealed:

(1) 2014 Acts and Resolves No.174, Sec. 60.

(2) 2013 Acts and Resolves No. 60, Sec. 2.

Second: In Sec. 39 (effective dates), by inserting a subdivision (cc) to read as follows:

(cc) Secs. 34a (Title 16 definitions), 34b (Title 32 definitions), and 34c (repeals) shall take effect on July 1, 2015, and apply to fiscal year 2017 and forward.

Thereupon, pending the question, Shall the Senate proposal of amendment be amended as proposed by Senator Rodgers?, Senator Rodgers requested and was granted leave to withdraw the proposal of amendment.

Thereupon, pending third reading of the bill, Senator Ashe moved to amend the Senate proposal of amendment as follows:

First: By adding two new sections to be numbered Secs. 34a and 34b to read as follows:

Sec. 34a. 32 V.S.A. § 6061 is amended to read:

#### § 6061. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

\* \* \*

(5) "Modified adjusted gross income" means "federal adjusted gross income":

\* \* \*

(E) with the addition of an asset adjustment of  $\frac{1}{2}$  x the sum of interest and dividend income included in household income above \$10,000.00 for claimants under ~~age~~ 65 years of age, regardless of whether that dividend or interest income is included in federal adjusted gross income.

\* \* \*

#### Sec. 34b. REPORT ON HOUSEHOLD ASSETS

On or before January 15, 2016, the Commissioner of Taxes, in conjunction with its Tax Advisory Board, shall report to the General Assembly with recommendations for how to measure total household assets, in addition to household income, as a criterion for eligibility for statewide education property tax adjustments in 32 V.S.A. chapter 154.

Second: In Sec. 39 (effective dates) by inserting subdivisions (cc) and (dd) to read:

(cc) Sec. 34a (interest and dividend income) shall take effect on January 1, 2016, and apply to claims filed in 2016 and after.

(dd) Sec. 34b (asset report) shall take effect on passage.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Thereupon, on motion of Senator Campbell, the rules were suspended, and the bill was ordered messaged to the House forthwith.

**Rules Suspended; Immediate Consideration; House Proposal of Amendment Not Concurred In; Committee of Conference Requested**

#### **S. 93.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to lobbying disclosures.

Was taken up for immediate consideration.

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

## Sec. 1. FINDINGS

(a) The effective public disclosure of the identity and extent of the efforts of registered lobbyists, lobbying firms, and lobbyist employers to influence Vermont's legislators during the legislative session will increase public confidence in the integrity of the governmental process.

(b) Responsible representative government requires public awareness of the efforts of registered lobbyists, lobbying firms, and lobbyist employers to influence the public decision-making process in the Legislative Branch of Vermont's government.

(c) Requiring registered lobbyists, lobbying firms, and lobbyist employers to report significant advertisements and advertising campaigns that are intended, designed, or calculated to influence legislative action or to solicit others to influence legislative action enables the public and legislators to evaluate better the pressures and content of the message when considering that action.

(d) The lack of detail in current required lobbying disclosure filings does not provide the public and legislators with enough relevant information about who is attempting to influence the legislative process through advertising, and the timing of current required lobbying disclosure filings prevents the public and legislators from evaluating the pressures and content of lobbying advertising at the time public policy is being debated. The requirement in this act to report significant lobbying advertisements and advertising campaigns within 48 hours provides the public and legislators with specific and timely information regarding who is spending money to influence the legislative process, and the amount being spent to do so.

(e) Requiring registered lobbyists, lobbying firms, and lobbyist employers to designate clearly the name of the lobbyist, lobbying firm, or lobbyist employer paying for an advertisement within the advertisement allows the public and legislators to determine who is attempting to influence the legislative process through advertising, to evaluate the pressures and content of lobbying advertising at the time when public policy is being debated, to trace coordinated advertising buys, and to track such spending over time.

(f) Prohibiting lobbyists, lobbying firms, and lobbyist employers from contributing to legislative leadership political committees while the General Assembly is in session ensures that the prohibition on contributions to legislators set forth in 2 V.S.A. § 266 (prohibited conduct) is not circumvented, since legislative leadership political committees are intertwined with legislators in those political committees' support of legislators.



Sec. 2. 2 V.S.A. § 264c is added to read:

§ 264c. IDENTIFICATION IN AND REPORT OF CERTAIN LOBBYING ADVERTISEMENTS

(a) Identification.

(1) An advertisement that is intended, designed, or calculated to influence legislative action or to solicit others to influence legislative action and that is made at any time prior to final adjournment of a biennial or adjourned legislative session shall contain the name of any lobbyist, lobbying firm, or lobbyist employer that made an expenditure for the advertisement and language that the advertisement was paid for, or paid in part, by the lobbyist, lobbying firm, or lobbyist employer; provided, however:

(A) if there are more than three such names, only the three lobbyists, lobbying firms, or lobbyist employers that made the largest expenditures for the advertisement shall be required to be identified; and

(B) if a lobbyist or lobbying firm made the expenditure on behalf of a lobbyist employer, the identification information set forth in subdivision (1) of this subsection shall be in the name of that lobbyist employer.

(2) This identification information shall appear prominently and in a manner such that a reasonable person would clearly understand by whom the expenditure has been made.

(b) Report.

(1) In addition to any other reports required to be filed under this chapter, a lobbyist, lobbying firm, or lobbyist employer shall file an advertisement report with the Secretary of State if he, she, or it makes an expenditure or expenditures:

(A) for any advertisement that is described in subsection (a) of this section and that has a cost totaling \$1,000.00 or more; or

(B) for any advertising campaign that contains advertisements described in subsection (a) of this section and that has a cost totaling \$1,000.00 or more.

(2) The report shall be made for each advertisement or advertising campaign described in subdivision (1) of this subsection and shall identify the lobbyist, lobbying firm, or lobbyist employer that made the expenditure; the amount and date of the expenditure and to whom it was paid; and a brief description of the advertisement or advertising campaign.

(3) The report shall be filed within 48 hours of the expenditure or the advertisement or advertising campaign, whichever occurs first.

(4) If a lobbyist or lobbying firm made an expenditure described in subdivision (1) of this subsection on behalf of a lobbyist employer and that lobbyist or lobbying firm filed the report required by this subsection, the report shall specifically identify the employer on whose behalf the expenditure was made.

(c) Definitions. As used in this section:

(1) "Advertisement" means a television commercial, radio commercial, mass mailing, mass electronic or digital communication, literature drop, newspaper or periodical advertisement, banner, sign, robotic phone call, or telephone bank. As used in this subdivision, "telephone bank" means more than 500 telephone calls of an identical or substantially similar nature that are made to the general public within any 30-day period.

(2) "Advertising campaign" means advertisements substantially similar in nature, regardless of the media in which they are placed.

Sec. 3. 2 V.S.A. § 264 is amended to read:

§ 264. REPORTS OF EXPENDITURES, COMPENSATION, AND GIFTS;  
EMPLOYERS; LOBBYISTS

(a) Every employer and every lobbyist registered or required to be registered under this chapter shall file disclosure reports with the Secretary of State as follows:

(1) on or before January 15, for the preceding period beginning on September 1 and ending with December 31;

(2) on or before February 15, for the preceding period beginning on January 1 and ending with January 31;

(3) on or before March 15, for the preceding period beginning on February 1 and ending with the last day of February;

(4) on or before April 15, for the preceding period beginning on January 1 and ending with March 31;

(5) on or before May 15, for the preceding period beginning on April 1 and ending with April 30;

(6) on or before June 15, for the preceding period beginning on May 1 and ending with May 31; and

(7) on or before July 15, for the preceding period beginning on June 1 and ending with June 30;

(8) on or before August 15, for the preceding period beginning on July 1 and ending with July 31.

(b) An employer shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the employer in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the employer and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

\* \* \*

~~(4) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the employer and:~~

~~(A) a legislator or administrator;~~

~~(B) a legislator's or administrator's spouse; or~~

~~(C) a legislator's or administrator's dependent household member.~~

[Repealed.]

(c) A lobbyist shall disclose for the period of the report the following information:

(1) A total of all lobbying expenditures made by the lobbyist in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to

influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbyist and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

\* \* \*

~~(4) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbyist and:~~

~~(A) a legislator or administrator;~~

~~(B) a legislator's or administrator's spouse; or~~

~~(C) a legislator's or administrator's dependent household member.~~

[Repealed.]

\* \* \*

~~(h) Disclosure reports shall be made on forms published by the Secretary of State and shall be signed by the employer or lobbyist. The Secretary of State shall make those forms available to registered employers and lobbyists on the Secretary's website not later than 30 days before each filing deadline.~~  
[Repealed.]

\* \* \*

Sec. 4. 2 V.S.A. § 264b is amended to read:

§ 264b. LOBBYING FIRM LISTINGS; REPORTS OF EXPENDITURES, COMPENSATION, AND GIFTS; LOBBYING FIRMS

\* \* \*

(b) Every lobbying firm shall file a disclosure report on the same day as lobbyist disclosure reports are due under subsection 264(a) of this title which shall include:

(1) A total of all lobbying expenditures made by the lobbying firm in each of the following categories:

(A) Advertising, including television, radio, print, and electronic media.

(B) Expenses incurred for telemarketing, polling, or similar activities if the activities are intended, designed, or calculated, directly or indirectly, to influence legislative or administrative action. The report shall specify the amount, the person to whom the amount was paid, and a brief description of the activity.

(C) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbying firm and:

(i) a legislator or administrator;

(ii) a legislator's or administrator's spouse; or

(iii) a legislator's or administrator's dependent household member.

(D) The total amount of any other lobbying expenditures.

\* \* \*

~~(4) Contractual agreements in excess of \$100.00 per year or direct business relationships that are in existence or were entered into within the previous 12 months between the lobbying firm and:~~

~~(A) a legislator or administrator;~~

~~(B) a legislator's or administrator's spouse or civil union partner; or~~

~~(C) a legislator's or administrator's dependent household member.~~

[Repealed.]

Sec. 5. 2 V.S.A. § 265 is amended to read:

§ 265. PUBLIC ACCESS; REGISTRATION STATEMENTS; REPORTS SUBMISSION OF AND ACCESS TO LOBBYING DISCLOSURES

~~The secretary of state shall maintain copies of all lobbyist and employer registration statements and disclosure reports and all lobbying firm disclosure reports arranged alphabetically, which shall be a public record available for public inspection during ordinary business hours. The secretary of state shall also compile and maintain a separate report for each reporting period for each legislator or administrative official indicating the gifts reported to have been given to that legislator or official during the reporting period by employers, lobbyists, or lobbying firms, which shall be a public record available for public~~

~~inspection during ordinary business hours. On January 1 of each odd-numbered year, the secretary may discard statements and reports that have been maintained for a period of four years.~~

(a) The Secretary of State shall provide on his or her website an online database of the lobbying disclosures required under this chapter.

(1) In this database, the Secretary shall provide digital access to each form he or she shall provide to enable a person to file the statements or reports required under this chapter. Digital access shall enable such a person to file these lobbying disclosures by completing and submitting the disclosure to the Secretary of State online.

(2) The Secretary shall maintain on the online database all disclosures that have been filed digitally on it so that any person may have direct machine-readable electronic access to the individual data elements in each disclosure and the ability to search those data elements as soon as a disclosure is filed.

(b) Any person required to file a disclosure with the Secretary of State under this chapter shall sign it, declare that it is made under the penalties of perjury, and file it digitally on the online database.

Sec. 6. 2 V.S.A. § 267 is amended to read:

§ 267. ~~VERIFICATION OF STATEMENTS AND REPORTS~~

~~Any statement or report required to be made under any provision of this chapter shall contain or be verified by a written declaration that it is made under the penalties of perjury. [Repealed.]~~

Sec. 7. TRANSITIONAL PROVISION; SECRETARY OF STATE; MAINTENANCE OF PRIOR LOBBYING DISCLOSURES

(a) The Secretary of State shall maintain copies of the lobbying reports and registration statements filed with him or her on paper prior to the effective date of this act and the separate report of gifts to legislators and administrative officials he or she compiled under the provisions of 2 V.S.A. § 265 in effect prior to the effective date of this act, and shall make those disclosures available for public inspection during ordinary business hours.

(b) On January 1 of each odd-numbered year, the Secretary may discard the disclosures described in subsection (a) of this section that he or she has maintained for a period of at least four years.

Sec. 8. 2 V.S.A. § 266 is amended to read:

§ 266. PROHIBITED CONDUCT

(a) It shall be prohibited conduct:

(1) to employ a lobbyist or lobbying firm, or accept employment as a lobbyist or lobbying firm, for compensation that is dependent on a contingency;

(2) for a legislator or administrative official to solicit a gift, other than a ~~political~~ contribution, from a registered employer or registered lobbyist or a lobbying firm engaged by an employer, except that charitable contributions for nonprofit organizations qualified under ~~Section 26 U.S.C. § 501(c)(3) of the federal Internal Revenue Code~~ may be solicited from registered employers and registered lobbyists or lobbying firms engaged by an employer; or

(3)(A) when the ~~general assembly~~ General Assembly is in session, until adjournment sine die;

(i) for a legislator, a legislator's candidate's committee, a legislative leadership political committee, or an administrative official to solicit a ~~political campaign~~ contribution as defined in 17 V.S.A. § 2801 from a registered lobbyist, a registered employer, or a lobbying firm engaged by an employer ~~or registered employer~~; or

(ii) for a registered lobbyist ~~or~~ registered employer, or a lobbying firm engaged by an employer to make or promise a ~~political campaign~~ contribution to ~~any member of the general assembly or any member's campaign~~ a legislator, a legislator's candidate's committee, or a legislative leadership political committee.

(b) As used in this section, "candidate's committee," "contribution," and "legislative leadership political committee" shall have the same meanings as in 17 V.S.A. § 2901.

Sec. 9. 17 V.S.A. § 2901 is amended to read:

#### § 2901. DEFINITIONS

As used in this chapter:

\* \* \*

(13) "Political committee" or "political action committee" means any formal or informal committee of two or more individuals or a corporation, labor organization, public interest group, or other entity, not including a political party, which accepts contributions of \$1,000.00 or more and makes expenditures of \$1,000.00 or more in any two-year general election cycle for the purpose of supporting or opposing one or more candidates, influencing an election, or advocating a position on a public question in any election, and includes an independent expenditure-only political committee and a legislative leadership political committee.

\* \* \*

(19) "Legislative leadership political committee" means a political committee established by or on behalf of a political party caucus within a chamber of the General Assembly.

Sec. 10. 17 V.S.A. § 2922 is amended to read:

§ 2922. POLITICAL COMMITTEES; REGISTRATION; CHECKING ACCOUNT; TREASURER

(a)(1) Each political committee shall register with the Secretary of State within 10 days of making expenditures of \$1,000.00 or more and accepting contributions of \$1,000.00 or more stating its full name and address; the name and address of the bank in which it maintains its campaign checking account; and the name and address of the treasurer responsible for maintaining the checking account.

(2)(A) In addition to the requirements of subdivision (1) of this subsection, a legislative leadership political committee shall designate in its registration that it is established as a legislative leadership political committee.

(B) The Secretary of State shall provide on his or her website a list of all legislative leadership political committees that have been designated as provided in this subdivision (2).

\* \* \*

Sec. 11. TRANSITIONAL PROVISION; EXISTING LEGISLATIVE LEADERSHIP POLITICAL COMMITTEES

(a) A legislative leadership political committee in existence immediately prior to the effective date of this act shall update its registration with the Secretary of State as provided in Sec. 10, 17 V.S.A. § 2922(a)(2), of this act on or before July 15, 2015.

(b) As used in this section, "legislative leadership political committee" shall have the same meaning as set forth in Sec. 9, 17 V.S.A. § 2901(19), of this act.

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator White, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.



---

**Rules Suspended; Immediate Consideration; House Proposal of  
Amendment Not Concurred In; Committee of Conference Requested**

**S. 102.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations.

Was taken up for immediate consideration.

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

Sec. 1. 13 V.S.A. § 352 is amended to read:

**§ 352. CRUELTY TO ANIMALS**

A person commits the crime of cruelty to animals if the person:

\* \* \*

(5)(A) owns, possesses, keeps, or trains an animal engaged in an exhibition of fighting, or possesses, keeps, or trains any animal with intent that it be engaged in an exhibition of fighting, or permits any such act to be done on premises under his or her charge or control; or

(B) owns, possesses, ships, transports, delivers, or keeps a device, equipment, or implement with the intent that it be used to train or condition an animal for participation in animal fighting, or enhance an animal's fighting capability.

\* \* \*

Sec. 2. 13 V.S.A. § 353 is amended to read:

**§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION**

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than three years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall

be punishable by a sentence of imprisonment of not more than five years or a fine of not more than \$7,500.00, or both.

(3) An offense committed under subdivision 352(5)(A) or (6) of this title shall be punishable by a sentence of imprisonment of not more than five years, or a fine of not more than \$5,000.00, or both.

\* \* \*

Sec. 3. 13 V.S.A. § 364 is amended to read:

§ 364. ANIMAL FIGHTS

(a) A person who participates in a fighting exhibition of animals shall be in violation of subdivisions 352(5) and (6) of this title.

(b) In addition to seizure of fighting birds or animals involved in a fighting exhibition, a law enforcement officer or humane officer may seize any equipment, ~~associated with that activity~~ personal property, monies, securities, or other things of value used to engage in a violation or further a violation of subdivisions 352(5) and (6) of this title.

(c) In addition to the imposition of a penalty under this chapter, conviction under this section shall result in forfeiture of all seized fighting animals ~~and~~ equipment, and other property subject to seizure under this section. The animals may be destroyed humanely or otherwise disposed of as directed by the court.

(d) Property subject to forfeiture under this section may be seized upon process issued by the court having jurisdiction over the property. Seizure without process may be made:

(1) incident to a lawful arrest;

(2) pursuant to a search warrant; or

(3) if there is probable cause to believe that the property was used or is intended to be used in violation of this section.

(e) Forfeiture proceedings instituted pursuant to the provisions of this section for property other than animals are subject to the procedures and requirements for forfeiture as set forth in 18 V.S.A. chapter 84, subchapter 2.

Sec. 4. 18 V.S.A. § 4241 is amended to read:

§ 4241. SCOPE

(a) The following property shall be subject to this subchapter:

\* \* \*

(7) Any property seized pursuant to 13 V.S.A. § 364.

~~(b) This subchapter shall not apply to any property used or intended for use in an offense involving two ounces or less of marijuana or in connection with hemp or hemp products as defined in 6 V.S.A. § 562. This subchapter shall apply to property for which forfeiture is sought in connection with:~~

~~(1) a violation under chapter 84, subchapter 1 of this title that carries by law a maximum penalty of ten years' incarceration or greater; or~~

~~(2) a violation of 13 V.S.A. § 364.~~

Sec. 5. 18 V.S.A. § 4242 is amended to read:

§ 4242. SEIZURE

\* \* \*

(b) Any property subject to forfeiture under this subchapter may be seized upon process. Seizure without process may be made when:

(1) the seizure is incident to an arrest with probable cause or a search under a valid search warrant;

(2) the property subject to seizure has been the subject of a prior judgment in favor of the ~~state~~ State in a forfeiture proceeding under this subchapter; or

(3) the seizure is incident to a valid warrantless search.

(c) If property is seized without process under subdivision (b)(1) or (3) of this section, the ~~state~~ State shall forthwith petition the court for a preliminary order or process under subsection (a) of this section.

(d) ~~All~~ Notwithstanding subsection 4241(b) of this title, all regulated drugs the possession of which is prohibited under this chapter are contraband and shall be automatically forfeited to the state and destroyed.

Sec. 6. 18 V.S.A. § 4243 is amended to read:

§ 4243. ~~PETITION FOR JUDICIAL FORFEITURE PROCEDURE~~

(a) ~~The State~~ Conviction required. An asset is subject to forfeiture by judicial determination under section 4241 of this title and 13 V.S.A. § 364 if a person is convicted of the criminal offense related to the action for forfeiture.

(b) Evidence. The State may introduce into evidence in the judicial forfeiture case the fact of a conviction in the Criminal Division.

(c) Burden of proof. The State bears the burden of proving by clear and convincing evidence that the property is an instrument of or represents the proceeds of the underlying offense.

(d) Notice. Within 60 days from when the seizure occurs, the State shall notify any owners, possessors, and lienholders of the property of the action, if known or readily ascertainable. Upon motion by the State, a court may extend the time period for sending notice for a period not to exceed 90 days for good cause shown.

(e) Return of property. If notice is not sent in accordance with subsection (d) of this section, and no time extension is granted or the extension period has expired, the law enforcement agency shall return the property to the person from whom the property was seized. An agency's return of property due to lack of proper notice does not restrict the agency's authority to commence a forfeiture proceeding at a later time. Nothing in this subsection shall require the agency to return contraband, evidence, or other property that the person from whom the property was seized is not entitled to lawfully possess.

(f) Filing of petition. Except as provided in section 4243a of this title, the State shall file a petition for forfeiture of any property seized under section 4242 of this title promptly, but not more than 14 days from the date the preliminary order or process is issued. The petition shall be filed in the ~~superior court~~ Superior Court of the county in which the property is located or in any court with jurisdiction over a criminal proceeding related to the property.

~~(b)~~(g) Service of petition. A copy of the petition shall be sent by certified mail to served on all persons named in the petition as provided for in Rule 4 of the Vermont Rules of Civil Procedure. In addition, the ~~state~~ State shall cause notice of the petition to be published in a newspaper of general circulation in the ~~state~~ State, as ordered by the court. The petition shall state:

(1) the facts upon which the forfeiture is requested, including a description of the property subject to forfeiture, and the type and quantity of regulated drug involved;

(2) the names of the apparent owner or owners, lienholders who have properly recorded their interests, and any other person appearing to have an interest; and, in the case of a conveyance, the name of the person holding title, the registered owner, and the make, model, and year of the conveyance.

Sec. 7. 18 V.S.A. § 4244 is amended to read:

#### § 4244. FORFEITURE HEARING

(a) ~~The court~~ Within 60 days following service of notice of seizure and forfeiture under sections 4243 of this title, a claimant may file a demand for judicial determination of the forfeiture. The demand must be in the form of a civil complaint accompanied by a sworn affidavit setting forth the facts upon which the claimant intends to rely, including, if relevant, the noncriminal

source of the asset or currency at issue. The demand must be filed with the court administrator in the county in which the seizure occurred.

~~(b)~~ The Court shall hold a hearing on the petition no less than 14 nor more than 30 days after notice. For good cause shown, or on the court's own motion, the court may stay the forfeiture proceedings pending resolution of related criminal proceedings. If a person named in the petition is a defendant in a related criminal proceeding and the proceeding is dismissed or results in a judgment of acquittal, the petition shall be dismissed as to the defendant's interest in the property as soon as practicable after, and in any event no later than 90 days following, the conclusion of the criminal prosecution.

~~(b)(c)~~ A lienholder who has received notice of a forfeiture proceeding may intervene as a party. If the court Court finds that the lienholder has a valid, good faith interest in the subject property which is not held through a straw purchase, trust or otherwise for the actual benefit of another and that the lienholder did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law, the court Court upon forfeiture shall order compensation to the lienholder to the extent of the lienholder's interest.

(d) The Court shall not order the forfeiture of property if an owner, co-owner, or person who regularly uses the property, other than the defendant, shows by a preponderance of the evidence that the owner, co-owner, or regular user did not consent to or have any express or implied knowledge that the property was being or was intended to be used in a manner that would subject the property to forfeiture, or that the owner, co-owner, or regular user had no reasonable opportunity or capacity to prevent the defendant from using the property.

~~(e)(e)~~ The proceeding shall be against the property and shall be deemed civil in nature. The state State shall have the burden of proving all material facts by clear and convincing evidence.

~~(d)(f)~~ The court Court shall make findings of fact and conclusions of law and shall issue a final order. If the petition is granted, the court Court shall order the property held for evidentiary purposes, delivered to the state treasurer State Treasurer, or, in the case of regulated drugs or property which is harmful to the public, destroyed.

Sec. 8. 18 V.S.A. § 4247 is amended to read:

§ 4247. DISPOSITION OF PROPERTY

(a) Whenever property is forfeited and delivered to the state treasurer State Treasurer under this subchapter, the state treasurer State Treasurer shall, no

sooner than 90 days of the date the property is delivered, sell the property at a public sale held under 27 V.S.A. chapter 13.

(b) The proceeds from the sale of forfeited property shall be used first to offset any costs of selling the property, and then, after any liens on the property have been paid in full, applied to payment of seizure, storage, and forfeiture expenses, including animal care expenses related to the underlying violation. Remaining proceeds shall be distributed as follows:

(1)(A) Forty percent shall be distributed among:

- (i) the Office of the Attorney General;
- (ii) the Department of State's Attorneys and Sheriffs; and
- (iii) State and local law enforcement agencies.

(B) The Governor's Criminal Justice and Substance Abuse Cabinet is authorized to determine the allocations among the groups listed in subdivision (A) of this subdivision (1), and may only reimburse the prosecutor and law enforcement agencies that participated in the enforcement effort resulting in the forfeiture for expenses incurred, including actual expenses for involved personnel. The proceeds shall be held by the Treasurer until the Cabinet notifies the Treasurer of the allocation determinations, at which time the Treasurer shall forward the allocated amounts to the appropriate agency's operating funds.

(2) The remaining 60 percent shall be deposited in the General Fund.

(c) The State Treasurer shall report annually to the House and Senate Committees on Appropriations on the amount of proceeds collected from the sale of forfeited property under this subchapter, the reimbursements made in accordance with subdivision (b)(1)(B) of this section, and the allocations of net proceeds made by the Governor's Criminal Justice and Substance Abuse Cabinet in accordance with subdivision (b)(1) of this section. .

Sec. 9. 23 V.S.A. § 1213c is amended to read:

§ 1213c. IMMOBILIZATION AND FORFEITURE PROCEEDINGS

\* \* \*

(o) A law enforcement or prosecution agency conducting forfeitures under this section may accept, receive, and disburse in furtherance of its duties and functions under this section any appropriations, grants, and donations made available by the state of Vermont and its agencies, the federal government and its agencies, any municipality or other unit of local government, or private or civil sources.

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**Sec. 10. ANIMAL CRUELTY RESPONSE TASK FORCE**

(a) Creation. There is created a task force to evaluate the state of animal cruelty investigation and response in Vermont, including the resources devoted to animal investigation and response services and to recommend ways to consolidate, collaborate, or reorganize to use more effectively limited resources while improving the response to animal cruelty.

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

- (1) a representative from the Governor's office;
- (2) a member of the Vermont State Police;
- (3) a member of the VT Police Chiefs Association;
- (4) a representative of the VT Animal Control Association;
- (5) a Humane Officer from a VT humane society focusing on domestic animals;
- (6) a Humane Officer of a VT humane society focusing on large animals (livestock);
- (7) a representative of the Vermont Humane Federation;
- (8) a representative of the Vermont Federation of Dog Clubs;
- (9) the Executive Director of the Department of State's Attorneys and Sheriffs or designee;
- (10) a representative of the Vermont Veterinary Medical Association;
- (11) a representative of the Vermont Agency of Agriculture, Food and Markets;
- (12) a representative of the VT Constables Association;
- (13) a representative of the VT Town Clerks Association;
- (14) a representative of the Department for Children and Families; and
- (15) a representative of the VT Federation of Sportsmen's Clubs.

(c) Powers and duties. The Task Force, in consultation with the Office of the Defender General, shall study and make recommendations concerning:

- (1) training for humane agents, animal control officers, law enforcement officers, and prosecutors;
- (2) the development of uniform response protocols for receiving, investigating, and following up on complaints of animal cruelty, including sentencing recommendations;

(3) the development of a centralized data collection system capable of sharing data collected from both the public and private sectors on animal cruelty substantiated reports and outcomes;

(4) funding the various responsibilities that are involved with an animal cruelty investigation, including which State agencies should be responsible for any State level authority and oversight; and

(5) any other issue the Task Force determines is relevant to improve the efficiency, process, and results of animal cruelty response actions in Vermont.

(d) Report. On or before January 15, 2016, the Task Force shall report its findings and recommendations to the House and Senate Committees on Judiciary.

(e) Meetings and sunset.

(1) The representative from the Governor's office shall call the first meeting of the Task Force.

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

(3) The Task Force shall hold its first meeting no later than August 15, 2015.

(4) Meetings of the Task Force shall be public meetings.

(5) The Task Force shall cease to exist on January 16, 2016.

#### Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

Thereupon, pending the question, Shall the Senate concur in the House proposal of amendment?, on motion of Senator Sears, the Senate refused to concur in the House proposal of amendment and requested a Committee of Conference.

#### **Rules Suspended; Immediate Consideration; House Proposals of Amendment to Senate Proposal of Amendment Concurred In**

#### **H. 488.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and House bill entitled:

An act relating to the State's Transportation Program and miscellaneous changes to laws related to transportation.

Was taken up for immediate consideration.



The House proposes to the Senate to amend the Senate proposal of amendment as follows:

First: In Sec. 10, subsection (a), in the first sentence, after the words The Agency by inserting the following: , in consultation with the Joint Fiscal Office,

Second: In Sec. 10, subsection (b), in the first sentence, after the words The Agency by inserting the following: , in consultation with the Joint Fiscal Office,

Third: In Sec. 11, subsections (a) and (b), in the first sentence, after the words The Agency by inserting the following: , in consultation with the Joint Fiscal Office,

Fourth: In Sec. 12, in subsection (a), in the first sentence, by inserting the following after the words Agency of Human Services by inserting the following: , the Joint Fiscal Office,

Fifth: By inserting a new section to be numbered Sec. 21a to read as follows:

Sec. 21a. MUNICIPAL MITIGATION GRANT PROGRAM; SPENDING AUTHORITY

In the fiscal year 2017, 2018, and 2019 Transportation Programs adopted by the General Assembly, the General Assembly shall approve spending authority for the Municipal Mitigation Grant Program for grants to municipalities for inventory activities or construction projects that address town highway stormwater management, in an amount that is at least \$1,000,000.00 greater than the \$440,000.00 of spending authority approved in this act for fiscal year 2016 for the Better Backroads Program. Not less than \$1,000,000.00 of the monies appropriated to implement this additional spending authority shall be drawn from transportation funds made available from the \$2,500,000.00 reduction scheduled to occur under 19 V.S.A. § 11a in the amount of transportation funds appropriated to the Department of Public Safety.

Sixth: By inserting a new section to be numbered Sec. 26a to read numbered :

Sec. 26a. 29 V.S.A. § 820 is amended to read:

§ 820. THE NAMING OF STATE BUILDINGS AND FACILITIES

The Except for State transportation buildings and facilities named by the Transportation Board in accordance with 19 V.S.A. § 5, the name by which a state State building or facility is to be known shall be authorized by the general assembly General Assembly.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment to the Senate proposal of amendment?, was decided in the affirmative.

### **Proposal of Amendment; Third Reading Ordered**

#### **H. 480.**

Senator Baruth, for the Committee on Education, to which was referred House bill entitled:

An act relating to making miscellaneous technical and other amendments to education laws.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Elementary Education; Prekindergarten \* \* \*

Sec. 1. 16 V.S.A. § 11(a)(3) is amended to read:

(3) "Elementary education" means a program of public school education adapted to the needs of students in prekindergarten, kindergarten, and the first six grades.

\* \* \* School Boards; Designation; Technical Correction \* \* \*

Sec. 2. 16 V.S.A. § 563(31) is amended to read:

(31) Subject to the requirements of section 571 of this title, may enter into contracts with other school boards to provide joint programs, services, facilities, and professional or other staff. ~~Nothing herein shall be construed to permit the designation by a school district that does not maintain a secondary school of another school district's secondary school as the secondary school of the district.~~

\* \* \* Sight and Hearing Testing; Equipment \* \* \*

Sec. 3. REPEAL

16 V.S.A. § 1421 (sight and hearing testing equipment) is repealed.

\* \* \* Vermont State Colleges; Technical Correction \* \* \*

Sec. 4. 16 V.S.A. § 2179 is amended to read:

§ 2179. NONAPPLICABILITY OF CERTAIN STATUTES

Except as expressly provided in this chapter, the Corporation, its officers and employees shall not be governed by:

\* \* \*

(9) 21 V.S.A. § 342~~(d)~~(c), dealing with required written employee authorization before an employer may pay wages through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by the employee within or outside the State.

\* \* \* Tiered System of Supports \* \* \*

Sec. 5. 16 V.S.A. § 2902 is amended to read:

§ 2902. ~~EDUCATIONAL SUPPORT SYSTEM~~ TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain ~~an educational support system for students who require additional assistance in order~~ a tiered system of academic and behavioral supports for the purpose of providing all students with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the educational support system tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The educational support system school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team and a range of support and remedial services, including, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom, and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The ~~educational support system~~ tiered system of supports shall:

(1) Be ~~integrated to the extent~~ aligned as appropriate with the general education curriculum.

(2) Be designed to ~~increase~~ enhance the ability of the general education system to meet the needs of all students.

(3) Be designed to provide ~~students the support needed~~ necessary supports promptly, regardless of an individual student's eligibility for categorical programs.

(4) ~~Provide clear procedures and methods for addressing student behavior that is disruptive to the learning environment and include educational options, support services, and consultation or training for staff where appropriate. Procedures may include removal of a student from the classroom or the school building for as long as appropriate, consistent with state and~~

~~federal law and the school's policy on student discipline, after reasonable effort has been made to support the student in the regular classroom environment~~ Seek to identify and respond to students in need of support for at-risk behaviors and to students in need of specialized, individualized behavior supports.

(5) ~~Ensure~~ Provide all students with a continuum of evidence-based and research-based behavior practices that teach and encourage prosocial skills and behaviors schoolwide.

(6) Promote collaboration with families, community supports, and the system of health and human services.

\* \* \*

\* \* \* Small School Support; Outdated References \* \* \*

#### Sec. 6. REPEAL

16 V.S.A. § 4015(d) (small school support; references to two repealed provisions) is repealed.

\* \* \* Education Fund; Technical Correction \* \* \*

Sec. 7. 16 V.S.A. § 4025 is amended to read:

#### § 4025. EDUCATION FUND

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

\* \* \*

(4) ~~Revenue from the electric generating plant education property tax under 32 V.S.A. § 5402a.~~ [Repealed.]

\* \* \*

\* \* \* Effective Date \* \* \*

#### Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2015.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator MacDonald, for the Committee on Finance, to which the bill was referred, reported recommending that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Education.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Education? Senator

White moved to amend the proposal of amendment of the Committee on Education, as follows:

\* \* \* University of Vermont and State Agricultural College \* \* \*

Sec. 4a. 16 V.S.A. § 2285 is added to read:

§ 2285. NONAPPLICABILITY OF CERTAIN REQUIREMENTS FOR PAYMENT OF WAGES

Except as expressly provided in this chapter, the University of Vermont and State Agricultural College and its Board of Trustees, officers, and employees shall not be subject to the provisions of 21 V.S.A. § 342(c) that require written employee authorization before an employer may pay wages through electronic funds transfer or other direct deposit systems to a checking, savings, or other deposit account maintained by the employee within or outside the State.

Which was agreed to.

Thereupon, pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Education? Senator Degree moved to amend the proposal of amendment of the Committee on Education, as amended, as follows:

\* \* \* Governance of the Vermont State Colleges; Technical Correction \* \* \*

Sec. 8. 16 V.S.A. § 2172(d) is amended to read:

(d) ~~The Governor, in the case of gubernatorial appointed trustees, or the Board of Trustees, in the case of Board-elected trustees:~~

(1) The Board of Trustees, after notice and a hearing, may remove a trustee for incompetency, failure to discharge duties, malfeasance, illegal acts, or other cases inimical to the welfare of the Corporation;~~and~~.

(2) Gubernatorial-appointed trustees shall serve at the pleasure of the Governor pursuant to 3 V.S.A. § 2004.

(3) ~~in~~ In the event of a vacancy occurring under this subsection, the Governor or the Board, as applicable, shall fill the vacancy pursuant to subsection (a) of this section.

\* \* \* Effective Dates \* \* \*

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 1–7 shall take effect on July 1, 2015.

(b) Sec. 8 (16 V.S.A. § 2172(d)) shall take effect on July 16, 2015.

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Education, as amended, was agreed to and third reading of the bill was ordered.

**Joint Resolution Adopted in Concurrence**

**J.R.H. 8.**

Joint House resolution of the following title was read the third time and adopted in concurrence:

Joint resolution relating to military suicides.

**Proposal of Amendment; Third Reading Ordered**

**H. 492.**

Senator Flory, for the Committee on Institutions, to which was referred House bill entitled:

An act relating to capital construction and State bonding.

Reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Capital Appropriations \* \* \*

**Sec. 1. LEGISLATIVE INTENT**

(a) It is the intent of the General Assembly that of the \$157,207,752.00 authorized in this act, no more than \$80,068,449.00 shall be appropriated in the first year of the biennium, and the remainder shall be appropriated in the second year.

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

**Sec. 2. STATE BUILDINGS**

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

(b) The following sums are appropriated in FY 2016:

<u>(1) Statewide, asbestos:</u>	<u>\$50,000.00</u>
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<u>(2) Statewide, building reuse and planning:</u>	<u>\$75,000.00</u>
<u>(3) Statewide, contingency:</u>	<u>\$100,000.00</u>
<u>(4) Statewide, elevator repairs and replacement:</u>	<u>\$100,000.00</u>
<u>(5) Statewide, major maintenance:</u>	<u>\$8,210,287.00</u>
<u>(6) Statewide, BGS engineering and architectural project costs:</u>	<u>\$3,567,791.00</u>
<u>(7) Statewide, physical security enhancements:</u>	<u>\$200,000.00</u>
<u>(8) Burlington, 32 Cherry Street, HVAC controls upgrades:</u>	<u>\$150,000.00</u>
<u>(9) Burlington, 108 Cherry Street, garage and structural audit:</u>	<u>\$50,000.00</u>
<u>(10) Montpelier, 120 State Street, life safety and infrastructure improvements:</u>	<u>\$300,000.00</u>
<u>(11) Montpelier, Department of Labor, parking lot expansion:</u>	<u>\$450,000.00</u>
<u>(12) Middlesex, State Archives, renovations:</u>	<u>\$660,000.00</u>
<u>(13) Newport, Northern State Correctional Facility, maintenance shop:</u>	<u>\$450,000.00</u>
<u>(14) Randolph, Agency of Agriculture, Food and Markets and Agency of Natural Resources, collaborative laboratory, finalizing design and construction documents, bid proposal, and permitting:</u>	<u>\$2,500,000.00</u>
<u>(15) Southern State Correctional Facility, construction of Phase I of the steamline replacement, design and cost estimation for Phase II:</u>	<u>\$1,200,000.00</u>
<u>(16) Southern State Correctional Facility, copper waterline replacement and project-related costs:</u>	<u>\$1,829,086.00</u>
<u>(17) St. Johnsbury, Caledonia Courthouse, stabilize foundation:</u>	<u>\$1,700,000.00</u>
<u>(18) Pittsford, Training Center, electrical system upgrade:</u>	<u>\$120,000.00</u>
<u>(19) Waterbury State Office Complex, complex restoration, and project-related costs:</u>	<u>\$19,151,826.00</u>

(20) White River Junction, Windsor Courthouse, design and planning for mechanical, electrical and plumbing, security and energy upgrades:

\$300,000.00

(21) Colchester, Woodside Juvenile Rehabilitation Center, project design and planning, and begin repairs and improvements:

\$200,000.00

(c) The following sums are appropriated in FY 2017:

(1) Statewide, asbestos: \$50,000.00

(2) Statewide, building reuse and planning: \$75,000.00

(3) Statewide, contingency: \$100,000.00

(4) Statewide, elevator repairs and replacement: \$100,000.00

(5) Statewide, major maintenance: \$8,000,000.00

(6) Statewide, BGS engineering and architectural project costs:  
\$3,677,448.00

(7) Statewide, physical security enhancements: \$200,000.00

(8) Montpelier, 115 State Street, State House lawn, access improvements and water intrusion: \$300,000.00

(9) Montpelier, 120 State Street, life safety and infrastructure improvements: \$1,000,000.00

(10) Randolph, Agency of Agriculture, Food and Markets and Agency of Natural Resources, collaborative laboratory, site construction:

\$16,931,385.00

(11) Southern State Correctional Facility, copper waterline replacement:  
\$1,100,000.00

(12) Pittsford, Training Center, electrical system upgrade: \$500,000.00

(13) Statewide, strategic building realignments: \$300,000.00

(d) Any funds remaining from the amount appropriated in subdivision (b)(19) for restoration and projected-related costs at the Waterbury State Office Complex shall be directed toward the beginning phases of design and fit up of the Weeks and Hanks buildings.

Appropriation – FY 2016 \$41,363,990.00

Appropriation – FY 2017 \$32,333,833.00

Total Appropriation – Section 2 \$73,697,823.00



### Sec. 3. ADMINISTRATION

(a) The following sums are appropriated to the Department of Taxes for the Vermont Center for Geographic Information for an ongoing project to update statewide quadrangle maps through digital orthophotographic quadrangle mapping:

(1) \$125,000.00 is appropriated in FY 2016.

(2) \$125,000.00 is appropriated in FY 2017.

(b) The following sums are appropriated to the Department of Finance and Management for the ERP expansion project (Phase II):

(1) \$5,000,000.00 is appropriated in FY 2016.

(2) \$9,267,470.00 is appropriated in FY 2017.

(c) The sum of \$6,000,000.00 is appropriated in FY 2017 to the Agency of Human Services for the Health and Human Services Enterprise IT System.

<u>Appropriation – FY 2016</u>	<u>\$5,125,000.00</u>
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<u>Appropriation – FY 2017</u>	<u>\$15,392,470.00</u>
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<u>Total Appropriation – Section 3</u>	<u>\$20,517,470.00</u>
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### Sec. 4. HUMAN SERVICES

(a) The following sums are appropriated in FY 2016 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in this subsection:

<u>(1) Corrections, perimeter intrusion:</u>	<u>\$100,000.00</u>
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<u>(2) Corrections, camera and systems:</u>	<u>\$100,000.00</u>
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<u>(3) Corrections, security upgrades and enhancements:</u>	<u>\$100,000.00</u>
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(b) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in this subsection:

<u>(1) Corrections, perimeter intrusion:</u>	<u>\$100,000.00</u>
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<u>(2) Corrections, security upgrades and enhancements:</u>	<u>\$100,000.00</u>
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<u>Appropriation – FY 2016</u>	<u>\$300,000.00</u>
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<u>Appropriation – FY 2017</u>	<u>\$200,000.00</u>
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<u>Total Appropriation – Section 4</u>	<u>\$500,000.00</u>
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## Sec. 5. JUDICIARY

(a) The sum of \$180,000.00 is appropriated in FY 2016 to the Department of Buildings and General Services for the Judiciary for ADA compliance at county courthouses.

(b) The following sums are appropriated in FY 2016 to the Judiciary:

(1) Statewide court security systems and improvements: \$150,000.00

(2) Judicial case management system: \$750,000.00

(c) The following sums are appropriated in FY 2017 to the Judiciary:

(1) Statewide court security systems and improvements: \$150,000.00

(2) Judicial case management system: \$5,000,000.00

Appropriation – FY 2016 \$1,080,000.00

Appropriation – FY 2017 \$150,000.00

Total Appropriation – Section 5 \$6,230,000.00

## Sec. 6. COMMERCE AND COMMUNITY DEVELOPMENT

(a) The following sums are appropriated in FY 2016 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Major maintenance at historic sites statewide: \$200,000.00

(2) Bennington Monument, elevator, roof repairs: \$118,000.00

(b) The following sums are appropriated in FY 2016 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves: \$30,000.00

(2) Placement and replacement of roadside historic markers: \$15,000.00

(3) Unmarked burial fund: \$30,000.00

(c) The following sums are appropriated in FY 2017 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Major maintenance at historic sites statewide: \$200,000.00

(2) Bennington Monument, elevator, roof repairs: \$50,000.00

(d) The following sums are appropriated in FY 2017 to the Agency of Commerce and Community Development for the following projects described in this subsection:

<u>(1) Underwater preserves:</u>	<u>\$30,000.00</u>
<u>(2) Placement and replacement of roadside historic markers:</u>	<u>\$15,000.00</u>
<u>Appropriation – FY 2016</u>	<u>\$393,000.00</u>
<u>Appropriation – FY 2017</u>	<u>\$295,000.00</u>
<u>Total Appropriation – Section 6</u>	<u>\$688,000.00</u>

#### Sec. 7. GRANT PROGRAMS

(a) The following sums are appropriated in FY 2016 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$225,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$225,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$225,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$225,000.00

(5) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$225,000.00

(b) The following sum is appropriated in FY 2016 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$225,000.00

(c) The following sums are appropriated in FY 2017 for Building Communities Grants established in 24 V.S.A. chapter 137:

(1) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Preservation Grant Program: \$225,000.00

(2) To the Agency of Commerce and Community Development, Division for Historic Preservation, for the Historic Barns Preservation Grant Program: \$225,000.00

(3) To the Vermont Council on the Arts for the Cultural Facilities Grant Program, the sum of which may be used to match funds that may be made available from the National Endowment for the Arts, provided that all capital funds are made available to the cultural facilities grant program: \$225,000.00

(4) To the Department of Buildings and General Services for the Recreational Facilities Grant Program: \$225,000.00

(5) To the Department of Buildings and General Services for the Regional Economic Development Grant Program: \$225,000.00

(d) The following sum is appropriated in FY 2017 to the Agency of Agriculture, Food and Markets for the Agricultural Fairs Capital Projects Competitive Grant Program: \$225,000.00

(e) The following amounts are appropriated in FY 2016 to the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program:

(1) Human Services: \$120,000.00

(2) Educational Facilities: \$120,000.00

(f) The following amounts are appropriated in FY 2016 to the Department of Buildings and General Services for the Human Services and Educational Facilities Competitive Grant Program:

(1) Human Services: \$110,000.00

(2) Educational Facilities: \$110,000.00

Appropriation – FY 2016 \$1,590,000.00

Appropriation – FY 2017 \$1,570,000.00

Total Appropriation – Section 7 \$3,160,000.00

#### Sec. 8. EDUCATION

(a) The following sums are appropriated in FY 2016 to the Agency of Education for funding the State share of completed school construction projects pursuant to 16 V.S.A. § 3448 and emergency projects:

(1) Emergency projects: \$82,188.00

(2) School construction projects: \$3,975,500.00

(b) The sum of \$60,000.00 is appropriated in FY 2017 to the Agency of Education for State aid for emergency projects.

Appropriation – FY 2016 \$4,057,688.00

Appropriation – FY 2017 \$60,000.00

Total Appropriation – Section 8 \$4,117,688.00

#### Sec. 9. UNIVERSITY OF VERMONT

(a) The sum of \$1,400,000.00 is appropriated in FY 2016 to the University of Vermont for construction, renovation, and major maintenance.

(b) The sum of \$1,400,000.00 is appropriated in FY 2017 to the University of Vermont for construction, renovation, and major maintenance.

Total Appropriation – Section 9 \$2,800,000.00

#### Sec. 10. VERMONT STATE COLLEGES

(a) The following sums are appropriated in FY 2016 to the Vermont State Colleges:

(1) Construction, renovation, and major maintenance: \$1,400,000.00

(2) Engineering technology laboratories, plan, design, and upgrade:  
\$1,000,000.00

(b) The following sums are appropriated in FY 2017 to the Vermont State Colleges:

(1) Construction, renovation, and major maintenance: \$1,400,000.00

(2) Laboratory, plan, design, and upgrade: \$500,000.00

(c) It is the intent of the General Assembly that the amount appropriated in subdivision (b)(2) of this section shall be used as a challenge grant to raise funds to upgrade engineering technology laboratories at the Vermont Technical College. The funds shall only become available after the Vermont Technical College has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that \$500,000.00 in committed funds has been raised to match the appropriation in subdivision (b)(2) of this section and finance additional costs of comprehensive laboratory improvements.

Appropriation – FY 2016 \$2,400,000.00

Appropriation – FY 2017 \$1,900,000.00

Total Appropriation – Section 10 \$4,300,000.00

## Sec. 11. NATURAL RESOURCES

(a) The following sums are appropriated in FY 2016 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) the Water Pollution Control Fund, Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,300,000.00

(2) the Water Pollution Control Fund, administrative support – engineering, oversight, and program management: \$300,000.00

(3) Drinking Water Supply, Drinking Water State Revolving Fund: \$1,750,834.00

(4) Drinking Water Supply, engineering oversight and project management: \$300,000.00

(5) EcoSystem restoration and protection: \$3,750,000.00

(6) Dam safety and hydrology projects: \$538,580.00

(7) Municipal Pollution Control Grants, principal and interest associated with funding for the Pownal project: \$530,000.00

(8) Municipal Pollution Control Grants, Waterbury waste treatment facility for phosphorous removal: \$379,929.00

(9) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies: \$392,258.00

(b) The following sums are appropriated in FY 2016 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for the projects described in this subsection:

(1) Infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects: \$3,000,000.00

(2) Guilford, Sweet Pond: \$90,000.00

(c) The following sums are appropriated in FY 2016 to the Agency of Natural Resources for the Department of Fish and Wildlife:

(1) General infrastructure projects: \$1,125,000.00

(2) Lake Champlain Walleye Association, Inc. to upgrade: \$25,000.00

(d) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

(1) the Water Pollution Control Fund for the Clean Water State/EPA Revolving Loan Fund (CWSRF) match: \$1,300,000.00

(2) the Water Pollution Control Fund, administrative support – engineering, oversight, and program management: \$300,000.00

(3) the Drinking Water Supply, Drinking Water State Revolving Fund: \$2,538,000.00

(4) the Drinking Water Supply, engineering oversight and project management: \$300,000.00

(5) EcoSystem restoration and protection: \$3,750,000.00

(6) Dam safety and hydrology projects: \$750,000.00

(e) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Forests, Parks and Recreation for the projects described in this subsection:

(1) Infrastructure rehabilitation, including statewide small scale rehabilitation, wastewater repairs, preventive improvements and upgrades of restrooms and bathhouses, and statewide small-scale road rehabilitation projects: \$3,000,000.00

(2) Guilford, Sweet Pond: \$405,000.00

(f) The following sums are appropriated in FY 2017 to the Agency of Natural Resources for the Department of Fish and Wildlife:

(1) General infrastructure projects: \$875,000.00

(2) Lake Champlain Walleye Association, Inc. to upgrade: \$25,000.00

Appropriation – FY 2016 \$13,481,601.00

Appropriation – FY 2017 \$13,243,000.00

Total Appropriation – Section 11 \$26,724,601.00

## Sec. 12. MILITARY

(a) The following sums are appropriated in FY 2016 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: \$750,000.00

(2) Randolph, Vermont Veterans' Memorial Cemetery, agricultural mitigation for the proposed cemetery expansion: \$59,759.00

(b) The sum of \$750,000.00 is appropriated in FY 2017 to the Department of Military for maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds.

<u>Appropriation – FY 2016</u>	<u>\$809,759.00</u>
<u>Appropriation – FY 2017</u>	<u>\$750,000.00</u>
<u>Total Appropriation – Section 12</u>	<u>\$1,559,759.00</u>

### Sec. 13. PUBLIC SAFETY

(a) The sum of \$300,000.00 is appropriated in FY 2016 to the Department of Buildings and General Services for the State's share of the Vermont Emergency Service Training Facility for site location and foundation construction of the new burn building at the Robert H. Wood Vermont Fire Academy. The Department of Public Safety may accept federal funds to support this project.

(b) The funds appropriated in subsection (a) of this section shall only become available after the Department of Public Safety has notified the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions of receipt of the federal match for the project.

<u>Total Appropriation – Section 13</u>	<u>\$300,000.00</u>
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### Sec. 14. AGRICULTURE, FOOD AND MARKETS

(a) The following sums are appropriated in FY 2016 to the Agency of Agriculture, Food and Markets for the projects described in this subsection:

<u>(1) Best Management Practices and Conservation Reserve Enhancement Program:</u>	<u>\$1,752,412.00</u>
<u>(2) Vermont Exposition Center Building, upgrades:</u>	<u>\$200,000.00</u>
<u>(3) Community and nonprofit agricultural water quality projects:</u>	<u>\$250,000.00</u>

(b) The following sums are appropriated in FY 2017 to the Agency of Agriculture, Food and Markets for the projects described in this subsection:

<u>(1) Best Management Practices and Conservation Reserve Enhancement Program:</u>	<u>\$1,800,000.00</u>
<u>(2) Vermont Exposition Center Building, upgrades:</u>	<u>\$115,000.00</u>

(c) On or before January 15, 2016, the Secretary of Agriculture, Food and Markets shall report to the House Committee on Corrections and Institutions



and the Senate Committee on Institutions on the projects funded from the appropriation in subdivision (a)(3) of this section.

Appropriation – FY 2016 \$2,202,412.00

Appropriation – FY 2017 \$1,915,000.00

Total Appropriation – Section 14 \$4,117,412.00

#### Sec. 15. VERMONT RURAL FIRE PROTECTION

(a) The sum of \$125,000.00 is appropriated in FY 2016 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the dry hydrant program.

(b) The sum of \$125,000.00 is appropriated in FY 2017 to the Department of Public Safety for the Vermont Rural Fire Protection Task Force for the project described in subsection (a) of this section.

Total Appropriation – Section 15 \$250,000.00

#### Sec. 16. VERMONT VETERANS' HOME

The sum of \$500,000.00 is appropriated in FY 2016 to the Vermont Veterans' Home for an electronic medical records system. These funds shall be used to match federal funds and shall only become available after the Veterans' Home notifies the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that the electronic medical records system is in compliance with the criteria for creating and maintaining connectivity established by the Vermont Information Technology Leaders pursuant to 18 V.S.A. § 9352(i).

Total Appropriation – Section 16 \$500,000.00

#### Sec. 17. VERMONT HISTORICAL SOCIETY

The sum of \$50,000.00 is appropriated in FY 2016 to the Department of Buildings and General Services for the Vermont Historical Society (VHS) for a matching grant to reduce debt at the Vermont History Center in Barre. The funds shall only become available after the VHS notifies the Department that the funds have been matched.

Total Appropriation – Section 17 \$50,000.00

#### Sec. 18. VERMONT HOUSING AND CONSERVATION BOARD

(a) The following amounts are appropriated in FY 2016 to the Vermont Housing and Conservation Board.

(1) Statewide, water quality improvement projects: \$2,750,000.00

<u>(2) Housing:</u>	<u>\$1,800,000.00</u>
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(b) The following amounts are appropriated in FY 2017 to the Vermont Housing and Conservation Board.

<u>(1) Statewide, water quality improvement projects:</u>	<u>\$1,000,000.00</u>
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<u>(2) Housing:</u>	<u>\$1,800,000.00</u>
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<u>Appropriation – FY 2016</u>	<u>\$4,550,000.00</u>
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<u>Appropriation – FY 2017</u>	<u>\$2,800,000.00</u>
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<u>Total Appropriation – Section 18</u>	<u>\$7,350,000.00</u>
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#### Sec. 19. VERMONT INTERACTIVE TECHNOLOGIES

\$220,000.00 is appropriated in FY 2016 to the Vermont State Colleges on behalf of Vermont Interactive Technologies (VIT) for all costs associated with the dissolution of VIT's operations.

<u>Total Appropriation – Section 19</u>	<u>\$220,000.00</u>
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#### Sec. 20. GENERAL ASSEMBLY

(a) The sum of \$120,000.00 is appropriated in FY 16 to the Office of Legislative Council budget on behalf of the Office of the Secretary of the Senate and the Office of the Clerk of the House for upgrades to the legislative international roll call (IRC) program. All work on the project described in this section shall be under the direction of the Secretary of the Senate, the Clerk of the House, and the Office of the Legislative Council's Deputy Director of Information Technology.

(b) The sum of \$5,000.00 is appropriated in FY 17 to the Sergeant at Arms for security upgrades in the State House.

<u>Appropriation – FY 2016</u>	<u>\$120,000.00</u>
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<u>Appropriation – FY 2017</u>	<u>\$5,000.00</u>
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<u>Total Appropriation – Section 20</u>	<u>\$125,000.00</u>
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\* \* \* Financing this Act \* \* \*

#### Sec. 21. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

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

<u>(1) of the amount appropriated in 2010 Acts and Resolves No. 161, Sec. 1 (Bennington State Office Building):</u>	<u>\$49,062.60</u>
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(2) of the amount appropriated in 2010 Acts and Resolves No. 161, Sec. 16 (Ag various projects): \$352,412.25

(3) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 2(b) (State House committee renovations): \$28,702.15

(4) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 13 (Public Safety review of State Police facilities): \$5,000.00

(5) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 17 (VT Public TV): \$856.00

(6) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2 (BGS engineering staff): \$58,236.66

(7) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 2 (133 State Street foundation and parking lot): \$156,642.16

(8) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4 (DOC facilities assessment): \$19,913.12

(9) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 18a (E-911): \$9,940.00

(10) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 15 (VT Public TV): \$0.21

(b) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

(1) of the amount appropriated in 2009 Acts and Resolves No. 43, Sec. 14 (Fish and Wildlife): \$0.07

(2) of the amount appropriated in 2010 Acts and Resolves No. 161, Sec. 12 (DEC Water Pollution Control): \$6,981.00

(3) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12, as amended by 2012 Acts and Resolves No. 104, Sec. 8 (drinking water project): \$35,483.32

(4) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12 (Fish and Wildlife, Roxbury): \$128,802.00

(5) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 12, as amended by 2012 Acts and Resolves No. 104, Sec 8 (Fish and Wildlife, Roxbury): \$87,204.00

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

(1) of the proceeds from the sale of property authorized by 1996 Acts and Resolves No. 102, Sec. 1 (Duxbury land sale): \$45,556.36

(2) of the proceeds from the sale of property authorized by 2009 Acts and Resolves No. 43, Sec. 25 (Building 617, Essex): \$7,078.21

(3) of the proceeds from the sale of property authorized by 2009 Acts and Resolves No. 43, Sec. 25 (1193 North Avenue, Burlington): \$353,785.97

(4) of the proceeds from the sale of property authorized by 2011 Acts and Resolves No. 40, Sec. 2, as amended by 2012 Acts and Resolves No. 104, Sec. 3 (121 and 123 South Main Street, Waterbury): \$75,000.00

(5) of the proceeds from the sale of property authorized by 2011 Acts and Resolves No. 40, Sec. 2, as amended by 2012 Acts and Resolves No. 104, Sec. 3 (Ladd Hall, Waterbury): \$228,000.00

Total Reallocations and Transfers – Section 21 \$1,648,656.08

#### Sec. 22. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of \$144,000,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The State Treasurer is further authorized to issue additional general obligation bonds in the amount of \$11,559,096.05 that were previously authorized but unissued under 2014 Acts and Resolves No. 178 for the purpose of funding the appropriations of this act.

Total Revenues – Section 22 \$155,559,096.05

\* \* \* Policy \* \* \*

\* \* \* Buildings and General Services \* \* \*

#### Sec. 23. LEASING PROPERTY; FAIR MARKET VALUE

(a) It is the intent of the General Assembly that any leases for State-owned space in any State-owned building, structure, or other real property under the jurisdiction of the Commissioner of Buildings and General Services that are in existence prior to the effective date of this act shall be renewed at fair market value by July 1, 2019.

(b) The Commissioner of Buildings and General Services shall evaluate whether to sell any State-owned building, structure, or other real property that is being leased under fair market value.

Sec. 24. AGENCY OF AGRICULTURE, FOOD AND MARKETS AND AGENCY OF NATURAL RESOURCES LABORATORY

Notwithstanding the authority contained in 29 V.S.A. § 164, the Department of Buildings and General Services shall enter into a ground lease or other similar legal instrument with Vermont Technical College for the purpose of locating the Agency of Agriculture, Food and Markets and Agency of Natural Resources' collaborative laboratory on the Vermont Technical College campus in Randolph, Vermont.

Sec. 25. NAMING OF STATE BUILDINGS AND FACILITIES

On or before January 15, 2016, the Commissioner of Buildings and General Services and the State Librarian shall recommend to the House Committee on Corrections and Institutions and the Senate Committee on Institutions an appropriate State agency or department to name State buildings and facilities.

Sec. 26. 29 V.S.A. § 821(a) is amended to read:

(a) State buildings.

\* \* \*

(13) "Vermont Agriculture and Environmental Laboratory" shall be the name of the State laboratory in Randolph.

\* \* \*

Sec. 27. 2014 Acts and Resolves No. 178, Sec. 37 is amended to read:

Sec. 37. COUNTY COURTHOUSES; PLAN

(a) Pursuant to the restructuring of the Judiciary in 2009 Acts and Resolves No. 154, the Court Administrator ~~and~~, in consultation with the Commissioner of Buildings and General Services, shall evaluate:

(1) the scope of the State's responsibility for maintaining county courthouses, including Americans with Disabilities Act (ADA) compliance ~~and;~~

(2) whether an emergency fund is necessary for construction or renovation projects at county courthouses;

(3) the current ownership and maintenance responsibilities for each county courthouse; and

(4) parameters for determining the county's share of maintaining county courthouses in the future.

(b) On or before January 15, ~~2015~~ 2016, the Judiciary shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with the results of the evaluation.

Sec. 28. 2014 Acts and Resolves No. 178, Sec. 17 is amended to read:

Sec. 17. 2011 Acts and Resolves No. 40, Sec. 26(c) is amended to read:

(c) ~~The~~ Notwithstanding 29 V.S.A. § 166, the Commissioner of Buildings and General Services is authorized to do any or all of the following with respect to the Vermont health laboratory located at 195 Colchester Avenue in Burlington:

(1) investigate all potential uses of the land and building, including redeveloping the land, provided that it is consistent with existing deed covenants; ~~and~~

(2) enter into agreements and execute any necessary documentation to release or extinguish any of the existing deed covenants with respect to the land; and

(3) convey by quitclaim deed any interest in the building as is with no warranties and no representations as to conditions to the University of Vermont.

Sec. 29. 2013 Acts and Resolves No. 51, Sec. 2, as amended by 2014 Acts and Resolves No. 178, Sec. 1, is amended to read:

Sec. 1. 2013 Acts and Resolves No. 51, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

\* \* \*

(c) The following sums are appropriated in FY 2015:

\* \* \*

(13) Permanent secure residential facility, proposal for siting ~~and design~~  
(as described in Sec. 40 of this act): \$50,000.00

Sec. 30. SECURE RESIDENTIAL FACILITY; PLAN FOR SITING AND DESIGN

(a) The Secretary of Human Services shall conduct an examination of the needs of the Agency of Human Services for siting and designing a secure residential facility. The examination shall analyze the operating costs for the facility, including the staffing, size of the facility, the quality of care supported

by the structure, and the broadest options available for the management and ownership of the facility.

(b) The funds appropriated in 2013 Acts and Resolves No. 51, Sec. 2, as amended by 2014 Acts and Resolves No. 178, Sec. 1, and Sec. 28 of this act, shall only become available to the Department of Buildings and General Services after the Secretary of Human Services notifies the Commissioner of Finance and Management that the examination described in subsection (a) of this section is completed.

(c) On or before February 1, 2016, the Secretary of Human Services shall present the results of the examination described in subsection (a) of this section to the House Committees on Appropriations, on Corrections and Institutions, and on Human Services, and the Senate Committees on Appropriations, on Health and Welfare, and on Institutions.

Sec. 31. 29 V.S.A. § 156 is added to read:

§ 156. CITY OF MONTPELIER DISTRICT HEAT PLANT  
MAINTENANCE RESERVE FUND

(a) There is established a special fund pursuant to 32 V.S.A. chapter 7, subchapter 5 known as the City of Montpelier District Heat Plant Maintenance Reserve Fund.

(b) The Fund shall comprise payments from the City of Montpelier for the City's share of the maintenance of the District Heat Plant.

(c) Monies in the Fund shall be available to the Commissioner of Buildings and General Service for the maintenance of the District Heat Plant upon commencement of the District Heat Plant's operations.

(d) The Commissioner of Finance and Management may draw warrants for disbursements from this Fund in anticipation of receipts. Any remaining balance at the end of the fiscal year shall be carried forward in the Fund.

Sec. 32. LAND TRANSFER; DUXBURY; MEMORANDUM OF UNDERSTANDING

(a) The Commissioner of Forests, Parks, and Recreation shall enter into a memorandum of understanding (MOU) with the Town of Duxbury regarding the Town's use of any State-owned parcel in Camel's Hump State Park that may be conveyed to the Town.

(b) On or before January 15, 2016, the Commissioner of Forests, Parks and Recreation shall report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the status of the MOU described in subsection (a) of this section.

## \* \* \* Education \* \* \*

## Sec. 33. SCHOOL CONSTRUCTION AID AWARDS

It is the intent of the General Assembly that the House Committees on Corrections and Institutions and on Education, and the Senate Committees on Institutions and on Education develop a plan to evaluate strategically the statutory process set forth in 16 V.S.A. § 3448 for awarding State aid for school construction.

## Sec. 34. VERMONT INTERACTIVE TECHNOLOGIES

(a) On or before January 15, 2016, the Secretary of Administration and the Executive Director of the Vermont Interactive Technologies (VIT), or its successor entity, shall examine and submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the ownership of all VIT property funded in whole or in part by a capital construction act.

(b) During the 2016 legislative session, the General Assembly shall determine the ownership of VIT's property based on the report described in subsection (a) of this section. No State or private entity shall assume ownership of the property until the General Assembly makes this determination.

## \* \* \* Information Technology \* \* \*

## Sec. 35. JUDICIARY; CASE MANAGEMENT SYSTEM; REPORT

Prior to finalizing vendor selection for the case management system described in Sec. 5 of this act, the Judiciary shall present a report to the House Committee on Corrections and Institutions, the Senate Committee on Institutions, and the Joint Legislative Criminal Justice Oversight Committee established in the Fiscal Year 2016 Appropriations Act. The report shall include a description of the Judiciary's process and rationale for choosing the vendor, whether the Judiciary incorporated any recommendations from the Special Committee on the Utilization of Information Technology in Government established in the Fiscal Year 2016 Appropriations Act, and whether any efforts were made to integrate the case management system with any systems implemented by the Department of State's Attorneys and Sheriffs and the Office of the Defender General. The reporting requirement of this section may be satisfied by providing testimony to the Committees.

## Sec. 36. INFORMATION TECHNOLOGY REVIEW

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



Assembly to conduct independent reviews of State information technology projects and operations.

(b) The Secretary of Administration and the Chief Information Officer shall:

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

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

(c) The JFO shall enter into a memorandum of understanding with the Executive Branch relating to any work conducted by IVV firms that shall protect security and confidentiality.

(d) In fiscal years 2016 and 2017, the JFO is authorized to use up to \$250,000.00 of the amounts appropriated in Sec. 3(b) and (c) of this act to fund activities described in this section.

(e) On or before January 15, 2017, the Secretary of Administration and the JFO shall submit reports to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on the effectiveness of the position described in subsection (a) of this section and whether the process of conducting independent legislative reviews of State information technology projects and operations should be continued.

\* \* \* Judiciary \* \* \*

#### Sec. 37. LAMOILLE COUNTY COURTHOUSE; MEMORANDUM OF UNDERSTANDING; OPERATING AGREEMENT

(a) The Department of Buildings and General Services and the Lamoille County side judges, in consultation with the Judiciary, shall enter into a Memorandum of Understanding (MOU) regarding the construction, operation, and maintenance of the Lamoille County Courthouse. The MOU shall establish:

(1) the procedures for the operation of the Courthouse and the division of responsibilities between the State and the County; and

(2) the legal framework for ensuring that the State maintains an ownership interest in the new additions to the Courthouse, and receives a percentage of the sale price, or value in the building, equal to the percentage of capital funding appropriated to the Courthouse in the event the County decides

to sell the building or to cease operations of the building as a Courthouse, or the State ceases to use the Courthouse for Superior Court functions.

(b) Any amounts repaid to the State under subsection (a) of this section shall not be in excess of the amount of the original State capital appropriation, and shall be appropriated to future capital construction acts.

(c) The Judiciary and the Lamoille County side judges shall enter into an operating agreement regarding the internal functions and use of space within the Lamoille County Courthouse.

(d) The MOU described in subsection (a) of this section and the operating agreement described in subsection (b) of this section shall be executed prior to the State's occupancy of the Courthouse.

\* \* \* Military \* \* \*

Sec. 38. DEPARTMENT OF MILITARY; CEMETERY EXPANSION PROJECT

The Department of Military may accept federal grants, gifts, or donations to support the cemetery expansion project at the Vermont Veterans' Memorial Cemetery in Randolph, Vermont.

\* \* \* Natural Resources \* \* \*

Sec. 39. 24 V.S.A. § 4753a(e) is amended to read:

(e) Loan forgiveness; drinking water.

(1) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Environmental Protection Agency Drinking Water State Revolving Fund (DWSRF), the Secretary of Natural Resources, in a manner that is consistent with federal grant provisions, may forgive up to 100 percent of a loan if the award is made for a project on the priority list and the project is capitalized, at least in part, from funds derived from a federal DWSRF capitalization grant that includes provisions authorizing loan forgiveness. Such loan forgiveness shall be based on the loan value, but funds to be forgiven shall only consist of federal funds, except where the loan is used as a match to other federal grants requiring nonfederal funds as a match.

(2) Notwithstanding any other provision of law regarding loan forgiveness, upon the award of a loan from the Vermont Drinking Water State Revolving Loan Fund, the Secretary of Natural Resources may provide loan forgiveness for preliminary engineering and final design costs when a municipality undertakes such engineering on behalf of a household that has been disconnected involuntarily from a public water supply system for reasons

other than nonpayment of fees, provided it is not the same municipality that is disconnecting the household.

Sec. 40. 24 V.S.A. § 4755(a) is amended to read:

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

(1) no loan shall be made for any purpose permitted under this chapter other than from the revolving fund in which the same purpose is included;

(2) the total amount of loan out of a particular revolving fund shall not exceed the balance of that fund;

(3) the loan shall be evidenced by a municipal bond, payable by the municipality over a term not to exceed ~~20~~ 30 years; or the projected useful life of the project, which is less, except:

(A) and without there shall be no deferral of payment except as provided, unless authorized by 10 V.S.A. §§ 1624(b) and § 1624a, or;

(B) the term of the loan shall not exceed 20 years when required by 10 V.S.A. § 1624(b); and

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

\* \* \*

Sec. 41. 24 V.S.A. § 4756 is amended to read:

§ 4756. ELIGIBILITY CERTIFICATION

(a) No construction loan or loan for the purchase of land or conservation easements to a municipality shall be made under this chapter, nor shall any part of any revolving fund which is designated for project construction be expended under section 4757 of this title, until such time as:

\* \* \*

(b) The bond bank may make loans to a municipality for the preparation of final engineering plans and specifications subject to the following conditions and limitations:

(1) The loan shall be evidenced by a note, executed by the municipality, payable over a term not to exceed ~~20~~ 30 years at zero percent interest in equal annual payments.

(2) The ~~secretary of natural resources~~ Secretary of Natural Resources shall have certified to the bond bank that the project:

(A) has priority for award of a planning loan;

(B) for which final engineering plans are to be prepared, is described in a preliminary engineering plan or facilities plan that has been approved by the ~~secretary~~ Secretary; and

(C) is in conformance with applicable ~~state~~ State and federal law and regulations promulgated thereunder.

\* \* \*

\* \* \* Public Safety \* \* \*

#### Sec. 42. TRAINING CENTER; FINDINGS, PURPOSE, AND INTENT

(a) The General Assembly finds that the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (the Training Center) is an asset to the State because it provides multiple agencies with the space to train people who protect the lives of Vermonters. These agencies presently include the Vermont Criminal Justice Training Council, the Vermont Fire Service Training Council, the Department of Public Safety, the Department of Corrections, and the Department of Motor Vehicles.

(b) The purpose of Sec. 43 of this act is to create a committee to govern the access to, the use and future needs of, and the capital investments in Training Center facilities so that agencies continue to enjoy access to it and so that members of the public may also be able to use the Training Center. While this committee is established to oversee Training Center facilities, it is the General Assembly's intent that this committee shall not have jurisdiction over any training content provided at the Training Center.

Sec. 43. 29 V.S.A. chapter 19 is added to read:

#### CHAPTER 19. TRAINING CENTER GOVERNANCE COMMITTEE

##### § 841. COMMITTEE CREATION

(a) Creation. There is created the Training Center Governance Committee to manage access to the facilities of the Robert H. Wood Jr. Criminal Justice and Fire Service Training Center of Vermont (Training Center), located in Pittsford, Vermont.

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

(1) the Executive Director of the Vermont Criminal Justice Training Council;

- (2) the Chair of the Vermont Fire Service Training Council;
- (3) an employee of the Department of Buildings and General Services, appointed by the Commissioner of the Department;
- (4) the Chair of the Vermont Criminal Justice Training Council;
- (5) the Chief Training Officer of the Vermont Fire Academy;
- (6) an employee of the Department of Corrections, appointed by the Commissioner of the Department;
- (7) the Director of the Division of Fire Safety; and
- (8) a member of the State Police, appointed by the Commissioner of Public Safety.

(c) Powers and duties. The Committee shall:

(1) Use and access. Govern the use of and access to the Training Center. In so governing, the Committee shall take into consideration the needs of the State's various agencies and members of the public in using the Training Center's facilities.

(2) Future needs and capital investments.

(A) plan for the future capital needs of the Training Center;

(B) submit a capital program plan to the Department of Buildings and General Services for the capital construction bill set forth in 32 V.S.A. § 701a and report to the General Assembly as necessary on any recommended legislative action for capital needs; and

(C) on an ongoing basis, monitor the effectiveness of any capital investments related to training needs.

(3) Performance analysis. Establish policies to ensure the facility training needs of those persons that use the Training Center are cost-effectively met, and establish performance measures for assessing on an ongoing basis how well those needs are met.

(4) Budget and rates.

(A) manage the operating budget for the facilities at the Training Center;

(B) set the rates for use of space at the Training Center;

(C) enter into and administer new contracts on behalf of the Training Center regarding the operations of the Training Center; and

(D) develop approaches to budgeting and paying for space that encourage collaboration among those persons that use the Training Center, and address future major maintenance needs.

(d) Meetings.

(1) The Committee shall meet no fewer than four times per year.

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

(3) The Committee shall elect a chair and may adopt rules of procedure.

(e) Reimbursement. Members of the Committee who are not employees of the State and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010.

Sec. 44. INITIAL MEETING OF GOVERNANCE COMMITTEE;  
TRANSITIONAL PROVISION

(a) The Commissioner of Buildings and General Services shall call the initial meeting of the Training Center Governance Committee set forth in Sec. 43 of this act, to be held on or before September 30, 2015.

(b) The Training Center Governance Committee shall be responsible for requests for use of the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont made on and after the initial Committee meeting, but shall permit any scheduled use of the Training Center made prior to that date.

(c) The Training Center Governance Committee shall have access to any contracts regarding the operations of the Training Center that are in existence prior to the date of the initial Committee meeting.

Sec. 45. TRAINING CENTER GOVERNANCE COMMITTEE; REPORT

On or before February 1, 2016, the Training Center Governance Committee set forth in Sec. 43 of this act shall report to the General Assembly regarding the operation of its powers and duties to date and recommend any further legislative action it finds necessary.

\* \* \* Security \* \* \*

Sec. 46. STATE HOUSE SECURITY

(a) The Sergeant at Arms, in consultation with the Chair of the Capitol Complex Working Group established in 2014 Acts and Resolves No. 178, Sec. 26, is authorized to create a security and safety protocol for the State House, conduct trainings for the State House and One Baldwin Street, and install security cameras at the exterior entrances of the State House. The

Sergeant at Arms may retain consultant services to complete the work described in this subsection. Any consultants retained pursuant to this subsection shall be hired by the Joint Fiscal Office and shall work through the Joint Fiscal Office under the direction of the Sergeant at Arms and the Chair of the Working Group.

(b) The Sergeant at Arms is authorized to use funds appropriated in 2013 Acts and Resolves No. 51, Sec. 2(c)(17), as amended by 2014 Acts and Resolves No. 178, Sec. 1 and Sec. 20(b) of this act, to directly conduct the work described in subsection (a) of this section or retain consultant services through the Joint Fiscal Office to conduct the work described in subsection (a) of this section.

(c) Prior to the installation, the Sergeant at Arms, in consultation with the Chair of the Working Group, shall establish a policy for the use of the security cameras described in subsection (a) of this section. The policy shall include requirements on limiting access rights to the camera and video feed, and retaining video feed for a minimum of seven days and a maximum of 30 days.

\* \* \* Effective Date \* \* \*

#### Sec. 47. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Institutions with the following amendments thereto:

First: In Sec. 20, General Assembly, in the last sentence of subsection (a), by striking out the following: “Office of the Legislative Council’s Deputy Director of Information Technology” and inserting in lieu thereof the following: Office of the Legislative Council

Second: In Sec. 32, Land Transfer; Duxbury; Memorandum of Understanding, in subsection (a), after “The Commissioner of Forests, Parks, and Recreation”, by striking out the word “shall” and inserting in lieu thereof the word may

Third: In Sec. 46, State House Security, in subsection (c), after “retaining video feed”, by striking out the following: “for a minimum of seven days and a maximum of 30 days”

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Institutions was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the Senate propose to the House that the bill be amended as recommended by the Committee on Institutions as amended?, Senators Flory, Balint, Mazza, McAllister and Rodgers moved to amend the proposal of amendment of the Committee on Institutions, as amended, as follows:

First: In Sec. 5, Judiciary, in subsection (c), after “Appropriation – FY 2017”, by striking out the following: “\$150,000.00” and inserting in lieu thereof the following: \$5,150,000.00

Second: In Sec. 7, Grant Programs, in subsection (f), after “FY”, by striking out the following: “2016” and inserting in lieu thereof the following: 2017

Third: In Sec. 10, Vermont State Colleges, in subdivision (b)(2), by striking out the following: “Laboratory” and inserting in lieu thereof the following: Engineering technology laboratories

Fourth: In Sec. 11, Natural Resources, in subdivisions (c)(2) and (f)(2), after the following: “to upgrade” by inserting the following: and repair the walleye rearing, restoration, and stocking infrastructure

Fifth: In Sec. 18, Vermont Housing and Conservation Board, in subdivision (a)(1), by striking out the following: “\$2,750,000.00” and inserting in lieu thereof the following: \$1,500,000.00, and adding a subdivision (a)(3) to read as follows:

(3) Statewide, water quality improvement or other conservation and agriculture projects: \$1,250,000.00

Which was agreed to.

Thereupon, the proposal of amendment recommended by the Committee on Institutions, as amended, was agreed to.

Thereupon, third reading of the bill was ordered.

### **Adjournment**

On motion of Senator Campbell, the Senate adjourned until one o’clock and fifteen minutes in the afternoon.



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**Called to Order**

The Senate was called to order by the President *pro tempore*.

**Recess**

On motion of Senator Baruth the Senate recessed until one o'clock and thirty-five minutes.

**Afternoon**

The Senate was called to order by the President *pro tempore*.

**Recess**

On motion of Senator Baruth the Senate recessed until one o'clock and fifty-five minutes in the afternoon.

**Called to Order**

The Senate was called to order by the President *pro tempore*.

**Recess**

The Chair declared a recess two o'clock and fifteen minutes in the afternoon.

**Called to Order**

The Senate was called to order by the President *pro tempore*.

**Message from the House No. 63**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

**H. 508.** An act relating to approval of amendments to the charter of the Town of Middlebury.

In the passage of which the concurrence of the Senate is requested.

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

**H. 361.** An act relating to making amendments to education funding, education spending, and education governance.

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

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

Rep. Sharpe of Bristol  
Rep. Juskiewicz of Cambridge  
Rep. Donovan of Burlington.

Pursuant to the request of the Senate for a Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

**S. 9.** An act relating to improving Vermont's system for protecting children from abuse and neglect.

The Speaker has appointed as members of such committee on the part of the House:

Rep. Pugh of South Burlington  
Rep. Grad of Moretown  
Rep. Burditt of West Rutland.

The House has considered the report of the Committee of Conference upon the disagreeing votes of the two Houses on Senate bill of the following title:

**S. 115.** An act relating to expungement of convictions based on conduct that is no longer criminal.

And has adopted the same on its part.

The House has adopted House concurrent resolutions of the following titles:

**H.C.R. 149.** House concurrent resolution honoring the Essex High School Air Force Junior Reserve Officer Training Corps unit on its exemplary history.

**H.C.R. 150.** House concurrent resolution honoring Dave Gram for 30 years of journalism excellence.

**H.C.R. 151.** House concurrent resolution in memory of Glenn Tosi of Montpelier.

**H.C.R. 152.** House concurrent resolution congratulating Jacobi Lafferty and Jamison Evans on their New England regional victories in the Elks National Hoop Shoot Free Throw Program.

**H.C.R. 153.** House concurrent resolution honoring Steven E. Jeffrey for his exemplary leadership of the Vermont League of Cities and Towns.

**H.C.R. 154.** House concurrent resolution in memory of Seargent Kendall Wild.

**H.C.R. 155.** House concurrent resolution congratulating Ben Morehouse of Concord on completing a winter season dogsled ascent of Mount Washington.

**H.C.R. 156.** House concurrent resolution congratulating Kenneth Coonradt on being named the Shaftsbury Historical Society's Ordinary Hero for 2015.

**H.C.R. 157.** House concurrent resolution honoring Orwell firefighter, first responder, and revered former fire chief Louis Hall.

In the adoption of which the concurrence of the Senate is requested.

**Rules Suspended; Proposal of Amendment Amended; Bill Passed in Concurrence with Proposals of Amendment; Bill Messaged**

**H. 492.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to capital construction and State bonding.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

Thereupon, pending third reading of the bill, Senator Balint, Flory, Mazza and Rodgers moved that the Senate propose to the House that the bill be amended as follows:

First: By inserting Secs. 24a through 24f to read as follows:

Sec. 24a. 29 V.S.A. § 161(b) is amended to read:

(b) Each contract awarded under this section for any State project with a construction cost exceeding \$100,000.00 and which is authorized or funded in whole or in part by a capital construction act pursuant to 32 V.S.A. § 701a; ~~including such a project of the University of Vermont and State Agricultural College and of the Vermont State Colleges,~~ shall provide that all construction employees working on the project shall be paid no less than the mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey. As used in this section, "fringe benefits" means benefits, including paid vacations and holidays, sick leave, employer contributions and reimbursements to health insurance and retirement benefits, and similar benefits that are incidents of employment.

Sec. 24b. 29 V.S.A. § 161(b) is amended to read:

(b) Each contract awarded under this section for any State project with a construction cost exceeding \$100,000.00 ~~and or a construction project with a construction cost exceeding \$200,000.00~~ which is authorized ~~or~~ and is at least 50 percent funded in whole or in part by a capital construction act pursuant to 32 V.S.A. § 701a shall provide that all construction employees working on the

project shall be paid no less than the mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey. As used in this section, "fringe benefits" means benefits, including paid vacations and holidays, sick leave, employer contributions and reimbursements to health insurance and retirement benefits, and similar benefits that are incidents of employment.

Sec. 24c. STATE CONSTRUCTION PROJECTS; CONTRACTS SUBJECT TO STATE PREVAILING WAGE;

(a) Notwithstanding Sec. 24a of this act, the following contracts shall remain subject to the mean prevailing wage published periodically by the Vermont Department of Labor in its occupational employment and wage survey:

(1) contracts for State construction projects executed prior to July 1, 2016;

(2) any change orders or amendments to contracts for State construction projects executed prior to July 1, 2016; and

(3) contracts for State construction projects that result from instructions to bidders posted by the State of Vermont prior to July 1, 2016.

(b) On or before July 1, 2016, the Department of Buildings and General Services shall amend all bid packets and contracts to include mean prevailing wage rates published periodically by the Vermont Department of Labor in its occupational employment and wage survey plus an additional fringe benefit of 42 and one-half percent of wage, as calculated by the current Vermont prevailing wage survey.

Sec. 24d. PREVAILING WAGE; UNIVERSITY OF VERMONT AND VERMONT STATE COLLEGES

Notwithstanding any other provision of law, the University of Vermont and State Agricultural College and the Vermont State Colleges shall pay no less than the prevailing wage determinations in accordance with the requirements of 29 V.S.A. § 161(b) for any new construction or major renovation project that receives funding in any capital construction act.

Sec. 24e. PREVAILING WAGE; AGENCY OF AGRICULTURE, FOOD AND MARKETS AND AGENCY OF NATURAL RESOURCES LABORATORY

Notwithstanding any other provision of law, prevailing wage determinations for the construction of the Agency of Agriculture, Food and Markets and the

Agency of Natural Resources laboratory shall be made in accordance with the requirements of 29 V.S.A. § 161(b).

Sec. 24f. PREVAILING WAGE; AUDITS

The Commissioner of Labor, in consultation with the Commissioner of Buildings and General Services, shall conduct random audits of any contractor subject to 29 V.S.A. § 161(b) in sufficient number to ensure compliance with statutory requirements.

Second: By striking out Sec. 47, Effective Date, and the Effective Date reader assistance heading, and inserting in lieu thereof the following:

\* \* \* Effective Dates \* \* \*

Sec. 47. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) Sec. 24b shall take effect on July 1, 2017; and

(2) Sec. 24d shall take effect on July 1, 2016.

Which was agreed to.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment on a roll call, Yeas 28, Nays 0.

Senator Flory having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Ashe, Ayer, Balint, Baruth, Benning, Bray, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

**Those Senators who voted in the negative were:** None.

**Those Senators absent or not voting were:** Campbell (presiding), McAllister.

Thereupon, on motion of Senator Baruth, the rules were suspended, and the bill was ordered messaged to the House forthwith.

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

**H. 480.**

Pending entry on the Calendar for action tomorrow, on motion of Senator Baruth, the rules were suspended and House bill entitled:

An act relating to making miscellaneous technical and other amendments to education laws.

Was placed on all remaining stages of its passage in concurrence with proposal of amendment forthwith.

Thereupon, the bill was read the third time and passed in concurrence with proposal of amendment.

Thereupon, on motion of Senator Baruth, the rules were suspended and the bill was ordered messaged to the House forthwith.

**Bill Referred to Committee on Finance**

**H. 497.**

House bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

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

**Committee of Conference Appointed**

**S. 102.**

An act relating to forfeiture of property associated with animal fighting and certain regulated drug possession, sale, and trafficking violations.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator Ashe  
Senator Sears  
Senator Benning

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**House Concurrent Resolutions**

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having

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requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Myers and others,

**H.C.R. 149.**

House concurrent resolution honoring the Essex High School Air Force Junior Reserve Officer Training Corps unit on its exemplary history.

By All Members of the House,

By All Members of the Senate,

**H.C.R. 150.**

House concurrent resolution honoring Dave Gram for 30 years of journalism excellence.

By Representative Donovan and others,

**H.C.R. 151.**

House concurrent resolution in memory of Glenn Tosi of Montpelier.

By Representative Brennan and others,

By Senator Mazza,

**H.C.R. 152.**

House concurrent resolution congratulating Jacobi Lafferty and Jamison Evans on their New England regional victories in the Elks National Hoop Shoot Free Throw Program.

By Representative Manwaring and others,

By Senators Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Champion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McAllister, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Starr, Westman, White and Zuckerman,

**H.C.R. 153.**

House concurrent resolution honoring Steven E. Jeffrey for his exemplary leadership of the Vermont League of Cities and Towns.

By Representative Russell and others,

By Senators Collamore, Flory and Mullin,

**H.C.R. 154.**

House concurrent resolution in memory of Sargent Kendall Wild.

By Representative Quimby,

**H.C.R. 155.**

House concurrent resolution congratulating Ben Morehouse of Concord on completing a winter season dogsled ascent of Mount Washington.

By Representative Miller,

By Senators Campion and Sears,

**H.C.R. 156.**

House concurrent resolution congratulating Kenneth Coonradt on being named the Shaftsbury Historical Society's Ordinary Hero for 2015.

By Representative Eastman,

**H.C.R. 157.**

House concurrent resolution honoring Orwell firefighter, first responder, and revered former fire chief Louis Hall.

**Adjournment**

On motion of Senator Baruth, the Senate adjourned, to reconvene on Monday, May 11, 2015, at eleven o'clock in the forenoon pursuant to J.R.S. 27.

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**MONDAY, MAY 11, 2015**

The Senate was called to order by the President.

**Devotional Exercises**

A moment of silence was observed in lieu of devotions.

**Pledge of Allegiance**

The President then led the members of the Senate in the pledge of allegiance.

**Message from the House No. 64**

A message was received from the House of Representatives by Ms. Melissa Kucserik, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

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



**S. 41.** An act relating to developing a strategy for evaluating the effectiveness of individual tax expenditures.

And has passed the same in concurrence.

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

**S. 73.** An act relating to State regulation of rent-to-own agreements for merchandise.

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

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

**H. 25.** An act relating to natural burial grounds.

And has severally concurred therein.

The Governor has informed the House that on the 7th of May, 2015, he approved and signed bills originating in the House of the following titles:

**H. 86.** An act relating to the Uniform Interstate Family Support Act.

**H. 304.** An act relating to making miscellaneous amendments to Vermont's retirement laws.

**H. 310.** An act relating to limited liability companies.

### **Bill Referred**

House bill of the following title was read the first time and referred:

### **H. 508.**

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

To the Committee on Rules.

### **Third Readings Ordered**

### **H. 503.**

Senator Pollina, for the Committee on Government Operations, to which was referred House bill entitled:

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

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**H. 504.**

Senator Pollina, for the Committee on Government Operations, to which was referred House bill entitled:

An act relating to approval of the adoption and codification of the charter of the Town of Waitsfield.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

**Rules Suspended; Bill Committed**

**H. 282.**

Pending entry on the Calendar for notice, on motion of Senator White, the rules were suspended and House bill entitled:

An act relating to professions and occupations regulated by the Office of Professional Regulation.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Government Operations, Senator White moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Government Operations and the Committee on Finance *intact*,

Which was agreed to.

**Adjournment**

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon.

**Afternoon**

The Senate was called to order by the President.

**Rules Suspended; Immediate Consideration; Proposals of Amendment**

**H. 35.**

Appearing on the Calendar for notice, on motion of Senator Campbell, the rules were suspended and Senate bill entitled:

An act relating to improving the quality of State waters.

Was taken up for immediate consideration.

Senator Bray, for the Committee on Natural Resources & Energy, to which the bill was referred reported recommending that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

\* \* \* Findings and Purpose \* \* \*

Sec. 1. FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds that:

(1) Within the borders of Vermont there are 7,100 miles of rivers and streams and 812 lakes and ponds of at least five acres in size.

(2) Vermont's surface waters are vital assets that provide the citizens of the State with clean water, recreation, and economic opportunity.

(3) The federal Clean Water Act and the Vermont Water Quality Standards require that waters in the State shall not be degraded.

(4) To prevent degradation of waters and to preserve the uses, benefits, and values of the lakes, rivers, and streams of Vermont, the Vermont Water Quality Standards provide that it is the policy of the State to prevent, abate, or control all activities harmful to water.

(5) Despite the State and federal mandates to maintain and prevent degradation of State waters, multiple lakes, rivers, and streams in all regions of the State are impaired, at risk of impairment, or subject to water quality stressors, as indicated by the fact that:

(A) there are 81 waters or segments of waters in the State that are impaired and require a total maximum daily load (TMDL) plan;

(B) there are 114 waters or segments of waters in the State that are impaired and that have been issued a TMDL;

(C) there are at least 115 waters or water segments in the State that are stressed, meaning that there is one or more factor or influence that prohibits the water from maintaining a higher quality; and

(D) there are at least 56 waters in the State that are altered due to aquatic nuisance species, meaning that one or more of the designated uses of the water is prohibited due to the presence of aquatic nuisance species.

(6) Impairments and other alterations of water can significantly limit how a water is used and whether it can maintained for traditional uses. For example:

(A) aquatic life is only fully supported in 59 percent of the State's inland lakes; and

(B) swimming is only fully supported on 76 percent of the State's inland lakes.

(7) Without State action to improve the quality of State waters and prevent further degradation of the quality of existing waters, the State of Vermont will be at risk of losing the valuable, if not necessary functions and uses that the State's waters provide;

(8) Sufficiently addressing, improving, and forestalling degradation of water quality in the State in a sustainable and effective manner will be expensive and the burden of the expense will be felt by all citizens of the State, but without action the economic, cultural, and environmental losses to the State will be immeasurable;

(9) To protect the waters of the State and preserve the quality of life of the citizens of Vermont, the State of Vermont should:

(A) fully implement the antidegradation implementation policy in the Vermont Water Quality Standards;

(B) enhance, implement, and enforce regulatory requirements for water quality, and

(C) sufficiently and sustainably finance all water quality programs within the State.

(b) Purpose. It is the purpose of this act to:

(1) manage and regulate the waters of the State so that water quality is improved and not degraded;

(2) manage and plan for the use of State waters and development in proximity to State waters in manner that minimizes damage from and allows for rapid recovery from flooding events;

(3) authorize and prioritize proactive measures designed to implement and meet the impending total maximum daily load (TMDL) plan for Lake Champlain, meet impending TMDL plans for other State waters, and improve water quality across the State;

(4) identify and prioritize areas in the State where there is the greatest need to act in order to protect, maintain, or improve water quality;

(5) engage all municipalities, agricultural operations, businesses, and other interested parties as part of the State's efforts to improve the quality of the waters of the State; and

(6) provide mechanisms, staffing, and financing necessary for State waters to achieve and maintain compliance with the Vermont water quality standards.

\* \* \* Agricultural Water Quality; Definitions \* \* \*

Sec. 2. 6 V.S.A. § 4802 is amended to read:

§ 4802. ~~DEFINITION~~ DEFINITIONS

~~For purposes of As used in this chapter, the word “secretary,” when used by itself, means the secretary of agriculture, food and markets;~~

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Farming” shall have the same meaning as used in 10 V.S.A. § 6001(22).

(3) “Healthy soil” means soil that has a well-developed, porous structure, is chemically balanced, supports diverse microbial communities, and has abundant organic matter.

(4) “Manure” means livestock waste in solid or liquid form that may also contain bedding, spilled feed, water, or soil.

(5) “Secretary” means the Secretary of Agriculture, Food and Markets.

(6) “Top of bank” means the point along the bank of a stream where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during an annual flood event. Annual flood event shall be determined according to the Agency of Natural Resources’ Flood Hazard Area and River Corridor Protection Procedure.

(7) “Waste” or “agricultural waste” means material originating or emanating from a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including: sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste, animal mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated milkhouse waste; and any other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).

(8) “Water” shall have the same meaning as used in 10 V.S.A. § 1251(13).

\* \* \* Agricultural Water Quality; Small Farm Certification \* \* \*

Sec. 3. 6 V.S.A. subchapter 5a is added to read:

Subchapter 5a. Small Farm Certification

§ 4871. SMALL FARM CERTIFICATION

(a) Small farm definition. As used in this section, “small farm” means a parcel or parcels of land:

(1) on which 10 or more acres are used for farming;

(2) that houses no more than the number of animals specified under section 4857 of this title; and

(3)(A) that houses:

(i) 25 or more cattle, mature cow/calf pairs, youngstock, heifers, bulls, swine, sheep, goats, or horses;

(ii) 2,500 or more turkeys;

(iii) 1,250 or more laying hens or broilers with a liquid manure handling system;

(iv) 3,500 or more laying hens without a liquid manure handling system;

(v) 4,750 or more chickens other than laying hens without a liquid manure handling system;

(vi) 200 or more ducks with a liquid manure handling system;

(vii) 1,500 or more ducks without a liquid manure handling system; or

(B) that is used for the preparation, tilling fertilization, planting, protection, irrigation, and harvesting of crops for sale.

(b) Required small farm certification. A person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

(c) Certification due to water quality threat. The Secretary may require any person who owns or operates a farm to submit a small farm certification under this section if the person is not required to obtain a permit or submit a certification under this chapter and the Secretary determines that the farm

poses a threat of discharge to a water of the State or presents a threat of contamination to groundwater. The Secretary may waive a small farm certification required under this subsection upon a determination that the farm no longer poses a threat of discharge to a water of the State or no longer presents a threat of contamination to groundwater.

(d) Rulemaking; small farm certification. On or before January 1, 2016, the Secretary of Agriculture, Food and Markets shall adopt by rule requirements for a small farm certification of compliance with the required agricultural practices. The rules required by this subsection shall be adopted as part of the required agricultural practices under section 4810 of this title.

(e) Small farm inspection. The Secretary may inspect a small farm in the State at any time, but no less frequently than once every five years, for the purposes of assessing compliance by the small farm with the required agricultural practices and determining consistency with a certification of compliance submitted by the person who owns or operates the small farm. The Secretary may prioritize inspections of small farms in the State based on identified water quality issues posed by a small farm.

(f) Notice of change of ownership or change of lease. A person who owns or leases a small farm shall notify the Secretary of a change of ownership or change of lessee of a small farm within 30 days of the change. The notification shall include the certification of small farm compliance required under subsection (a) of this section.

(g)(1) Identification; ranking of water quality needs. During an inspection of a small farm under this section, the Secretary shall identify areas where the farm could benefit from capital, structural, or technical assistance in order to improve or come into compliance with the required agricultural practices and any applicable State water quality permit or certification required under this chapter.

(2) Notwithstanding the priority system established under section 4823 of this title, the Secretary annually shall establish a priority ranking system for small farms according to the water quality benefit associated with the capital, structural, or technical improvements identified as needed by the Secretary during an inspection of the farm.

(3) Notwithstanding the priority system established by subdivision (2) of this subsection, the Secretary may provide financial assistance to a small farm at any time, regardless of the priority ranking system, if the Secretary determines that the farm needs assistance to address a water quality issue that requires immediate abatement.

(h) Fees. A person required to submit a certification under this section shall submit an annual operating fee of \$250.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. The Secretary may waive or reduce the fee required under this subsection based on farm type or the income or ability to pay of a person required to submit a certification under this section.

Sec. 4. 6 V.S.A. § 4810a is added to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) On or before July 1, 2016, the Secretary of Agriculture, Food and Markets shall amend by rule the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the amendments to the required agricultural practices shall:

(1) Specify those farms that:

(A) are required to comply with the small certification requirements under section 4871 of this title due to the potential impact of the farm or type of farm on water quality as a result of livestock managed on the farm, agricultural inputs used by the farm, or tillage practices on the farm; and

(B) shall be subject to the required agricultural practices, but shall not be required to comply with small farm certification requirements under section 4871 of this title.

(2)(A) Prohibit a farm from stacking or piling manure, storing fertilizer, or storing other nutrients on the farm:

(i) in a manner and location that presents a threat of discharge to a water of the State or presents a threat of contamination to groundwater; or

(ii) on lands in a floodway or otherwise subject to annual flooding.

(B) In no case shall manure stacking or piling sites, fertilizer storage, or other nutrient storage be located within 200 feet of a private well or within 200 feet of a water of the State.

(3) Require the construction and management of barnyards, waste management systems, animal holding areas, and production areas in a manner to prevent runoff of waste to a surface water, to groundwater, or across property boundaries.

(4) Establish standards for nutrient management on farms, including:

(A) required nutrient management planning on all farms that manage agricultural wastes; and



(B) recommended practices for improving and maintaining soil quality and healthy soils in order to increase the capacity of soil to retain water, improve flood resiliency, reduce sedimentation, reduce reliance on fertilizers and pesticides, and prevent agricultural stormwater runoff.

(5) Require cropland on the farm to be cultivated in a manner that results in an average soil loss of less than or equal to the soil loss tolerance for the prevalent soil, known as 1T, as calculated through application of the Revised Universal Soil Loss Equation, or through the application of similarly accepted models.

(6)(A) Require a farm to comply with standards established by the Secretary for maintaining a vegetative buffer zone of perennial vegetation between annual croplands and the top of the bank of an adjoining water of the State. At a minimum the vegetative buffer standards established by the Secretary shall prohibit the application of manure on the farm within 25 feet of the top of the bank of an adjoining water of the State or within 10 feet of a ditch that is not a surface water under State law and that is not a water of the United States under federal law.

(B) Establish standards for site-specific vegetative buffers that adequately address water quality needs based on consideration of soil type, slope, crop type, proximity to water, and other relevant factors.

(7) Prohibit the construction or siting of a farm structure for the storage of manure, fertilizer, or pesticide storage within a floodway area identified on a National Flood Insurance Program Map on file with a town clerk.

(8) Regulate, in a manner consistent with the Agency of Natural Resources' flood hazard area and river corridor rules, the construction or siting of a farm structure or the storage of manure, fertilizer, or pesticides within a river corridor designated by the Secretary of Natural Resources.

(9) Establish standards for the exclusion of livestock from the waters of the State to prevent erosion and adverse water quality impacts.

(10) Establish standards for soil conservation practices such as cover cropping.

(11) Allow for alternative techniques or practices, approved by the Secretary, for compliance by an owner or operator of a farm when the owner or operator cannot comply with the requirements of the required agricultural practices due to site-specific conditions. Approved alternative techniques or practices shall meet State requirements to reduce adverse impacts to water quality.

(b) On or before January 15, 2018, the Secretary of Agriculture, Food and Markets shall amend by rule the required agricultural practices in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage upon a determination that compliance is necessary to reduce adverse impacts to water quality from the subsurface tile drain.

Sec. 5. REPORT ON MANAGEMENT OF SUBSURFACE TILE DRAINAGE

(a) The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources, after consultation with the U.S. Department of Agriculture's Natural Resource Conservation Service, shall submit a joint report to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture regarding the status of current, scientific research relating to the environmental management of subsurface agriculture tile drainage and how subsurface agriculture tile drainage contributes to nutrient loading of surface waters. The report shall include a recommendation from the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources regarding how best to manage subsurface agriculture tile drainage in the State in order to mitigate and prevent the contribution of tile drainage to waters of the State.

(b) On or before January 15, 2016, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit an interim report that summarizes the progress of the Secretaries in preparing the report required by this section. The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit the final report required by this section on or before January 15, 2017.

\* \* \* Agricultural Water Quality; Permit Fees \* \* \*

Sec. 6. 6 V.S.A. § 4851 is amended to read:

§ 4851. PERMIT REQUIREMENTS FOR LARGE FARM OPERATIONS

(a) No person shall, without a permit from the ~~secretary~~ Secretary, construct a new barn, or expand an existing barn, designed to house more than 700 mature dairy animals, 1,000 cattle or cow/calf pairs, 1,000 veal calves, 2,500 swine weighing over 55 pounds, 10,000 swine weighing less than 55 pounds, 500 horses, 10,000 sheep or lambs, 55,000 turkeys, 30,000 laying hens or broilers with a liquid manure handling system, 82,000 laying hens without a liquid manure handling system, 125,000 chickens other than laying hens

without a liquid manure handling system, 5,000 ducks with a liquid manure handling system, or 30,000 ducks without a liquid manure handling system. No permit shall be required to replace an existing barn in use for livestock or domestic fowl production at its existing capacity. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any application for a permit under this section with regard to water quality impacts and, prior to approval of a permit under this subsection, shall issue a written determination regarding whether the applicant has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of an application for a permit under this subsection, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under ~~subsection 4810(b)~~ section 4810 of this title. The ~~secretary of natural resources~~ Secretary of Natural Resources may require a large farm to obtain a permit under 10 V.S.A. § 1263 pursuant to federal regulations for concentrated animal feeding operations.

\* \* \*

(h) The Secretary may inspect a farm permitted under this section at any time, but no less frequently than once per year.

(i) A person required to obtain a permit under this section shall submit an annual operating fee of \$2,500.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 7. 6 V.S.A. § 4858 is amended to read:

§ 4858. ~~ANIMAL WASTE PERMITS~~ MEDIUM FARM OPERATION PERMITS

(a) No person shall operate a medium farm without authorization from the ~~secretary~~ Secretary pursuant to this section. Under exceptional conditions, specified in subsection ~~(e)~~ (d) of this section, authorization from the ~~secretary~~ Secretary may be required to operate a small farm.

(b) Rules; general and individual permits. The ~~secretary~~ Secretary shall establish by rule, pursuant to 3 V.S.A. chapter 25 of Title 3, requirements for a “general permit” and “individual permit” to ~~ensure~~ assure that medium and

small farms generating animal waste comply with the water quality standards of the ~~state~~ State.

\* \* \*

(2) The rules adopted under this section shall also address permit administration, public notice and hearing, permit enforcement, permit transition, revocation, and appeals consistent with provisions of sections 4859, ~~4860~~, and 4861 of this title and subchapter 10 of this chapter.

(3) Each general permit issued pursuant to this section shall have a term of no more than five years. Prior to the expiration of each general permit, the ~~secretary~~ Secretary shall review the terms and conditions of the general permit and may issue subsequent general permits with the same or different conditions as necessary to carry out the purposes of this subchapter. Each general permit shall include provisions that require public notice of the fact that a medium farm has sought coverage under a general permit adopted pursuant to this section. Each general permit shall provide a process by which interested persons can obtain detailed information about the nature and extent of the activity proposed to receive coverage under the general permit. The Secretary may inspect each farm seeking coverage under the general permit at any time, but no less frequently than once every three years.

(c)(1) Medium farm general permit. The owner or operator of a medium farm seeking coverage under a general permit adopted pursuant to this section shall certify to the ~~secretary~~ Secretary within a period specified in the permit, and in a manner specified by the ~~secretary~~ Secretary, that the medium farm does comply with permit requirements regarding an adequately sized and designed manure management system to accommodate the wastes generated and a nutrient management plan to dispose of wastes in accordance with ~~accepted~~ required agricultural practices adopted under this chapter. Any certification or notice of intent to comply submitted under this subdivision shall be kept on file at the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets, in consultation with the ~~secretary of natural resources~~ Secretary of Natural Resources, shall review any certification or notice of intent to comply submitted under this subdivision with regard to the water quality impacts of the medium farm for which the owner or operator is seeking coverage, and, within 18 months of receiving the certification or notice of intent to comply, shall verify whether the owner or operator of the medium farm has established that there will be no unpermitted discharge to waters of the ~~state~~ State pursuant to the federal regulations for concentrated animal feeding operations. If upon review of a medium farm granted coverage under the general permit adopted pursuant to this subsection,

the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets determines that the permit applicant may be discharging to waters of the ~~state~~ State, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall respond to the discharge in accordance with the memorandum of understanding regarding concentrated animal feeding operations under ~~subsection 4810(b)~~ section 4810 of this title.

\* \* \*

(e) A person required to obtain a permit or coverage under this section shall submit an annual operating fee of \$1,500.00 to the Secretary. The fees collected under this section shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 8. 6 V.S.A. § 324 is amended to read:

§ 324. REGISTRATION AND FEES

(a) No person shall manufacture a commercial feed in this State unless that person has first filed with the Vermont Agency of Agriculture, Food and Markets, in a form and manner to be prescribed by rules by the Secretary:

- (1) the name of the manufacturer;
- (2) the manufacturer's place of business;
- (3) the location of each manufacturing facility; and
- (4) any other information which the Secretary considers to be necessary.

(b) A person shall not distribute in this State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of ~~\$85.00~~ \$100.00 per product. ~~The~~ Of the registration fees collected, \$85.00 of each collected fee, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. Of the registration fees collected, \$15.00 of each collected fee shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

(c) No person shall distribute in this State any feed required to be registered under this chapter upon which the Secretary has placed a withdrawal from

distribution order because of nonregistration. A surcharge of \$10.00, in addition to the registration fee required by subsection (b) of this section, shall accompany the application for registration of each product upon which a withdrawal from distribution order has been placed for reason of nonregistration, and must be received before removal of the withdrawal from distribution order.

Sec. 9. 6 V.S.A. § 328 is amended to read:

§ 328. TONNAGE REPORTING

(a) Every person who registers a commercial feed pursuant to the provisions of this chapter shall report to the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets annually the total amount of combined feed which is distributed within the ~~state~~ State and which is intended for use within the ~~state~~ State. The report shall be made on forms and in a manner to be prescribed ~~by rules~~ by the ~~secretary~~ Secretary for calendar years ~~1986~~ 2016 and ~~1987~~ 2017.

(b) This reporting requirement shall not apply to pet foods, within the meaning of subdivisions 323(16) and (19) of this title, and shall not apply to feeds intended for use outside ~~of the state~~ State.

Sec. 10. 6 V.S.A. § 366 is amended to read:

§ 366. TONNAGE FEES

(a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~ fee at a rate of \$0.25 cents per ton.

(b) Persons distributing fertilizer shall report annually by January 15 for the previous year ending December 31 to the ~~secretary~~ Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this ~~state~~ State. Each report shall be accompanied with payment and written permission allowing the ~~secretary~~ Secretary to examine the person's books for the purpose of verifying tonnage reports.

(c) No information concerning tonnage sales furnished to the ~~secretary~~ Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(d) ~~A \$50.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this state. [Repealed.]~~

(e) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required in this section.

(f) Lime and wood ash mixtures may be registered as agricultural liming materials and guaranteed for potassium or potash provided that the wood ash totals less than 50 percent of the mixture.

(g) All fees collected under subsection (a) of this section shall be deposited in the revolving fund created by ~~section~~ subsection 364(e) of this title and used in accordance with its provisions.

(h) There shall be paid annually to the Secretary for all fertilizers distributed to a nonregistrant consumer in this State an annual fee at a rate of \$15.00 per ton for the purpose of supporting agricultural water quality programs in Vermont.

(1) Persons distributing fertilizer shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this State. Each report shall be accompanied with payment and written permission allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports.

(2) No information concerning tonnage sales furnished to the Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(3) A \$150.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this State.

(4) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required under this subsection.

(5) All fees collected under this subsection shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 11. 6 V.S.A. § 918 is amended to read:

§ 918. REGISTRATION

(a) Every economic poison which is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the Office of the Secretary, and such registration shall be renewed annually; provided, that products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplement statements during the current period of registration. It is further provided that

any economic poison imported into this State, which is subject to the provisions of any federal act providing for the registration of economic poisons and which has been duly registered under the provisions of this chapter, may, in the discretion of the Secretary, be exempted from registration under this chapter, when sold or distributed in the unbroken immediate container in which it was originally shipped. The registrant shall file with the Secretary a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant.

(2) The name of the economic poison.

(3) A complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including directions for use.

(4) If requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information which is different from that furnished when the economic poison was registered or last ~~re-registered~~ reregistered.

(b) The registrant shall pay an annual fee of ~~\$110.00~~ \$125.00 for each product registered, and \$110.00 of that amount shall be deposited in the special fund created in section 929 of this title, of which \$5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and \$5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. Of the registration fees collected under this subsection, \$15.00 of the amount collected shall be deposited in the Clean Water Fund under 10 V.S.A. § 1388. The annual registration year shall be from December 1 to November 30 of the following year.

\* \* \*

\* \* \* Agricultural Water Quality; Required Agricultural Practices; Best Management Practices \* \* \*

Sec. 12. 6 V.S.A. § 4810 is amended to read:

§ 4810. AUTHORITY; COOPERATION; COORDINATION

(a) Agricultural land use practices. In accordance with 10 V.S.A. § 1259(i), the ~~secretary~~ Secretary shall adopt by rule, pursuant to 3 V.S.A. chapter 25 of Title 3, and shall implement and enforce agricultural land use practices in order to reduce the amount of agricultural pollutants entering the waters of the state ~~satisfy the requirements of 33 U.S.C. § 1329 that the State identify and implement best management practices to control nonpoint sources~~



of agricultural waste to waters of the State. These agricultural land use practices shall be created in two categories, pursuant to ~~subdivisions (1) and (2) of this subsection~~ subsections (b) and (c) of this section.

~~(1)(b) Required Agricultural Practices. “Accepted Agricultural Practices”~~ (AAPs) Required Agricultural Practices (RAPs) shall be management standards to be followed in conducting agricultural activities by all persons engaged in farming in this state State. These standards shall address activities which have a potential for causing agricultural pollutants to enter the groundwater and waters of the ~~state~~ State, including dairy and other livestock operations plus all forms of crop and nursery operations and on-farm or agricultural fairground, registered pursuant to 20 V.S.A. § 3902, livestock and poultry slaughter and processing activities. ~~The AAPs~~ RAPs shall include, as well as promote and encourage, practices for farmers in preventing agricultural pollutants from entering the groundwater and waters of the ~~state~~ State when engaged in, ~~but not limited to,~~ animal waste management and disposal, soil amendment applications, plant fertilization, and pest and weed control. ~~Persons engaged in farming, as defined in 10 V.S.A. § 6001, who follow are in compliance with these practices shall be presumed to be in compliance with water quality standards to not have a discharge of agricultural pollutants to waters of the State.~~ AAPs RAPs shall be designed to protect water quality and shall be practical and ~~cost-effective~~ cost-effective to implement, as determined by the Secretary. Where the Secretary determines, after inspection of a farm, that a person engaged in farming is complying with the RAPs but there still exists the potential for agricultural pollutants to enter the waters of the State, the Secretary shall require the person to implement additional, site-specific on-farm conservation practices designed to prevent agricultural pollutants from entering the waters of the State. When requiring implementation of a conservation practice under this subsection, the Secretary shall inform the person engaged in farming of the resources available to assist the person in implementing the conservation practice and complying with the requirements of this chapter. The AAPs RAPs for groundwater shall include a process under which the agency Agency shall receive, investigate, and respond to a complaint that a farm has contaminated the drinking water or groundwater of a property owner. A farmer may petition the Secretary to reduce the size of a perennial buffer or change the perennial buffer type based on site-specific conditions.

~~(2)(c) Best Management Practices. “Best Management Practices” (BMPs) may be required by the secretary on a case by case basis. Before requiring BMPs, the secretary shall determine that sufficient financial assistance is available to assist farmers in achieving compliance with applicable BMPs.~~ Best management practices (BMPs) are site-specific on-farm conservation

practices implemented in order to address the potential for agricultural pollutants to enter the waters of the State. The Secretary may require any person engaged in farming to implement a BMP. When requiring implementation of a BMP, the Secretary shall inform a farmer of financial resources available from State or federal sources, private foundations, public charities, or other sources, including funding from the Clean Water Fund established under 10 V.S.A. § 1388, to assist the person in implementing BMPs and complying with the requirements of this chapter. BMPs shall be practical and cost effective to implement, as determined by the Secretary, and shall be designed to achieve compliance with the requirements of this chapter. The Secretary may require soil monitoring or innovative manure management as a BMP under this subsection. Soil monitoring or innovative manure management implemented as a BMP shall be eligible for State assistance under section 2822 of this title. If a perennial buffer of trees or other woody vegetation is required as a BMP, the Secretary shall pay the farmer for a first priority easement on the land on which the buffer is located.

~~(b)(c)~~ Cooperation and coordination. ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the ~~secretary of natural resources~~ Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for reducing and eliminating agricultural non-point source pollutants and discharges from concentrated animal feeding operations. ~~The secretary of agriculture, food and markets~~ On or before July 1, 2016, the Secretary of Agriculture, Food and Markets and the secretary of natural resources Secretary of Natural Resources shall develop a revise the memorandum of understanding for the non-point program describing program administration, grant negotiation, grant sharing, and how they will coordinate watershed planning activities to comply with Public Law 92-500. The memorandum of understanding shall describe how the agencies will implement the antidegradation implementation policy, including how the agencies will apply the antidegradation implementation policy to new sources of agricultural non-point source pollutants. The secretary of agriculture, food and markets Secretary of Agriculture, Food and Markets and the secretary of the agency of natural resources Secretary of Natural Resources shall also develop a memorandum of understanding according to the public notice and comment process of 10 V.S.A. § 1259(i) regarding the implementation of the federal concentrated animal feeding operation program and the relationship between the requirements of the federal program and the state State agricultural water quality requirements for large, medium, and small farms under this chapter 215 of this title. The memorandum of understanding shall describe program administration, permit issuance, an appellate process, and enforcement authority and implementation. The memorandum of understanding shall be consistent with the federal

National Pollutant Discharge Elimination System permit regulations for discharges from concentrated animal feeding operations. The allocation of duties under this chapter between the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets and the ~~secretary of natural resources~~ Secretary of Natural Resources shall be consistent with the ~~secretary's~~ Secretary's duties, established under the provisions of 10 V.S.A. § 1258(b), to comply with Public Law 92-500. The ~~secretary of natural resources~~ Secretary of Natural Resources shall be the ~~state~~ State lead person in applying for federal funds under Public Law 92-500, but shall consult with the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets during the process. The agricultural non-point source program may compete with other programs for competitive watershed projects funded from federal funds. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall be represented in reviewing these projects for funding. Actions by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets under this chapter concerning agricultural non-point source pollution shall be consistent with the water quality standards and water pollution control requirements of 10 V.S.A. chapter 47 of ~~Title 10~~ and the federal Clean Water Act as amended. In addition, the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall coordinate with the ~~secretary of natural resources~~ Secretary of Natural Resources in implementing and enforcing programs, plans, and practices developed for the proper management of composting facilities when those facilities are located on a farm. On or before January 15, 2016, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall each develop three separate measures of the performance of the agencies under the memorandum of understanding required by this subsection. Beginning on January 15, 2017, and annually thereafter, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall submit separate reports to the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources regarding the success of each agency in meeting the performance measures for the memorandum of understanding.

Sec. 13. LEGISLATIVE COUNCIL STATUTORY REVISION  
AUTHORITY; REQUIRED AGRICULTURAL PRACTICES

The Office of Legislative Council, in its statutory revision capacity, is directed to make amendments to the cumulative supplements of the Vermont Statutes Annotated to change the terms "accepted agricultural practices" to "required agricultural practices" and "AAPs" to "RAPs" where appropriate.

These changes shall also be made when new legislation is proposed or when there is a republication of the Vermont Statutes Annotated.

Sec. 14. 6 V.S.A. § 4813 is amended to read:

§ 4813. BASIN MANAGEMENT; APPEALS TO THE ~~WATER RESOURCES BOARD~~ ENVIRONMENTAL DIVISION

(a) ~~The secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall cooperate with the ~~secretary of natural resources~~ Secretary of Natural Resources in the basin planning process with regard to the agricultural non-point source waste component of each basin plan. Any person with an interest in the agricultural non-point source component of the basin planning process may petition the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to require, and the ~~secretary~~ Secretary may require, best management practices in the individual basin beyond ~~accepted~~ required agricultural practices adopted by rule, in order to achieve compliance with the water quality goals in 10 V.S.A. § 1250 and any duly adopted basin plan. The ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets shall hold a public hearing within 60 days and shall issue a timely written decision that sets forth the facts and reasons supporting the decision.

(b) Any person engaged in farming that has been required by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to implement best management practices or any person who has petitioned the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets under subsection (a) of this section may appeal the ~~secretary of agriculture, food and market's~~ Secretary of Agriculture, Food and Markets' decision to the ~~environmental division~~ Environmental Division de novo.

(c) ~~Before requiring best management practices under this section, the secretary of agriculture, food and markets or the board shall determine that sufficient financial assistance is available to assist farmers in achieving compliance with applicable best management practices~~ When requiring implementation of a best management practice, the Secretary shall inform a farmer of the resources available to assist the farmer in implementing the best management practice and complying with the requirements of this chapter.

\* \* \* Agricultural Water Quality; Training \* \* \*

Sec. 15. 6 V.S.A. chapter 215, subchapter 8 is added to read:

Subchapter 8. Agricultural Water Quality Training

§ 4981. AGRICULTURAL WATER QUALITY TRAINING

(a) On or before July 1, 2016, as part of the revisions of the required agricultural practices, the Secretary of Agriculture, Food and Markets shall

adopt by rule requirements for training classes or programs for owners or operators of small farms, medium farms, or large farms certified or permitted under this chapter regarding:

(1) the prevention of discharges, as that term is defined in 10 V.S.A. § 1251(3); and

(2) the mitigation and management of stormwater runoff, as that term is defined in 10 V.S.A. § 1264, from farms.

(b) Any training required under this section shall address:

(1) the existing statutory and regulatory requirements for operation of a large, medium, or small farm in the State;

(2) the management practices and technical and financial resources available to assist in compliance with statutory or regulatory agricultural requirements;

(3) the land application of manure or nutrients, methods or techniques to minimize the runoff of land-applied manure or nutrients to waters of the State; and identification of weather or soil conditions that increase the risk of runoff of land-applied manure or nutrients to waters of the State; and

(4) standards required for nutrient management, including nutrient management planning.

(c) The Secretary shall include the training required by this section as a condition of a large farm permit, medium farm permit, or small farm certification required under this chapter. The Secretary may phase in training requirements under this section based on farm size, permit or certification category, or available staffing. On or before January 1, 2017, the Secretary shall establish a schedule by which all owners or operators of small farms, medium farms, or large farms shall complete the training required by this section.

(d) The Secretary may approve or authorize the training required by this section to be conducted by other entities, including the University of Vermont Extension Service and the natural resources conservation districts.

(e) The Secretary shall not charge the owner or operator of a large, medium, or small farm for the training required by this section. The Secretary shall pay for the training required under this section from funds available to the Agency of Agriculture, Food and Markets for water quality initiatives.

\* \* \* Agricultural Water Quality; Certification of Custom Applicators \* \* \*

Sec. 16. 6 V.S.A. chapter 215, subchapter 9 is added to read:

Subchapter 9. Certification of Custom Applicators of Manure or Nutrients

§ 4987. DEFINITIONS

As used in this subchapter, “custom applicator” means a person who is engaged in the business of applying manure or nutrients to land and who charges or collects other consideration for the service. Custom applicator shall include full-time employees of a person engaged in the business of applying manure or nutrients to land, when the employees apply manure or nutrients to land.

§ 4988. CERTIFICATION OF CUSTOM APPLICATOR

(a) On or before July 1, 2016, as part of the revision of the required agricultural practices, the Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a custom applicator shall be certified to operate within the State. The certification process shall require a custom applicator to complete eight hours of training over each five-year period regarding:

(1) application methods or techniques to minimize the runoff of land-applied manure or nutrients to waters of the State; and

(2) identification of weather or soil conditions that increase the risk of runoff of land-applied manure or nutrients to waters of the State.

(b) A custom applicator shall not apply manure or nutrients unless certified by the Secretary of Agriculture, Food and Markets.

(c) A custom applicator certified under this section shall train seasonal employees in methods or techniques to minimize runoff to surface waters and to identify weather or soil conditions that increase the risk of runoff. A custom applicator that trains a seasonal employee under this subsection shall be liable for damages done and liabilities incurred by a seasonal employee who improperly applies manure or nutrients.

(d) The requirements of this section shall not apply to an owner or operator of a farm applying manure or nutrients to a field that he or she owns or controls, provided that the owner or operator has completed the agricultural water quality training required under section 4981 of this title.

\* \* \* Agricultural Water Quality; Enforcement; Corrective Actions \* \* \*

Sec. 17. 6 V.S.A. chapter 215, subchapter 10 is added to read:

Subchapter 10. Enforcement

§ 4991. PURPOSE

The purpose of this subchapter is to provide the Secretary of Agriculture, Food and Markets with the necessary authority to enforce the agricultural water quality requirements of this chapter. When the Secretary of Agriculture, Food and Markets determines that a person subject to the requirements of the chapter is violating a requirement of this chapter, the Secretary shall respond to and require discontinuance of the violation. The Secretary may respond to a violation of the requirements of this chapter by:

- (1) issuing a corrective action order under section 4992 of this title;
- (2) issuing a cease and desist order under section 4993 of this title;
- (3) issuing an emergency order under section 4993 of this title;
- (4) revoking or conditioning coverage under a permit or certification under section 4994 of this title;
- (5) bringing a civil enforcement action under section 4995 of this title;
- (6) referring the violation to the Secretary of Natural Resources for enforcement under 10 V.S.A. chapter 201; or
- (7) pursuing other action, such as consulting with a farmer, within the authority of the Secretary to assure discontinuance of the violation and remediation of any harm caused by the violation.

§ 4992. CORRECTIVE ACTIONS; ADMINISTRATIVE ENFORCEMENT

(a) When the Secretary of Agriculture, Food and Markets receives a complaint and determines that a farmer is in violation of the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter, the Secretary shall notify the farmer of the complaint, including the alleged violation. The Secretary shall not be required to identify the source of the complaint.

(b) When the Secretary of Agriculture, Food and Markets determines that a person is violating the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this subsection shall include:

- (1) a description of the alleged violation;

(2) identification of this section;

(3) identification of the applicable statute, rule, or permit condition violated;

(4) the required corrective actions that the person shall take to correct the violation; and

(5) a summary of federal and State assistance programs that may be utilized by the person to assist in correcting the violation.

(c) A person issued a warning under this section shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation.

(d) If a person who receives a warning under this subsection fails to respond in a timely manner to the written warning or to take corrective action, the Secretary may act pursuant to section 4993 or section 4995 of this section in order to protect water quality.

#### § 4993. ADMINISTRATIVE ENFORCEMENT; CEASE AND DESIST ORDERS; EMERGENCY ORDERS

(a) Notwithstanding the requirements of section 4992 of this title, the Secretary at any time may pursue one or more of the following enforcement actions:

(1) Issue a cease and desist order in accordance with the requirements of subsection (b) of this section to a person the Secretary believes to be in violation of the requirements of this chapter.

(2) Issue emergency administrative orders to protect water quality when an alleged violation, activity, or farm practice:

(A) presents an immediate threat of substantial harm to the environment or immediate threat to the public health or welfare;

(B) is likely to result in an immediate threat of substantial harm to the environment or immediate threat to the public health or welfare; or

(C) requires a permit or amendment to a permit issued under this chapter and a farm owner or operator has commenced an activity or is continuing an activity without a permit or permit amendment.

(3) Institute appropriate proceedings on behalf of the Agency of Agriculture, Food and Markets to enforce the requirements of this chapter, rules adopted under this chapter, or a permit or certification issued under this chapter.



(4) Order mandatory corrective actions, including a requirement that the owner or operator of a farm sell or otherwise remove livestock from a farm or production area when the volume of waste produced by livestock on the farm exceeds the infrastructure capacity of the farm or the production area to manage the waste or waste leachate and prevent runoff or leaching of wastes to waters of the State or groundwater, as required by this chapter.

(5) Seek administrative or civil penalties in accordance with the requirements of section 15, 16, 17, or 4995 of this title. Notwithstanding the requirements of section 15 of this title to the contrary, the maximum administrative penalty issued by the Secretary under this section shall not exceed \$5,000.00 for each violation, and the maximum amount of any administrative penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00.

(b) A person may request that the Secretary hold a hearing on a cease and desist order or an emergency order issued under this section within five days of receipt of the order. Upon receipt of a request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order or emergency order issued under this section shall not stay the order.

#### § 4994. PERMIT OR CERTIFICATION; REVOCATION; ENFORCEMENT

The Secretary may, after due notice and hearing, revoke or condition coverage under a general permit, an individual permit, a small farm certification, or other permit or certification issued under this chapter or rules adopted under this chapter when the person subject to the permit or certification fails to comply with a requirement of this chapter or any term, provision, or requirements of a permit or certification required by this chapter. The Secretary may also seek enforcement remedies and penalties under this subchapter against any person who fails to comply with any term, provision, or requirement of a permit or certification required by this chapter or who violates the terms or conditions of coverage under any general permit, any individual permit, or any certification issued under this chapter.

#### § 4995. CIVIL ENFORCEMENT

(a) The Secretary may bring an action in the Civil Division of the Superior Court to enforce the requirements of this chapter, or rules adopted under this chapter, or any permit or certification issued under this chapter, to assure compliance, and to obtain penalties in the amounts described in subsection (b) of this section. The action shall be brought by the Attorney General in the name of the State.

(b) The Court may grant temporary and permanent injunctive relief, and may:

(1) Enjoin future activities.

(2) Order corrective actions to be taken to mitigate or curtail any violation and to protect human health or the environment, including a requirement that the owner or operator of a farm sell or otherwise remove livestock from the farm or production area when the volume of wastes produced by livestock exceeds the infrastructure capacity of the farm or its production area to manage the waste or waste leachate to prevent runoff or leaching of wastes to waters of the State or groundwater as required by the standards in this chapter.

(3) Order the design, construction, installation, operation, or maintenance of facilities designed to mitigate or prevent a violation of this chapter or to protect human health or the environment or designed to assure compliance.

(4) Fix and order compensation for any public or private property destroyed or damaged.

(5) Revoke coverage under any permit or certification issued under this chapter.

(6) Order reimbursement from any person who caused governmental expenditures for the investigation, abatement, mitigation, or removal of a hazard to human health or the environment.

(7) Levy a civil penalty as provided in this subdivision. A civil penalty of not more than \$85,000.00 may be imposed for each violation. In addition, in the case of a continuing violation, a penalty of not more than \$42,500.00 may be imposed for each day the violation continues. In fixing the amount of the penalty, the Court shall apply the criteria set forth in subsections (e) and (f) of this section. The cost of collection of penalties or other monetary awards shall be assessed against and added to a penalty assessed against a respondent.

(c)(1) In any civil action brought under this section in which a temporary restraining order or preliminary injunction is sought, relief shall be obtained upon a showing that there is the probability of success on the merits and that:

(A) a violation exists; or

(B) a violation is imminent and substantial harm is likely to result.

(2) In a civil action brought under this section in which a temporary restraining order or preliminary injunction is sought, the Secretary need not demonstrate immediate and irreparable injury, loss, or damage.

(d) Any balancing of the equities in actions under this section may affect the time by which compliance shall be attained, but not the necessity of compliance within a reasonable period of time.

(e)(1) In determining the amount of the penalty provided in subsection (b) of this section, the Court shall consider the following:

(A) the degree of actual or potential impact on public health, safety, welfare, and the environment resulting from the violation;

(B) the presence of mitigating circumstances, including unreasonable delay by the Secretary in seeking enforcement;

(C) whether the respondent knew or had reason to know the violation existed;

(D) the respondent's record of compliance;

(E) the deterrent effect of the penalty;

(F) the State's actual costs of enforcement; and

(G) the length of time the violation has existed.

(2) In determining the amount of the penalty provided in subsection (b) of this section, the Court may consider additional relevant factors.

(f) In addition to any penalty assessed under subsection (b) of this section, the Secretary may also recapture economic benefit resulting from a violation.

#### § 4996. APPEALS; ENFORCEMENT

(a) Any person subject, under this subchapter, to an administrative enforcement order, an administrative penalty, or revocation of a permit or certification who is aggrieved by a final decision of the Secretary may appeal to the Civil Division of Superior Court within 30 days of the decision. The Chief Superior judge may specially assign an environmental judge to the Civil Division of Superior Court for the purpose of hearing an appeal.

(b) If the Secretary issues an emergency order under this chapter, the person subject to the order may request a hearing before the Civil Division of Superior Court. Notice of the request for hearing under this subdivision shall be filed with the Civil Division of Superior Court and the Secretary within five days of receipt of the order. A hearing on the emergency order shall be held at the earliest possible time and shall take precedence over all other hearings. The hearing shall be held within five days of receipt of the notice of the request for hearing. A request for hearing on an emergency order shall not stay the order. The Civil Division of the Superior Court shall issue a decision within five days from the conclusion of the hearing, and no later than 30 days from

the date the notice of request for hearing was received by the person subject to the order.

(c) The Civil Division of the Superior Court shall review appeals under this section on the record pursuant to Rule 74 of the Vermont Rules of Civil Procedure.

Sec. 18. 6 V.S.A. § 4812 is amended to read:

§ 4812. ~~CORRECTIVE ACTIONS~~

~~(a) When the Secretary of Agriculture, Food and Markets determines that a person engaged in farming is managing a farm using practices which are inconsistent with the requirements of this chapter or rules adopted under this subchapter, the Secretary may issue a written warning which shall be served in person or by certified mail, return receipt requested. The warning shall include a brief description of the alleged violation, identification of this statute and applicable rules, a recommendation for corrective actions that may be taken by the person, along with a summary of federal and State assistance programs which may be utilized by the person to remedy the violation. The person shall have 30 days to respond to the written warning and shall provide an abatement schedule for curing the violation and a description of the corrective action to be taken to cure the violation. If the person fails to respond to the written warning within this period or to take corrective action to change the practices, the Secretary may act pursuant to subsection (b) of this section in order to protect water quality.~~

~~(b) The Secretary may:~~

~~(1) issue cease and desist orders and administrative penalties in accordance with the requirements of sections 15, 16, and 17 of this title; and~~

~~(2) institute appropriate proceedings on behalf of the Agency to enforce this subchapter.~~

~~(c) Whenever the Secretary believes that any person engaged in farming is in violation of this subchapter or rules adopted thereunder, an action may be brought in the name of the Agency in a court of competent jurisdiction to restrain by temporary or permanent injunction the continuation or repetition of the violation. The court may issue temporary or permanent injunctions, and other relief as may be necessary and appropriate to curtail any violations.~~

~~(d) [Repealed.]~~

~~(e) Any person subject to an enforcement order or an administrative penalty who is aggrieved by the final decision of the Secretary may appeal to the Superior Court within 30 days of the decision. The administrative judge~~

~~may specially assign an Environmental judge to Superior Court for the purpose of hearing an appeal. [Repealed.]~~

Sec. 19. 6 V.S.A. § 4854 is amended to read:

§ 4854. ~~REVOCATION; ENFORCEMENT~~

~~The secretary may revoke a permit issued under this subchapter after following the same process prescribed by section 2705 of this title regarding the revocation of a handler's license. The secretary may also seek enforcement remedies under sections 1, 12, 13, 16, and 17 of this title as well as assess an administrative penalty under section 15 of this title to any person who fails to apply for a permit as required by this subchapter, or who violates the terms or conditions of a permit issued under this subchapter. However, notwithstanding the provisions of section 15 of this title to the contrary, the maximum administrative penalty assessed for a violation of this subchapter shall not exceed \$5,000.00 for each violation, and the maximum amount of any penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00. [Repealed.]~~

Sec. 20. 6 V.S.A. § 4860 is amended to read:

§ 4860. ~~REVOCATION; ENFORCEMENT~~

~~(a) The secretary may revoke coverage under a general permit or an individual permit issued under this subchapter after following the same process prescribed by section 2705 of this title regarding the revocation of a handler's license. The secretary may also seek enforcement remedies under sections 1, 11, 12, 13, 16, and 17 of this title as well as assess an administrative penalty under section 15 of this title from any person who fails to comply with any permit provision as required by this subchapter or who violates the terms or conditions of coverage under any general permit or any individual permit issued under this subchapter. However, notwithstanding provisions of section 15 of this title to the contrary, the maximum administrative penalty assessed for a violation of this subchapter shall not exceed \$5,000.00 for each violation, and the maximum amount of any penalty assessed for separate and distinct violations of this chapter shall not exceed \$50,000.00.~~

~~(b) Any person who violates any provision of this subchapter or who fails to comply with any order or the terms of any permit issued in accordance with this subchapter shall be fined not more than \$10,000.00 for each violation. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense.~~

~~(c) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by this subchapter or by any permit, rule,~~

~~regulation, or order issued under this subchapter, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained by this subchapter or by any permit, rule, regulation, or order issued under this subchapter shall upon conviction be punished by a fine of not more than \$5,000.00 for each violation. Each violation may be a separate offense and, in the case of a continuing violation, each day's continuance may be deemed a separate offense. [Repealed.]~~

Sec. 21. 10 V.S.A. § 8003 is amended to read:

(d) Upon the request of the Secretary of Agriculture, Food and Markets, the Secretary may take action under this chapter to enforce the agricultural water quality requirements of, rules adopted under, and permits and certifications issued under 6 V.S.A. chapter 215. The Secretary of Natural Resources and the Secretary of Agriculture, Food and Markets shall enter into a memorandum of understanding to implement this subsection.

\* \* \* Stream Alteration; Agricultural Activities \* \* \*

Sec. 22. 10 V.S.A. § 1021 is amended to read:

§ 1021. ALTERATION PROHIBITED; EXCEPTIONS

(a) A person shall not change, alter, or modify the course, current, or cross section of any watercourse or of designated outstanding resource waters, within or along the boundaries of this State either by movement, fill, or excavation of ten cubic yards or more of instream material in any year, unless authorized by the Secretary. A person shall not establish or construct a berm in a flood hazard area or river corridor, as those terms are defined in subdivisions 752(3) and (11) of this title, unless permitted by the Secretary or constructed as an emergency protective measure under subsection (b) of this section.

\* \* \*

(f) This subchapter shall not apply to:

(1) ~~accepted agricultural or silvicultural practices, as defined by the Secretary of Agriculture, Food and Markets, or~~ silvicultural practices, including the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation, respectively; or

(2) a farm that is implementing an approved U.S. Department of Agriculture Natural Resource Conservation Service streambank stabilization project or a streambank stabilization project approved by the Secretary of Agriculture, Food and Markets that is consistent with policies adopted by the Secretary of Natural Resources to reduce fluvial erosion hazards.

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\* \* \*

\* \* \* Use Value Appraisal; Compliance with Agricultural Water Quality Requirements \* \* \*

Sec. 23. 32 V.S.A. § 3756(i) is amended to read:

(i)(1) The Director shall remove from use value appraisal an entire parcel of managed ~~forest land~~ forestland and notify the owner ~~in accordance with the procedure in subsection (b) of this section~~ when the ~~Department~~ Commissioner of Forests, Parks and Recreation has not received a management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

(2)(A) The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:

(i) found, after administrative hearing, or contested judicial hearing or motion, to be in violation of water quality requirements established under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215; or

(ii) who is not in compliance with the terms of an administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215.

(B) The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by mailing notification of removal to the owner or operator's last and usual place of abode. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application for use value appraisal for the agricultural land or farm building until the Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A. chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of section 3756 of this title.

Sec. 24. 32 V.S.A. § 3758 is amended to read:

§ 3758. APPEALS

(a) Whenever the Director denies in whole or in part any application for classification as agricultural land or managed forestland or farm buildings, or grants a different classification than that applied for, or the Director or assessing officials fix a use value appraisal or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision of the Director to the Commissioner within 30 days of the decision, and from there to Superior Court in the county in which the property is located.

\* \* \*

(e) When the Director removes agricultural land or a farm building pursuant to notification from the Secretary of Agriculture, Food and Markets under section 3756 of this title, the exclusive right of appeal shall be as provided in 6 V.S.A. § 4996(a).

Sec. 25. 32 V.S.A. § 3752(5) is amended to read:

(5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 3757 of this chapter, the construction of any building, road, or other structure, or any mining, excavation, or landfill activity. “Development” also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, parent, grandparent, child, grandchild, niece, nephew, or sibling of the transferor, or to the surviving spouse of any of the foregoing, then “development” shall not apply to any portion of the newly created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee or transferor applies for reenrollment in the use value appraisal program. “Development” also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the Commissioner of Forests, Parks and Recreation. “Development” also means notification of the Director by the Secretary of Agriculture, Food and Markets under section 3756 of this title that the owner or operator of agricultural land or a farm building is violating the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. The



term "development" shall not include the construction, reconstruction, structural alteration, relocation, or enlargement of any building, road, or other structure for farming, logging, forestry, or conservation purposes, but shall include the subsequent commencement of a use of that building, road, or structure for other than farming, logging, or forestry purposes.

\* \* \* Agency of Natural Resources Basin Planning \* \* \*

Sec. 26. 10 V.S.A. § 1253 is amended to read:

§ 1253. CLASSIFICATION OF WATERS DESIGNATED, RECLASSIFICATION

\* \* \*

(d)(1) ~~The~~ Through the process of basin planning, the Secretary shall determine what degree of water quality and classification should be obtained and maintained for those waters not classified by the Board before 1981 following the procedures in sections 1254 and 1258 of this title. Those waters shall be classified in the public interest. The Secretary shall prepare and maintain an overall surface water management plan to assure that the State water quality standards are met in all State waters. The surface water management plan shall include a schedule for updating the basin plans. The Secretary, in consultation with regional planning commissions and natural resource conservation districts, shall revise all 47 15 basin plans by January 1, 2006, and update them every five years thereafter the basin plans on a five-year rotating basis. On or before January 1 15 of each year, the Secretary shall report to the House Committees on Agriculture and Forest Products, on Natural Resources and Energy, and on Fish, Wildlife and Water Resources, and to the Senate Committees on Agriculture and on Natural Resources and Energy regarding the progress made and difficulties encountered in revising basin plans. By January 1, 1993, the Secretary shall prepare an overall management plan to ensure that the water quality standards are met in all State waters. The report shall include a summary of basin planning activities in the previous calendar year, a schedule for the production of basin plans in the subsequent calendar year, and a summary of actions to be taken over the subsequent three years. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

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

(A) identify waters that should be reclassified as Class A waters or outstanding resource waters;

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

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

(D) assure that municipal officials, citizens, watershed groups, and other interested groups and individuals are involved in the basin planning process;

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

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

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

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

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

(3) The Secretary shall, contingent upon the availability of funding, contract with a regional planning commission to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection. When contracting with a regional planning commission to assist in or produce a basin plan, the Secretary may require the regional planning commission to:

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

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

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

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

(e) In determining the question of public interest, the Secretary shall give due consideration to, and explain his or her decision with respect to, the following:

(1) existing and obtainable water qualities;

- 
- (2) existing and potential use of waters for public water supply, recreational, agricultural, industrial, and other legitimate purposes;
  - (3) natural sources of pollution;
  - (4) public and private pollution sources and the alternative means of abating the same;
  - (5) consistency with the State water quality policy established in 10 V.S.A. § 1250;
  - (6) suitability of waters as habitat for fish, aquatic life, and wildlife;
  - (7) need for and use of minimum streamflow requirements;
  - (8) federal requirements for classification and management of waters;
  - (9) consistency with applicable municipal, regional, and State plans; and
  - (10) any other factors relevant to determine the maximum beneficial use and enjoyment of waters.

(f) Notwithstanding the provisions of subsection (c) of this section, when reclassifying waters to Class A, the Secretary need find only that the reclassification is in the public interest.

(g) The Secretary under the reclassification rule may grant permits for only a portion of the assimilative capacity of the receiving waters, or may permit only indirect discharges from on-site disposal systems, or both.

Sec. 27. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

\* \* \*

(b) It is also the intent of the Legislature that municipalities, regional planning commissions, and State agencies shall engage in a continuing planning process that will further the following goals:

\* \* \*

(c) In addition, this chapter shall be used to further the following specific goals:

\* \* \*

(6) To maintain and improve the quality of air, water, wildlife, and land resources.

(A) Vermont's air, water, wildlife, mineral and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).

(B) Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

\* \* \*

Sec. 28. 24 V.S.A. § 4348(c) is amended to read:

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

(1) the chair of the legislative body of each municipality within the region;

(2) the executive director of each abutting regional planning commission;

(3) the Department of Housing and Community Development within the Agency of Commerce and Community Development; ~~and~~

(4) business, conservation, ~~low income~~ low-income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned; and

(5) the Agency of Natural Resources and the Agency of Agriculture, Food and Markets.

Sec. 29. 24 V.S.A. § 4348a(a) is amended to read:

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

\* \* \*

(6) A statement of policies on the:

(A) preservation of rare and irreplaceable natural areas, scenic and historic features and resources; and

(B) protection and improvement of the quality of waters of the State to be used in the development and furtherance of the applicable basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253;

\* \* \*

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\* \* \* Antidegradation Policy Implementation Rule \* \* \*

Sec. 30. 10 V.S.A. § 1251a(c) is amended to read:

(c) On or before ~~January 15, 2008~~ July 1, 2016, the Secretary of Natural Resources shall ~~propose draft rules for~~ adopt by rule an implementation process for the antidegradation policy in the water quality standards of the State. The implementation process for the antidegradation policy shall be consistent with the State water quality policy established in section 1250 of this title, the Vermont Water Quality Standards, and any applicable requirements of the federal Clean Water Act. ~~On or before July 1, 2008, a final proposal of the rules for an implementation process for the antidegradation policy shall be filed with the Secretary of State under 3 V.S.A. § 841. The Secretary of Natural Resources shall apply the antidegradation implementation policy to all new discharges that require a permit under this chapter and to a permit or coverage under a general permit issued a farm under 6 V.S.A. chapter 215 when the farm has the potential to discharge to State waters.~~

\* \* \* Stormwater Management \* \* \*

Sec. 31. 10 V.S.A. § 1264 is amended to read:

§ 1264. STORMWATER MANAGEMENT

~~(a) The General Assembly finds that the management of stormwater runoff is necessary to reduce stream channel instability, pollution, siltation, sedimentation, and local flooding, all of which have adverse impacts on the water and land resources of the State. The General Assembly intends, by enactment of this section, to reduce the adverse effects of stormwater runoff. The General Assembly determines that this intent may best be attained by a process that: assures broad participation; focuses upon the prevention of pollution; relies on structural treatment only when necessary; establishes and maintains accountability; tailors strategies to the region and the locale; assures an adequate funding source; builds broadbased programs; provides for the evaluation and appropriate evolution of programs; is consistent with the federal Clean Water Act and the State water quality standards; and accords appropriate recognition to the importance of community benefits that accompany an effective stormwater runoff management program. In furtherance of these purposes, the Secretary shall implement two stormwater permitting programs. The first program is based on the requirements of the federal National Pollutant Discharge Elimination System (NPDES) permit program in accordance with section 1258 of this title. The second program is a State permit program based on the requirements of this section for the discharge of "regulated stormwater runoff" as that term is defined in subdivision (11) of this subsection. As used in this section:~~

~~(1) “2002 Stormwater Management Manual” means the Agency of Natural Resources’ Stormwater Management Manual dated April 2002, as amended from time to time by rule.~~

~~(2) “Best management practice” (BMP) means a schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce water pollution.~~

~~(3) “Development” means the construction of impervious surface on a tract or tracts of land where no impervious surface previously existed.~~

~~(4) “Existing stormwater discharge” means a discharge of regulated stormwater runoff which first occurred prior to June 1, 2002 and that is subject to the permitting requirements of this chapter.~~

~~(5) “Expansion” and “the expanded portion of an existing discharge” mean an increase or addition of impervious surface, such that the total resulting impervious area is greater than the minimum regulatory threshold. Expansion does not mean an increase or addition of impervious surface of less than 5,000 square feet.~~

~~(6) “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.~~

~~(7) “New stormwater discharge” means a new or expanded discharge of regulated stormwater runoff, subject to the permitting requirements of this chapter, which first occurs after June 1, 2002 and has not been previously authorized pursuant to this chapter.~~

~~(8) “Offset” means a State permitted or approved action or project within a stormwater impaired water that a discharger or a third person may complete to mitigate the impacts that a discharge of regulated stormwater runoff has on the stormwater impaired water.~~

~~(9) “Offset charge” means the amount of sediment load or hydrologic impact that an offset must reduce or control in the stormwater impaired water in which the offset is located.~~

~~(10) “Redevelopment” means the construction or reconstruction of an impervious surface where an impervious surface already exists when such new construction involves substantial site grading, substantial subsurface excavation, or substantial modification of existing stormwater conveyance, such that the total of impervious surface to be constructed or reconstructed is greater than the minimum regulatory threshold. Redevelopment does not mean the construction or reconstruction of impervious surface where impervious surface already exists when the construction or reconstruction involves less~~

than 5,000 square feet. Redevelopment does not mean public road management activities, including any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading treatments used to maintain pavement, bridges, and unpaved roads.

(11) “Regulated stormwater runoff” means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.

(12) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff to a stormwater-impaired water that mitigates a sediment load level or hydrologic impact that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

(13) “Stormwater impaired water” means a State water that the Secretary determines is significantly impaired by discharges of regulated stormwater runoff.

(14) “Stormwater runoff” means precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

(15) “Total maximum daily load” (TMDL) means the calculations and plan for meeting water quality standards approved by the U.S. Environmental Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and federal regulations adopted under that law.

(16) “Water quality remediation plan” means a plan, other than a TMDL or sediment load allocation, designed to bring an impaired water body into compliance with applicable water quality standards in accordance with 40 C.F.R. § 130.7(b)(1)(ii) and (iii).

(17) “Watershed improvement permit” means a general permit specific to a stormwater-impaired water that is designed to apply management strategies to existing and new discharges and that includes a schedule of compliance no longer than five years reasonably designed to assure attainment of the Vermont water quality standards in the receiving waters.

(18) “Stormwater system” means the storm sewers; outfall sewers; surface drains; manmade wetlands; channels; ditches; wet and dry bottom basins; rain gardens; and other control equipment necessary and appurtenant to the collection, transportation, conveyance, pumping, treatment, disposal, and discharge of regulated stormwater runoff.

(19) ~~“Net zero standard” means:~~

~~(A) A new discharge or the expanded portion of an existing discharge meets the requirements of the 2002 Stormwater Management Manual and does not increase the sediment load in the receiving stormwater impaired water; or~~

~~(B) A discharge from redevelopment; from an existing discharge operating under an expired stormwater discharge permit where the property owner applies for a new permit; or from any combination of development, redevelopment, and expansion meets on site the water quality, recharge, and channel protection criteria set forth in Table 1.1 of the 2002 Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency and if the sediment load from the discharge approximates the natural runoff from an undeveloped field or open meadow that is not used for agricultural activity.~~

~~(b) The Secretary shall prepare a plan for the management of collected stormwater runoff found by the Secretary to be deleterious to receiving waters. The plan shall recognize that the runoff of stormwater is different from the discharge of sanitary and industrial wastes because of the influence of natural events of stormwater runoff, the variations in characteristics of those runoffs, and the increased stream flows and natural degradation of the receiving water quality at the time of discharge. The plan shall be cost effective and designed to minimize any adverse impact of stormwater runoff to waters of the State. By no later than February 1, 2001, the Secretary shall prepare an enhanced stormwater management program and report on the content of that program to the House Committees on Fish, Wildlife and Water Resources and on Natural Resources and Energy and to the Senate Committee on Natural Resources and Energy. In developing the program, the Secretary shall consult with the Board, affected municipalities, regional entities, other State and federal agencies, and members of the public. The Secretary shall be responsible for implementation of the program. The Secretary’s stormwater management program shall include, at a minimum, provisions that:~~

~~(1) Indicate that the primary goals of the State program will be to assure compliance with the Vermont Water Quality Standards and to maintain after development, as nearly as possible, the predevelopment runoff characteristics.~~

~~(2) Allow for differences in hydrologic characteristics in different parts of the State.~~

~~(3) Incorporate stormwater management into the basin planning process conducted under section 1253 of this title.~~

~~(4) Assure consistency with applicable requirements of the federal Clean Water Act.~~



~~(5) Address stormwater management in new development and redevelopment.~~

~~(6) Control stormwater runoff from construction sites and other land disturbing activities.~~

~~(7) Indicate that water quality mitigation practices may be required for any redevelopment of previously developed sites, even when preredevlopment runoff characteristics are proposed to be maintained.~~

~~(8) Specify minimum requirements for inspection and maintenance of stormwater management practices.~~

~~(9) Promote detection and elimination of improper or illegal connections and discharges.~~

~~(10) Promote implementation of pollution prevention during the conduct of municipal operations.~~

~~(11) Provide for a design manual that includes technical guidance for the management of stormwater runoff.~~

~~(12) Encourage municipal governments to utilize existing regulatory and planning authority to implement improved stormwater management by providing technical assistance, training, research and coordination with respect to stormwater management technology, and by preparing and distributing a model local stormwater management ordinance.~~

~~(13) Promote public education and participation among citizens and municipalities about cost effective and innovative measures to reduce stormwater discharges to the waters of the State.~~

~~(c) The Secretary shall submit the program report to the House Committees on Agriculture and Forest Products, on Transportation, and on Natural Resources and Energy and to the Senate Committees on Agriculture and on Natural Resources and Energy.~~

~~(d)(1) The Secretary shall initiate rulemaking by October 15, 2004, and shall adopt a rule for a stormwater management program by June 15, 2005. The rule shall be adopted in accordance with 3 V.S.A. chapter 25 and shall include:~~

~~(A) the regulatory elements of the program identified in subsection (b) of this section, including the development and use of offsets and the establishment and imposition of stormwater impact fees to apply when issuing permits that allow regulated stormwater runoff to stormwater impaired waters;~~

~~(B) requirements concerning the contents of permit applications that include, at a minimum, for regulated stormwater runoff, the permit application~~

requirements contained in the Agency's 1997 stormwater management procedures;

~~(C) a system of notifying interested persons in a timely way of the Agency's receipt of stormwater discharge applications, provided any alleged failures with respect to such notice shall not be relevant in any Agency permit decision or any appeals brought pursuant to section 1269 of this chapter;~~

~~(D) requirements concerning a permit for discharges of regulated stormwater runoff from the development, redevelopment, or expansion of impervious surfaces equal to or greater than one acre or any combination of development, redevelopment, and expansion of impervious surfaces equal to or greater than one acre; and~~

~~(E) requirements concerning a permit for discharges of regulated stormwater runoff from an impervious surface of any size to stormwater impaired waters if the Secretary determines that treatment is necessary to reduce the adverse impact of such stormwater discharges due to the size of the impervious surface, drainage patterns, hydraulic connectivity, existing stormwater treatment, or other factors identified by the Secretary.~~

~~(2) Notwithstanding 3 V.S.A. § 840(a), the Secretary shall hold at least three public hearings in different areas of the State regarding the proposed rule.~~

~~(e)(1) Except as otherwise may be provided in subsection (f) of this section, the Secretary shall, for new stormwater discharges, require a permit for discharge of, regulated stormwater runoff consistent with, at a minimum, the 2002 Stormwater Management Manual. The Secretary may issue, condition, modify, revoke, or deny discharge permits for regulated stormwater runoff, as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act. The permit shall specify the use of best management practices to control regulated stormwater runoff. The permit shall require as a condition of approval, proper operation, and maintenance of any stormwater management facility and submittal by the permittee of an annual inspection report on the operation, maintenance and condition of the stormwater management system. The permit shall contain additional conditions, requirements, and restrictions as the Secretary deems necessary to achieve and maintain compliance with the water quality standards, including requirements concerning recording, reporting, and monitoring the effects on receiving waters due to operation and maintenance of stormwater management facilities.~~

~~(2) As one of the principal means of administering an enhanced stormwater program, the Secretary may issue and enforce general permits. To the extent appropriate, such permits shall include the use of certifications of compliance by licensed professional engineers practicing within the scope of~~

~~their engineering specialty. The Secretary may issue general permits for classes of regulated stormwater runoff permittees and may specify the period of time for which the permit is valid other than that specified in subdivision 1263(d)(4) of this title when such is consistent with the provisions of this section. General permits shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title. No permit is required under this section for:~~

~~(A) Stormwater runoff from farms subject to accepted agricultural practices adopted by the Secretary of Agriculture, Food and Markets;~~

~~(B) Stormwater runoff from concentrated animal feeding operations that require a permit under subsection 1263(g) of this chapter; or~~

~~(C) Stormwater runoff from silvicultural activities subject to accepted management practices adopted by the Commissioner of Forests, Parks and Recreation.~~

~~(3) Prior to issuing a permit under this subsection, the Secretary shall review the permit applicant's history of compliance with the requirements of this chapter. The Secretary may, at his or her discretion and as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act, deny an application for the discharge of regulated stormwater under this subsection if review of the applicant's compliance history indicates that the applicant is discharging regulated stormwater in violation of this chapter or is the holder of an expired permit for an existing discharge of regulated stormwater.~~

~~(f)(1) In a stormwater impaired water, the Secretary may issue:~~

~~(A) An individual permit in a stormwater impaired water for which no TMDL, water quality remediation plan, or watershed improvement permit has been established or issued, provided that the permitted discharge meets the following discharge standard: prior to the issuance of a general permit to implement a TMDL or a water quality remediation plan, the discharge meets the net zero standard;~~

~~(B) An individual permit or a general permit to implement a TMDL or water quality remediation plan in a stormwater impaired water, provided that the permitted discharge meets the following discharge standard:~~

~~(i) a new stormwater discharge or the expansion of an existing discharge shall meet the treatment standards for new development and expansion in the 2002 Stormwater Management Manual and any additional requirements deemed necessary by the Secretary to implement the TMDL or water quality remediation plan;~~

~~(ii) for a discharge of regulated stormwater runoff from redeveloped impervious surfaces:~~

~~(I) the existing impervious surface shall be reduced by 20 percent, or a stormwater treatment practice shall be designed to capture and treat 20 percent of the water quality volume treatment standard of the 2002 Stormwater Management Manual from the existing impervious surface; and~~

~~(II) any additional requirements deemed necessary by the Secretary to implement the TMDL or the water quality remediation plan;~~

~~(iii) an existing stormwater discharge shall meet the treatment standards deemed necessary by the Secretary to implement a TMDL or a water quality remediation plan;~~

~~(iv) if a permit is required for an expansion of an existing impervious surface or for the redevelopment of an existing impervious surface, discharges from the expansion or from the redeveloped portion of the existing impervious surface shall meet the relevant treatment standard of the 2002 Stormwater Management Manual, and the existing impervious surface shall meet the treatment standards deemed necessary by the Secretary to implement a TMDL or the water quality remediation plan;~~

~~(C) A watershed improvement permit, provided that the watershed improvement permit provides reasonable assurance of compliance with the Vermont water quality standards in five years;~~

~~(D) A general or individual permit that is implementing a TMDL or water quality remediation plan; or~~

~~(E) A statewide general permit for new discharges that the Secretary deems necessary to assure attainment of the Vermont Water Quality Standards.~~

~~(2) An authorization to discharge regulated stormwater runoff pursuant to a permit issued under this subsection shall be valid for a time period not to exceed five years. A person seeking to discharge regulated stormwater runoff after the expiration of that period shall obtain an individual permit or coverage under a general permit, whichever is applicable, in accordance with subsection 1263(e) of this title.~~

~~(3) By January 15, 2010, the Secretary shall issue a watershed improvement permit, issue a general or individual permit implementing a TMDL approved by the EPA, or issue a general or individual permit implementing a water quality remediation plan for each of the stormwater-impaired waters on the Vermont Year 2004 Section 303(d) List of Waters required by 33 U.S.C. 1313(d). In developing a TMDL or a water quality remediation plan for a stormwater impaired water, the Secretary shall~~

~~consult “A Scientifically Based Assessment and Adaptive Management Approach to Stormwater Management” and “Areas of Agreement about the Scientific Underpinnings of the Water Resources Board’s Original Seven Questions” set out in appendices A and B, respectively, of the final report of the Water Resources Board’s “Investigation Into Developing Cleanup Plans For Stormwater Impaired Waters, Docket No. Inv-03-01,” issued March 9, 2004.~~

~~(4) Discharge permits issued under this subsection shall require BMP-based stormwater treatment practices. Permit compliance shall be judged on the basis of performance of the terms and conditions of the discharge permit, including construction and maintenance in accordance with BMP specifications. Any permit issued for a new stormwater discharge or for the expanded portion of an existing discharge pursuant to this subsection shall require compliance with BMPs for stormwater collection and treatment established by the 2002 Stormwater Management Manual, and any additional requirements for stormwater treatment and control systems as the Secretary determines to be necessary to ensure that the permitted discharge does not cause or contribute to a violation of the Vermont Water Quality Standards.~~

~~(5) In addition to any permit condition otherwise authorized under subsection (e) of this section, in any permit issued pursuant to this subsection, the Secretary may require an offset or stormwater impact fee as necessary to ensure the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards. Offsets and stormwater impact fees, where utilized, shall incorporate an appropriate margin of safety to account for the variability in quantifying the load of pollutants of concern. To facilitate utilization of offsets and stormwater impact fees, the Secretary shall identify by January 1, 2005 a list of potential offsets in each of the waters listed as a stormwater-impaired water under this subsection.~~

~~(g)(1) The Secretary may issue a permit consistent with the requirements of subsection (f) of this section, even where a TMDL or wasteload allocation has not been prepared for the receiving water. In any appeal under this chapter an individual permit meeting the requirements of subsection (f) of this section shall have a rebuttable presumption in favor of the permittee that the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards for the receiving waters with respect to the discharge of regulated stormwater runoff. This rebuttable presumption shall only apply to permitted discharges into receiving waters that are principally impaired by sources other than regulated stormwater runoff.~~

~~(2) This subsection shall apply to stormwater permits issued under the federally delegated NPDES program only to the extent allowed under federal law.~~

~~(h) The rebuttable presumption specified in subdivision (g)(1) of this section shall also apply to permitted discharges into receiving waters that meet the water quality standards of the State, provided the discharge meets the requirements of subsection (e) of this section.~~

~~(i) A residential subdivision may transfer a pretransition stormwater discharge permit or a stormwater discharge permit implementing a total maximum daily load plan to a municipality, provided that the municipality assumes responsibility for the permitting of the stormwater system that serves the residential subdivision. As used in this section:~~

~~(1) "Pretransition stormwater discharge permit" means any permit issued by the Secretary of Natural Resources pursuant to this section on or before June 30, 2004 for a discharge of stormwater.~~

~~(2) "Residential subdivision" means land identified and demarcated by recorded plat or other device that a municipality has authorized to be used primarily for residential construction.~~

~~(j) Notwithstanding any other provision of law, if an application to discharge stormwater runoff pertains to a telecommunications facility as defined in 30 V.S.A. § 248a and is filed before July 1, 2017 and the discharge will be to a water that is not principally impaired by stormwater runoff:~~

~~(1) The Secretary shall issue a decision on the application within 40 days of the date the Secretary determines the application to be complete, if the application seeks authorization under a general permit.~~

~~(2) The Secretary shall issue a decision on the application within 60 days of the date the Secretary determines the application to be complete, if the application seeks or requires authorization under an individual permit.~~

~~(k) The Secretary may adopt rules regulating stormwater discharges and stormwater infrastructure repair or maintenance during a state of emergency declared under 20 V.S.A. chapter 1 or during flooding or other emergency conditions that pose an imminent risk to life or a risk of damage to public or private property. Any rule adopted under this subsection shall comply with National Flood Insurance Program requirements. A rule adopted under this subsection shall include a requirement that an activity receive an individual stormwater discharge emergency permit or receive coverage under a general stormwater discharge emergency permit.~~

~~(1) A rule adopted under this subsection shall establish:~~

~~(A) criteria for coverage under an individual or general emergency permit;~~

~~(B) criteria for different categories of activities covered under a general emergency permit;~~

~~(C) requirements for public notification of permitted activities, including notification after initiation or completion of a permitted activity;~~

~~(D) requirements for coordination with State and municipal authorities;~~

~~(E) requirements that the Secretary document permitted activity, including, at a minimum, requirements for documenting permit terms, documenting permit duration, and documenting the nature of an activity when the rules authorize notification of the Secretary after initiation or completion of the activity.~~

~~(2) A rule adopted under this section may:~~

~~(A) establish reporting requirements for categories of activities;~~

~~(B) authorize an activity that does not require reporting to the Secretary; or~~

~~(C) authorize an activity that requires reporting to the Secretary after initiation or completion of an activity.~~

(a) Findings and intent.

(1) Findings. The General Assembly finds that the management of stormwater runoff is necessary to reduce stream channel instability, pollution, siltation, sedimentation, and flooding, all of which have adverse impacts on the water and land resources of the State.

(2) Intent. The General Assembly intends, by enactment of this section to:

(A) Reduce the adverse effects of stormwater runoff.

(B) Direct the Agency of Natural Resources to develop a process that assures broad participation; focuses upon the prevention of pollution; relies on structural treatment only when necessary; establishes and maintains accountability; tailors strategies to the region and the locale; builds broad-based programs; provides for the evaluation and appropriate evolution of programs; is consistent with the federal Clean Water Act and the State water quality standards; and accords appropriate recognition to the importance of community benefits that accompany an effective stormwater runoff management program. In furtherance of these purposes, the Secretary shall implement a stormwater permitting program. The stormwater permitting

program developed by the Secretary shall recognize that stormwater runoff is different from the discharge of sanitary and industrial wastes because of the influence of natural events of stormwater runoff, the variations in characteristics of those runoffs, and the increased stream flows causing degradation of the quality of the receiving water at the time of discharge.

(b) Definitions. As used in this section:

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

(2) “Development” means the construction of impervious surface on a tract or tracts of land where no impervious surface previously existed.

(3) “Expansion” and “the expanded portion of an existing discharge” mean an increase or addition of impervious surface, such that the total resulting impervious area is greater than the minimum regulatory threshold.

(4) “Green infrastructure” means a wide range of multi-functional, natural and semi-natural landscape elements that are located within, around, and between developed areas, that are applicable at all spatial scales, and that are designed to control or collect stormwater runoff.

(5) “Healthy soil” means soil that has a well-developed, porous structure, is chemically balanced, supports diverse microbial communities, and has abundant organic matter.

(6) “Impervious surface” means those manmade surfaces, including paved and unpaved roads, parking areas, roofs, driveways, and walkways, from which precipitation runs off rather than infiltrates.

(7) “New stormwater discharge” means a new or expanded discharge of regulated stormwater runoff, subject to the permitting requirements of this chapter that has not been previously authorized pursuant to this chapter.

(8) “Offset” means a State-permitted or -approved action or project within a stormwater-impaired water, Lake Champlain, or a water that contributes to the impairment of Lake Champlain that a discharger or a third person may complete to mitigate the impacts that a discharge of regulated stormwater runoff has on the stormwater-impaired water, or the impacts of phosphorus on Lake Champlain, or a water that contributes to the impairment of Lake Champlain.

(9) “Redevelopment” or “redevelop” means the construction or reconstruction of an impervious surface where an impervious surface already exists when such new construction involves substantial site grading, substantial subsurface excavation, or substantial modification of an existing stormwater



conveyance, such that the total of impervious surface to be constructed or reconstructed is greater than the minimum regulatory threshold. Redevelopment does not mean public road management activities, including any crack sealing, patching, coldplaning, resurfacing, reclaiming, or grading treatments used to maintain pavement, bridges, and unpaved roads.

(10) “Regulated stormwater runoff” means precipitation, snowmelt, and the material dissolved or suspended in precipitation and snowmelt that runs off impervious surfaces and discharges into surface waters or into groundwater via infiltration.

(11) “Stormwater impact fee” means the monetary charge assessed to a permit applicant for the discharge of regulated stormwater runoff to a stormwater-impaired water or for the discharge of phosphorus to Lake Champlain or a water that contributes to the impairment of Lake Champlain in order to mitigate a sediment load level, hydrologic impact, or other impact that the discharger is unable to control through on-site treatment or completion of an offset on a site owned or controlled by the permit applicant.

(12) “Stormwater-impaired water” means a State water that the Secretary determines is significantly impaired by discharges of regulated stormwater runoff.

(13) “Stormwater Management Manual” means the Agency of Natural Resources’ Stormwater Management Manual, as adopted and amended by rule.

(14) “Stormwater runoff” means precipitation and snowmelt that does not infiltrate into the soil, including material dissolved or suspended in it, but does not include discharges from undisturbed natural terrain or wastes from combined sewer overflows.

(15) “Stormwater system” includes the storm sewers; outfall sewers; surface drains; manmade wetlands; channels; ditches; wet and dry bottom basins; rain gardens; and other control equipment necessary and appurtenant to the collection, transportation, conveyance, pumping, treatment, disposal, and discharge of regulated stormwater runoff.

(16) “Total maximum daily load” (TMDL) means the calculations and plan for meeting water quality standards approved by the U.S. Environmental Protection Agency (EPA) and prepared pursuant to 33 U.S.C. § 1313(d) and federal regulations adopted under that law.

(17) “Water quality remediation plan” means a plan, other than a TMDL, designed to bring an impaired water body into compliance with applicable water quality standards in accordance with 40 C.F.R. § 130.7(b)(1)(ii) and (iii).

(18) “Watershed improvement permit” means a general permit specific to a stormwater-impaired water that is designed to apply management strategies to existing and new discharges and that includes a schedule of compliance no longer than five years reasonably designed to assure attainment of the Vermont water quality standards in the receiving waters.

(c) Prohibitions.

(1) A person shall not commence the construction or redevelopment of one acre or more of impervious surface without first obtaining a permit from the Secretary.

(2) A person shall not discharge from a facility that has a standard industrial classification identified in 40 C.F.R. § 122.26 without first obtaining a permit from the Secretary.

(3) A person that has been designated by the Secretary as requiring coverage for its municipal separate storm sewer system may not discharge without first obtaining a permit from the Secretary.

(4) A person shall not commence a project that will result in an earth disturbance of one acre or greater, or less than one acre if part of a common plan of development, without first obtaining a permit from the Secretary.

(5) A person shall not expand existing impervious surface by more than 5,000 square feet, such that the total resulting impervious area is greater than one acre, without first obtaining a permit from the Secretary.

(6)(A) In accordance with the schedule established under subdivision (g)(2) of this section, a municipality shall not discharge stormwater from a municipal road without first obtaining:

(i) an individual permit;

(ii) coverage under a municipal road general permit; or

(iii) coverage under a municipal separate storm sewer system permit that implements the technical standards and criteria established by the Secretary for stormwater improvements of municipal roads.

(B) As used in this subdivision (6), “municipality” means a city, town, or village.

(7) In accordance with the schedule established under subdivision (g)(3), a person shall not discharge stormwater from impervious surface of three or more acres in size without first obtaining an individual permit or coverage under a general permit issued under this section if the discharge was never previously permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002

Stormwater Management Manual or any subsequently adopted Stormwater Management Manual.

(d) Exemptions.

(1) No permit is required under this section for:

(A) Stormwater runoff from farms in compliance with agricultural practices adopted by the Secretary of Agriculture, Food and Markets.

(B) Stormwater runoff from concentrated animal feeding operations permitted under subsection 1263(g) of this chapter.

(C) Stormwater runoff from silvicultural activities in compliance with the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation.

(D) Stormwater runoff permitted under section 1263 of this title.

(2) No permit is required under subdivision (c)(1), (5), or (8) of this section and for which a municipality has assumed full legal as part of a permit issued to the municipality by the Secretary. As used in this subdivision, “full legal responsibility” means legal control of the stormwater system, including a legal right to access the stormwater system, a legal duty to properly maintain the stormwater system, and a legal duty to repair and replace the stormwater system when it no longer adequately protects waters of the State.

(e) State designation. The Secretary shall require a permit under this section for a discharge or stormwater runoff from any size of impervious surfaces upon a determination by the Secretary that the treatment of the discharge or stormwater runoff is necessary to reduce the adverse impacts to water quality of the discharge or stormwater runoff taking into consideration any of the following factors: the size of the impervious surface, drainage patterns, hydraulic connectivity, existing stormwater treatment, stormwater controls necessary to implement the wasteload allocation of a TMDL, or other factors. The Secretary may make this determination on a case-by-case basis or according to classes of activities, classes of runoff, or classes of discharge. The Secretary may make a determination under this subsection based on activities, runoff, discharges, or other information identified during the basin planning process.

(f) Rulemaking. On or before December 31, 2017, the Secretary shall adopt rules to manage regulated stormwater runoff. At a minimum, the rules shall:

(1) Establish as the primary goals of the rules:

(A) assuring compliance with the Vermont Water Quality Standards; and

(B) maintenance after development, as nearly as possible, of the predevelopment runoff characteristics.

(2) Establish criteria for the use of the basin planning process to establish watershed-specific priorities for the management of stormwater runoff.

(3) Assure consistency with applicable requirements of the federal Clean Water Act.

(4) Include technical standards and best management practices that address stormwater discharges from existing development, new development, and redevelopment.

(5) Specify minimum requirements for inspection and maintenance of stormwater management practices.

(6) Include standards for the management of stormwater runoff from construction sites and other land disturbing activities.

(7) Allow municipal governments to assume the full legal responsibility for a stormwater system permitted under these rules as a part of a permit issued by the Secretary.

(8) Include standards with respect to the use of offsets and stormwater impact fees.

(9) Include minimum standards for the issuance of stormwater permits during emergencies for the repair or maintenance of stormwater infrastructure during a state of emergency declared under 20 V.S.A. chapter 1 or during flooding or other emergency conditions that pose an imminent risk to life or a risk of damage to public or private property. Minimum standards adopted under this subdivision shall comply with National Flood Insurance Program requirements.

(10) To the extent appropriate, authorize in the permitting process use of certifications of compliance by licensed professional engineers practicing within the scope of their engineering specialty.

(11) Include standards for alternative best management practices for stormwater permitting of renewable energy projects and telecommunication facilities located in high-elevation settings, provided that the alternative best management practices shall be designed to:

(A) minimize the extent and footprint of stormwater-treatment practices in order to preserve vegetation and trees;

(B) adapt to and minimize impact to ecosystems, shallow soils, and sensitive streams found in high-elevation settings;

(C) account for the temporary nature and infrequent use of construction and access roads for high-elevation projects; and

(D) maintain the predevelopment runoff characteristics, as nearly as possible, after development.

(12) Establish best management practices for improving healthy soils in order to improve the capacity of soil to retain water, improve flood resiliency, reduce sedimentation, and prevent stormwater runoff.

(g) General permits.

(1) The Secretary may issue general permits for classes of regulated stormwater runoff that shall be adopted and administered in accordance with the provisions of subsection 1263(b) of this title.

(2)(A) The Secretary shall issue on or before December 31, 2017, a general permit for discharges of regulated stormwater from municipal roads. Under the municipal roads stormwater general permit, the Secretary shall:

(i) Establish a schedule for implementation of the general permit by each municipality in the State. Under the schedule, the Secretary shall establish:

(I) the date by which each municipality shall apply for coverage under the municipal roads general permit;

(II) the date by which each municipality shall inventory necessary stormwater management projects on municipal roads;

(III) the date by which each municipality shall establish a plan for implementation of stormwater improvements that prioritizes stormwater improvements according to criteria established by the Secretary under the general permit; and

(IV) the date by which each municipality shall implement stormwater improvements of municipal roads according to a municipal implementation plan.

(ii) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements of municipal roads.

(iii) Establish criteria for municipal prioritization of stormwater improvements of municipal roads. The Secretary shall base the criteria on the water quality impacts of a stormwater discharge, the current state of a municipal road, the priority of a municipal road or stormwater project in any

existing transportation capital plan developed by a municipality, and the benefits of the stormwater improvement to the life of the municipal road.

(iv) Require each municipality to submit to the Secretary and periodically update its implementation plan for stormwater improvements.

(B) The Secretary may require an individual permit for a stormwater improvement at any time under subsection (e) of this section. An individual permit shall include site-specific standards for the stormwater improvement.

(C) All municipalities shall apply for coverage under the municipal road general permit on or before July 1, 2021.

(D) As used in this subdivision (g)(2), “municipality” means a city, town, or village.

(3) On or before January 1, 2018, the Secretary shall issue a general permit under this section for discharges of stormwater from impervious surface of three or more acres in size, when the stormwater discharge previously was not permitted or was permitted under an individual permit or general permit that did not incorporate the requirements of the 2002 Stormwater Management Manual or any subsequently adopted Stormwater Management Manual. Under the general permit, the Secretary shall:

(A) Establish a schedule for implementation of the general permit by geographic area of the State. The schedule shall establish the date by which an owner of impervious surface shall apply for coverage under subdivision (g)(3) of this section. The schedule established by the Secretary shall require an owner of impervious surface subject to permitting under this subdivision to obtain coverage by the following dates:

(i) for impervious surface located within the Lake Champlain watershed, no later than October 1, 2023; and

(ii) for impervious surface located within all other watersheds of the State, no later than October 1, 2028.

(B) Establish criteria and technical standards, such as best management practices, for implementation of stormwater improvements for the retrofitting of impervious surface subject to permitting under this subdivision.

(C) Require that a discharge of stormwater from impervious surface subject to the requirements of this section comply with the standards of subsection (h) of this section for redevelopment of or renewal of a permit for existing impervious surface.

(D) Allow the use of stormwater impact fees, offsets, and phosphorus credit trading within the watershed of the water to which the stormwater discharges or runs off.

(h) Permit requirements. An individual or general stormwater permit shall:

(1) Be valid for a period of time not to exceed five years.

(2) For discharges of regulated stormwater to a stormwater impaired water, for discharges of phosphorus to Lake Champlain, or for discharges of phosphorus to a water that contributes to the impairment of Lake Champlain:

(A) In which no TMDL, watershed improvement permit, or water quality remediation plan has been approved, require that the discharge shall comply with the following discharge standards:

(i) A new discharge or the expanded portion of an existing discharge shall satisfy the requirements of the Stormwater Management Manual and shall not increase the pollutant load in the receiving water for stormwater.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the discharge shall satisfy on-site the water quality, recharge, and channel protection criteria set forth in the Stormwater Management Manual that are determined to be technically feasible by an engineering feasibility analysis conducted by the Agency and the discharge shall not increase the pollutant load in the receiving water for stormwater.

(B) In which a TMDL or water quality remediation plan has been adopted, require that the discharge shall comply with the following discharge standards:

(i) For a new discharge or the expanded portion of an existing discharge, the discharge shall satisfy the requirements of the Stormwater Management Manual, and the Secretary shall determine that there is sufficient pollutant load allocations for the discharge.

(ii) For redevelopment of or renewal of a permit for existing impervious surface, the Secretary shall determine that there is sufficient pollutant load allocations for the discharge and the Secretary shall include any requirements that the Secretary deems necessary to implement the TMDL or water quality remediation plan.

(3) Contain requirements necessary to comply with the minimum requirements of the rules adopted under this section, the Vermont water quality standards, and any applicable provision of the Clean Water Act.

(i) Disclosure of violations. The Secretary may, at his or her discretion and as necessary to assure achievement of the goals of the program and compliance with State law and the federal Clean Water Act, deny an application for the discharge of regulated stormwater under this section if review of the applicant's compliance history indicates that the applicant is discharging regulated stormwater in violation of this chapter or is the holder of an expired permit for an existing discharge of regulated stormwater.

(j) Presumption. In any appeal under this chapter, an individual permit issued under subdivisions (c)(1) and (c)(5) of this section shall have a rebuttable presumption in favor of the permittee that the discharge does not cause or contribute to a violation of the Vermont Water Quality Standards for the receiving waters with respect to the discharge of regulated stormwater runoff, provided that the discharge is to a water that is not principally impaired due to stormwater.

Sec. 32. ANR REPORT ON REGULATORY THRESHOLD FOR PERMITTING STORMWATER RUNOFF FROM IMPERVIOUS SURFACES

(a) On or before January 15, 2016, the Secretary of Natural Resources shall submit to the House Committee on Fish, Wildlife and Water Resources and the Senate Committee on Natural Resources and Energy a report regarding whether and how the State should lower from one acre to one-half acre of impervious surface the regulatory permitting threshold for an operating permit for stormwater runoff from new development, redevelopment, or expansion. The report shall include:

(1) a recommendation as to whether the State should lower the regulatory permitting threshold from one acre to one-half acre of impervious surface;

(2) an estimate of the number of additional development projects that would require an operating permit for stormwater runoff if the regulatory permitting threshold were lowered from one acre to one-half acre of impervious surface;

(3) an estimate of the environmental benefit of reducing the regulatory permitting threshold from one acre to one-half acre of impervious surface;

(4) an estimate of the number of staff that would be needed by the Agency of Natural Resources to effectively implement a stormwater operating permit program with a regulatory permitting threshold of one-half acre of impervious surface; and



(5) a recommendation for regulating construction, redevelopment, or expansion of impervious surface based on a tiered system of acreage, square footage, or other measure.

(b) The definitions provided in 10 V.S.A. § 1264 shall apply to this section.

### Sec. 33. STORMWATER MANAGEMENT PRACTICES HANDBOOK

On or before January 1, 2016, the Secretary of Natural Resources shall publish as a handbook a suite of practical and cost-effective best management practices for the control of stormwater runoff and reduction of adverse water quality effects from the construction, redevelopment, or expansion of impervious surface that does not require a permit under 10 V.S.A. § 1264. The best management practices shall address activities that control, mitigate, or eliminate stormwater runoff to waters of the State. The stormwater management practices handbook shall be advisory and shall not be mandatory.

### Sec. 34. AGENCY OF NATURAL RESOURCES REPORT ON THE LAND APPLICATION OF SEPTAGE AND SLUDGE

(a) As used in this section:

(1) "Septage" means the liquid and solid materials pumped from a septic tank or cesspool during cleaning.

(2) "Sludge" means any solid, semisolid, or liquid generated from a municipal, commercial, or industrial wastewater treatment plant or process, water supply treatment plant, air pollution control facility, or any other such waste having similar characteristics and effects.

(b) On or before January 15, 2016, the Secretary of Natural Resources shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Fish, Wildlife, and Water Resources a report regarding the land application of septage and sludge in the State. The report shall include:

(1) a summary of the current law regarding the land application of septage or sludge, including any permit requirements;

(2) a summary of how current law for the land application of septage and sludge is designed to protect groundwater or water quality;

(3) an analysis of the feasibility of treating or disposing of septage or sludge in a manner other than land application that is at least as protective of groundwater or water quality as land application; and

(4) an estimate of the cost of treating or disposing of septage or sludge in a manner other than land application.

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\* \* \* Water Quality Data Coordination \* \* \*

Sec. 35. 10 V.S.A. § 1284 is added to read:

§ 1284. WATER QUALITY DATA COORDINATION

(a) To facilitate attainment or accomplishment of the purposes of this chapter, the Secretary shall coordinate and assess all available data and science regarding the quality of the waters of the State, including:

- (1) light detection and ranging information data (LIDAR);
- (2) stream gauge data;
- (3) stream mapping, including fluvial erosion hazard maps;
- (4) water quality monitoring or sampling data;
- (5) cumulative stressors on a watershed, such as the frequency an activity is conducted within a watershed or the number of stormwater or other permits issued in a watershed; and
- (6) any other data available to the Secretary.

(b) After coordination of the data required under subsection (a) of this section, the Secretary shall:

- (1) assess where additional data are needed and the best methods for collection of such data;
- (2) identify and map on a watershed basis areas of the State that are significant contributors to water quality problems or are in critical need of water quality remediation or response.

(c) The Secretary shall post all data compiled under this section on the website of the Agency of Natural Resources.

\* \* \* Lake Champlain TMDL Implementation Plan\* \* \*

Sec. 36. 10 V.S.A. § 1386 is amended to read:

§ 1386. IMPLEMENTATION PLAN FOR THE LAKE CHAMPLAIN TOTAL MAXIMUM DAILY LOAD PLAN

(a) Within ~~12~~ three months after the issuance of a phosphorus total maximum daily load plan (TMDL) for Lake Champlain by the U.S. Environmental Protection Agency, the Secretary of Natural Resources shall ~~issue a Vermont-specific implementation plan for the Lake Champlain TMDL. Every four years after issuance of the Lake Champlain TMDL by the U.S. Environmental Protection Agency, the Secretary of Natural Resources shall amend and update the Vermont-specific implementation plan for the Lake Champlain TMDL. Prior to issuing, amending, or updating the implementation~~

~~plan, the Secretary shall consult with the Agency of Agriculture, Food and Markets, all statewide environmental organizations that express an interest in the plan, the Vermont League of Cities and Towns, all business organizations that express an interest in the plan, the University of Vermont Rubenstein Ecosystem Science Laboratory, and other interested parties. The implementation plan shall include a comprehensive strategy for implementing the Lake Champlain TMDL plan and for the remediation of Lake Champlain. The implementation plan shall be issued as a document separate from the Lake Champlain TMDL. The implementation plan shall:~~

~~(1) Include or reference the elements set forth in 40 C.F.R. § 130.6(c) for water quality management plans;~~

~~(2) Comply with the requirements of section 1258 of this title and administer a permit program to manage discharges to Lake Champlain consistent with the federal Clean Water Act;~~

~~(3) Develop a process for identifying critical source areas for non point source pollution in each subwatershed. As used in this subdivision, "critical source area" means an area in a watershed with high potential for the release, discharge, or runoff of phosphorus to the waters of the State;~~

~~(4) Develop site specific plans to reduce point source and non point source load discharges in critical source areas identified under subdivision (3) of this subsection;~~

~~(5) Develop a method for identifying and prioritizing on public and private land pollution control projects with the potential to provide the greatest water quality benefits to Lake Champlain;~~

~~(6) Develop a method of accounting for changes in phosphorus loading to Lake Champlain due to implementation of the TMDL and other factors;~~

~~(7) Develop phosphorus reduction targets related to phosphorus reduction for each water quality program and for each segment of Lake Champlain, including benchmarks for phosphorus reduction that shall be achieved. The implementation plan shall explain the methodology used to develop phosphorus reduction targets under this subdivision;~~

~~(8) Establish a method for the coordination and collaboration of water quality programs within the State;~~

~~(9) Develop a method for offering incentives or disincentives to wastewater treatment plants for maintaining the 2006 levels of phosphorus discharge to Lake Champlain;~~

~~(10) Develop a method of offering incentives or disincentives for reducing the phosphorus contribution of stormwater discharges within the Lake~~

Champlain basin update the State of Vermont's phase I TMDL implementation plan to reflect the elements that the State determines are necessary to meet the allocations established in the final TMDL for Lake Champlain. The update of the phase I TMDL implementation plan for Lake Champlain shall explain how basin plans will be used to implement the updated phase I TMDL implementation plan, and shall include a schedule for the adoption of basin plans within the Lake Champlain basin. In addition to the requirements of subsection 1253(d) of this title, a basin plan for a basin within the Lake Champlain basin shall include the following:

(1) phosphorus reduction strategies within the basin that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain;

(2) a schedule for the issuance of permits to control phosphorus discharges from wastewater treatment facilities as necessary to implement the State's obligations under the phase I TMDL implementation plan for Lake Champlain;

(3) a schedule for the issuance of permits to control stormwater discharges as necessary to implement the State's obligations under the phase I TMDL implementation plan for Lake Champlain;

(4) wetland and river corridor restoration and protection projects that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain;

(5) a table of non-point source activities that will achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain; and

(6) other strategies and activities that the Secretary determines to be necessary to achieve the State's obligations under the phase I TMDL implementation plan for Lake Champlain.

(b) In amending the Vermont specific implementation plan of the Lake Champlain TMDL under this section, the Secretary of Natural Resources shall comply with the public participation requirements of 40 C.F.R. § 130.7(e)(1)(ii) The Secretary shall develop and implement a method of tracking and accounting for actions implemented to achieve the Lake Champlain TMDL.

(c) Prior to finalizing the update to the phase I TMDL implementation plan for Lake Champlain, the Secretary shall provide notice to the public of the proposed revisions and a comment period of no less than 30 days.

(d) On or before January 15 in the year following issuance of the updated phase I TMDL implementation plan for Lake Champlain under subsection (a) of this section and every four years thereafter, the Secretary shall report to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture regarding the execution of the updated phase I TMDL implementation plan for Lake Champlain. The report shall include:

(1) ~~The amendments or revisions to the implementation plan for the Lake Champlain TMDL required by subsection (a) of this section. Prior to submitting a report required by this subsection that includes amendments to revisions to the implementation plan, the Secretary shall hold at least three public hearings in the Lake Champlain watershed to describe the amendments and revisions to the implementation plan for the Lake Champlain TMDL. The Secretary shall prepare a responsiveness summary for each public hearing. A summary of the efforts undertaken to implement the phase I TMDL implementation plan for Lake Champlain.~~

(2) An assessment of the implementation plan for the Lake Champlain TMDL based on available data, including an evaluation of the efficacy of the phase I TMDL implementation plan for Lake Champlain.

~~(3) Recommendations, if any, for amending the implementation plan or for reopening the Lake Champlain TMDL.~~

~~(d)~~(e) Beginning on February 1, ~~2014~~ 2016, and annually thereafter, the Secretary, after consultation with the Secretary of Agriculture, Food and Markets and the Secretary of Transportation, shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, and the Senate Committee on Agriculture a summary of activities and measures of progress of water quality ecosystem restoration programs.

\* \* \* Water Quality Funding; Clean Water Fund; Clean Water Board;  
Audit \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

#### Subchapter 7. Vermont Clean Water Fund

##### § 1387. PURPOSE

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

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

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

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects.

#### § 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the "Clean Water Fund." Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5:

(1) the Fund shall be administered by the Clean Water Fund Board established under section 1389 of this title;

(2) the Fund shall consist of:

(A) revenues dedicated for deposit into the Fund by the General Assembly, including the Clean Water Fund per parcel fee established under 32 V.S.A. § 10502.

(B) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Board.

(b) Unexpended balances and any earnings shall remain in the Fund from year to year.

#### § 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall be attached to the Agency of Administration for administrative purposes.

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

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

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

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

(5) the Secretary of Transportation or designee.

(c) Officers; committees; rules. The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(d) Powers and duties of the Clean Water Fund Board.

(1) The Clean Water Fund Board shall have the following powers and authority:

(A) to receive proposals from the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation on the expenditures of the Fund;

(B) to make recommendations to the Secretary of Administration regarding the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

(C) to pursue and accept grants, gifts, donations, or other funding from any public or private source and to administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(2) The Clean Water Fund Board shall develop:

(A) A protocol for how an administrative agency in the State shall submit a proposed recommendation of award from the Fund.

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

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

(D) the annual clean water investment report required under section 1389a of this title.

(3) The Clean Water Fund Board shall solicit public comment and consult with organizations interested in improving water quality in Vermont regarding recommendations under this subsection for the allocation of funds from the Clean Water Fund.

(e) Priorities.

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

(A) funding to maintain seven staff positions at the Agency of Agriculture, Food and Markets related to improving State water quality;

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

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

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

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

(F) funding for education, outreach, demonstration and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; and

(G) funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy.

(2) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board may prioritize:

(A) funding for education and outreach regarding the implementation of water quality requirements;

(B) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters; and

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

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



(4) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivisions (e)(1) and (2), attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State; and

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

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including whether those funding sources were attained, if it was not attained, why it was not attained, and where the money was allocated from the Fund. The report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(b) The Board shall develop and use a results based accountability process in publishing the annual report required by subsection (a) of this section.

#### § 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2020, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Fund. The report shall include:

(1) A summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) An analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) An evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) An assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State.

(5) A recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section § 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

\* \* \* Clean Water Fund Per Parcel Fee \* \* \*

Sec. 38. 32 V.S.A. § 10502 is added to read:

§ 10502. CLEAN WATER FUND PER PARCEL FEE

(a) Per parcel fee. An annual Clean Water Fund per parcel fee of \$25.00 shall be assessed on every parcel in the State.

(b) Exemption. A municipality shall not assess the fee established under subsection (a) of this section to:

(1) a parcel exempt from taxation under State or federal law;

(2) a parcel composed entirely of a railroad track right-of-way, provided that the Commissioner shall assess the fee on parcels on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located; or

(3) a parcel of land for which the State lacks authority to impose the fee established by this section.

(c) Assessment and collection of fee.

(1) Beginning on July 1, 2015, the Clean Water Fund per parcel fee shall be assessed and collected as part of the tax bill issued under subsection 5402(b) of this title, and may be prorated according to the number of tax bills assessed by a municipality. A municipality shall list the fee assessed under this section on a tax bill as the "Clean Water Fund Per Parcel Fee." The Clean Water Fund per parcel fee shall be listed separately from the tax collected under subsection 5402(b) of this title, provided that the payment for both the tax and fee shall be made in one form of payment.

(2) The treasurer of each municipality shall remit the collected Clean Water Fund per parcel fee to the State Treasurer:

(A) in one payment due on December 1 of each year; or

(B) as authorized by the Department procedure adopted under subsection (e) of this section.

(3) Municipalities may use all authority under chapter 133 of this title for the assessment and collection of the Clean Water Fund per parcel fee, including collection of fees and costs under section 5288 of this title.

(4) In case of insufficient payment of the per parcel fee by a taxpayer to a municipality, the municipality shall not be required to remit to the State the amount of full liability for all parcels within the municipality.

(5) In the case of a taxpayer who pays only a portion of the full tax under subsection 5402(b) and the full amount of the Clean Water Fund per parcel fee, a municipal treasurer shall credit all payment made by the taxpayer to the tax liability under subsection 5402(b) of this title before remitting monies to the Clean Water Fund under subsection (d) of this section.

(d) Disposition. The State Treasurer shall deposit all fees collected under this section in the Clean Water Fund, established under 10 V.S.A. § 1388, for the uses authorized by that Fund under 10 V.S.A. chapter 47, subchapter 7.

(e) Department procedure. The Department of Taxes shall, after consultation with municipal officials or representatives of municipal officials, issue a procedure regarding the process for collection of the Clean Water Fund per parcel fee as part of the tax bill issued under subsection 5402(b) of this title. In the procedure, the Department shall address how parcels are assessed, remittance, and enforcement of the Clean Water Fund per parcel fee, including how frequently a municipality may remit to the Department fees collected under this section. The Department also shall include in the procedure

guidance for municipalities regarding whether a fee paid under this section is tax deductible.

(f) Abatement. A person may seek and a municipality may grant abatement under 24 V.S.A. § 1535 of a fee assessed under this section.

(g) Education and outreach. The Department shall hold educational meetings or prepare educational materials for municipal officials regarding the requirements of this section.

Sec. 39. 32 V.S.A. § 5258 is amended to read:

§ 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY RECORDED

The fees and costs allowed after the warrant and levy for delinquent taxes have been recorded shall be as follows: Levy and extending of warrant, \$10.00; recording levy and extending of warrant in town clerk's office, \$10.00, to be paid the town clerk; notices and publication of notice, actual costs incurred; and expenses actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of said sale when authorized by the selectboard, provided that such expenses shall not exceed 15 percent of the uncollected tax; travel, reimbursement at the rate established by the contract governing State employees; attending and holding sale, \$10.00; making return \$10.00 and recording same in town clerk's office, to be paid the town clerk \$10.00; \$10.00 for collection of a delinquent Clean Water per parcel fee assessed under section 10502 of this title; collector's deed, \$30.00; which fees and costs, together with the collector's fee of eight percent shall be in lieu of any or all other fees and costs permitted or allowed by law.

Sec. 40. REPEAL OF CLEAN WATER FUND PER PARCEL FEE

32 V.S.A. § 10502 (Clean Water Fund per parcel fee) shall be repealed on July 1, 2021.

\* \* \* Appropriations of Agency Staff \* \* \*

Sec. 41. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD AND MARKETS STAFF

Notwithstanding provisions of 10 V.S.A. § 1389 to the contrary, in addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Clean Water Fund created under 10 V.S.A § 1388 to the Agency of Agriculture, Food and Markets \$952,000.00 in fiscal year 2016 for the purpose of hiring seven positions for implementation and administration of agricultural water quality programs in the State.

Sec. 42. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL CONSERVATION STAFF

In addition to any other funds appropriated to the Department of Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A § 2805 to the Department of Environmental Conservation \$1,312,556.00 in fiscal year 2016 for the purpose of hiring 13 positions for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

\* \* \* Secretary of Administration; Report on Per Parcel Fee \* \* \*

Sec. 43. SECRETARY OF ADMINISTRATION REPORT ON IMPERVIOUS SURFACE WATER QUALITY FEE

(a) On or before January 15, 2016, the Secretary of Administration, after consultation with the Agency of Transportation and the Department of Taxes, shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, the Senate Committee on Agriculture, the House Committee on Ways and Means, and the Senate Committee on Finance a recommendation for establishing a fee on impervious surface in the State for the purpose of raising revenue to fund water quality improvement programs in the State. The recommendation shall include:

(1) An impervious surface fee that provides for equitable apportionment among all parcel owners, including owners of industrial property, commercial property, residential property, or agricultural lands. The recommendation shall consider establishing a fee structure that creates incentives or rewards for owners of impervious surface, including municipal and state roads, who provide treatment that exceeds the minimum regulatory requirement or utilizes innovative approaches to the management of stormwater.

(2) An estimate of the amount of revenue to be generated from the proposed impervious surface fee.

(3) a summary of how assessment of the fee will be administered, collected, and enforced; and

(4) a legislative proposal to implement the proposed impervious surface fee program.

(b) As used in this section, “parcel” shall have the same meaning as defined in section 4152 of this title.

\* \* \* Department of Environmental Conservation Water Quality Fees \* \* \*

Sec. 44. 3 V.S.A. § 2822 is amended to read:

§ 2822. BUDGET AND REPORT; POWERS

\* \* \*

(i) The Secretary shall not process an application for which the applicable fee has not been paid unless the Secretary specifies that the fee may be paid at a different time or unless the person applying for the permit is exempt from the permit fee requirements pursuant to 32 V.S.A. § 710. ~~In addition, the persons who are exempt under 32 V.S.A. § 710 are also exempt from the application fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I) and (II) of this section if they otherwise meet the requirements of 32 V.S.A. § 710.~~ Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), ~~(2)~~, (7), (8), (14), and (15) of this section for which a municipality may recover its costs by charging a user fee to those who use the permitted services. Municipalities shall pay fees prescribed in subdivisions (j)(2), (10), (11), (12), and (26), except that a municipality shall also be exempt from those fees for orphan stormwater systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I) or (II) of this section when the municipality agrees to become an applicant or co-applicant for an orphan stormwater system under 10 V.S.A. § 1264e for which a municipality has assumed full legal responsibility under 10 V.S.A. § 1264.

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

\* \* \*

(2) For discharge permits issued under 10 V.S.A. chapter 47 and orders issued under 10 V.S.A. § 1272, an administrative processing fee of ~~\$120.00~~ \$240.00 shall be paid at the time of application for a discharge permit in addition to any application review fee and any annual operating fee, except for permit applications under subdivisions (2)(A)(iii)(III) and (V) of this subsection:

(A) Application review fee.

(i) Municipal, industrial, noncontact cooling water, and thermal discharges.

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(I) Individual permit: original application; amendment for increased flows; amendment for change in treatment process-;	<del>\$0.00</del> <u>\$0.003</u> per gallon design flow; minimum <del>\$50.00</del> <u>\$100.00</u> per outfall; maximum <u>\$30,000.00</u> per application.
(II) Renewal, transfer, or minor amendment of individual permit-;	<del>\$0.00</del> <u>\$0.002</u> per gallon design flow; minimum <u>\$50.00</u> per outfall; maximum <u>\$5,000.00</u> per application.
(III) General permit-;	<u>\$0.00</u> .
(ii) Pretreatment discharges.	
(I) Individual permit: original application; amendment for increased flows; amendment for change in treatment process-;	<del>\$0.12</del> <u>\$0.20</u> per gallon design flow; minimum <del>\$50.00</del> <u>\$100.00</u> per outfall.
(II) Renewal, transfer, or minor amendment of individual permit-;	<del>\$0.00</del> <u>\$0.002</u> per gallon design flow; minimum <u>\$50.00</u> per outfall.
(iii) Stormwater discharges.	
(I) Individual operating permit or application to operate under general operating permit for collected stormwater runoff which is discharged to Class B waters: original application; amendment for increased flows; amendment for change in treatment process-;	<del>\$430.00</del> <u>\$860.00</u> per acre impervious area; minimum <del>\$220.00</del> <u>\$440.00</u> per application.
(II) Individual operating permit or application to operate under general operating permit for collected stormwater runoff which is discharged to Class A waters; original application; amendment for increased flows; amendment for change in treatment process.	\$1,400.00 per acre impervious area; minimum \$1,400.00 per application.

(III) Individual permit or application to operate under general permit for construction activities; original application; amendment for increased acreage.

(aa) Projects with low risk to waters of the State; ~~\$50.00~~ five acres or less: \$100.00 per project; original application.

(bb) Projects with low risk to waters of the State; greater than five acres: \$220.00 per project.

(cc) Projects with moderate risk to waters of the State; ~~\$360.00;~~ five acres or less: \$480.00 per project original application.

~~(ee) Projects that require an individual permit. \$720.00 per project original application.~~

(dd) Projects with moderate risk to waters of the State; greater than five acres: \$640.00.

(ee) Projects that require an individual permit; ten acres or less: \$1,200.00.

(ff) Projects that require an individual permit; greater than 10 acres: \$1,800.00.

(IV) Individual permit or application to operate under general permit for stormwater runoff associated with industrial activities with specified SIC codes; original application; amendment for change in activities; ~~\$220.00~~ \$440.00 per facility.

(V) Individual permit or application to operate under general permit for stormwater runoff associated with municipal separate storm sewer ~~\$1,200.00~~ \$2,400.00 per system.



systems; original application; amendment  
for change in activities-;

(VI) Individual operating permit or application  
to operate under a general permit for a residually  
designated stormwater discharge original  
application; amendment; for increased flows  
amendment; for change in treatment process.

(aa) For discharges to Class B water; ~~\$430.00~~ \$860.00  
per acre of impervious area, minimum ~~\$220.00~~ \$280.00.

(bb) For discharges to Class A water; ~~\$1,400.00~~ \$1,700.00  
per acre of impervious area, minimum ~~\$1,400.00~~ \$1,700.00.

(VII) Renewal, transfer, or \$0.00.  
minor amendment of individual  
permit or approval under  
~~general permit~~:-

(VIII) Application for coverage \$400.00 per application.  
under the municipal roads  
stormwater general permit:

(IX) Application for coverage \$1,200.00.  
under the State roads stormwater  
general permit:

\* \* \*

(B) Annual operating fee.

- (i) Industrial, noncontact cooling ~~\$0.004~~ \$0.0015 per gallon  
water and thermal discharges-; design capacity. ~~\$150.00~~  
\$200.00 minimum;  
maximum \$210,000.00.
- (ii) Municipal-; \$0.003 per gallon of ~~actual~~  
design flows. ~~\$150.00~~  
\$200.00 minimum;  
maximum \$12,500.00.
- (iii) Pretreatment discharges-; ~~\$0.0385~~ \$0.04 per gallon  
design capacity. ~~\$150.00~~  
\$200.00 minimum;  
maximum \$27,500.00.
- (iv) Stormwater.

- (I) Individual operating permit or approval under general operating permit for collected stormwater runoff which is discharged to class A waters: ~~\$255.00~~ \$310.00 per acre impervious area; ~~\$235.00~~ \$310.00 minimum.
- (II) Individual operating permit or approval under general operating permit for collected stormwater runoff which is discharged to Class B waters: ~~\$80.00~~ \$160.00 per acre impervious area; ~~\$80.00~~ \$160.00 minimum.
- (III) Individual permit or approval under general permit for stormwater runoff from industrial facilities with specified SIC codes: ~~\$80.00~~ \$160.00 per facility.
- (IV) Individual permit or application to operate under general permit for stormwater runoff associated with municipal separate storm sewer systems: ~~\$80.00 per system~~ \$10.00 per acre of impervious surface within the municipality; annually.
- (V) Individual permit or approval under general permit for residually designated stormwater discharges.
- (aa) For discharges to Class A water; ~~\$255.00~~ \$310.00 per acre of impervious area, minimum ~~\$255.00~~ \$310.00.
- (bb) For discharges to Class B water; ~~\$80.00~~ \$160.00 per acre of impervious area, minimum ~~\$80.00~~ \$160.00.
- (VI) Application to operate under a general permit for stormwater runoff associated with municipal roads: \$2,000.00 per authorization annually.
- (VII) Application to operate under a general permit for stormwater runoff associated with State roads: \$90,000.00 per authorization annually.

\* \* \*

(11) For stream alteration and flood hazard area permits issued under 10 V.S.A. ~~chapter~~ chapters 41 and 32: ~~\$225.00 per application.~~

(A) Stream alteration; individual permit: \$350.00.

(B) Stream alteration; general permit; reporting category: \$200.00.

(C) Stream alteration; individual permit; municipal bridge, culvert, and unimproved property protection: \$350.00.

(D) Stream alteration; general permit; municipal bridge, culvert, and unimproved property protection: \$200.00.

(E) Stream alteration; Agency of Transportation reviews; bridge, culvert, and high risk projects: \$350.00.

(F) Flood hazard area; individual permit; State facilities; hydraulic and hydrologic modeling required: \$350.00.

(G) Flood hazard area; individual permit; State facilities; hydraulic and hydrologic modeling not required: \$200.00.

(H) Flood hazard area; municipal reviews; reviews requiring hydraulic and hydrologic modeling, compensatory storage volumetric analysis, or river corridor equilibrium: \$350.00.

(I) Flood hazard area; municipal review; projects not requiring hydraulic or hydrologic modeling: \$200.00.

(J) River corridor; major map amendments: \$350.00.

(12) For dam permits issued under 10 V.S.A. chapter 43: ~~0.525~~ 1.00 percent of construction costs, minimum fee of ~~\$200.00~~ \$1,000.00.

\* \* \*

(14) For certification of sewage treatment plant operators issued under 10 V.S.A. chapter 47:

(A) original application; ~~\$110.00~~ \$125.00.

(B) renewal application; ~~\$110.00~~ \$125.00.

(15) For sludge or septage facility certifications issued under 10 V.S.A. chapter 159:

(A) land application sites; facilities that further reduce pathogens; disposal facilities; ~~\$950.00~~ \$1,000.00 per application.

(B) all other types of facilities; ~~\$110.00~~ \$125.00 per application.

\* \* \*

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under

10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection (j) and an application fee of:

(A) \$0.75 per square foot of proposed impact to Class I or II wetlands;

(B) \$0.25 per square foot of proposed impact to Class I or II wetland buffers;

(C) maximum fee, for the conversion of Class II wetlands or wetland buffers to cropland use, \$200.00 per application. ~~For purposes of~~ As used in this subdivision, "cropland" means land that is used for the production of agricultural crops, including row crops, fibrous plants, pasture, fruit-bearing bushes, trees, or vines and the production of Christmas trees;

(D) \$0.25 per square foot of proposed impact to Class I or II wetlands or Class I or II wetland buffer for utility line, pipeline, and ski trail projects when the proposed impact is limited to clearing forested wetlands in a corridor and maintaining a cleared condition in that corridor for the project life;

(E) \$1.50 per square foot of impact to Class I or II wetlands when the permit is sought after the impact has taken place;

(F) \$100.00 per revision to an application for an individual wetland permit or authorization under a general permit when the supplement is due to a change to the project that was not requested by the Secretary; and

(G) minimum fee, \$50.00 per application.

\* \* \*

(33) \$10.00 per 1,000 gallons based on the rated capacity of the tank being pumped rounded to the nearest 1,000 gallon.

\* \* \*

Sec. 45. 32 V.S.A. § 710 is amended to read:

#### § 710. PAYMENT OF STATE AGENCY FEES

(a) Notwithstanding any other provision of law, the Agency of Transportation, any cooperating municipalities, and their contractors or agents shall be exempt from the payment of fee charges for reviews, inspections, or nonoperating permits issued by the Department of Public Safety, a District Environmental Commission, and the Agency of Natural Resources for any projects undertaken by or for the Agency and any cooperating municipalities for which all or a portion of the funds are authorized by a legislatively approved transportation construction, rehabilitation, or paving program within a general appropriation act introduced pursuant to section 701 of this title

except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10), (j)(11), and (j)(26).

(b) Notwithstanding any other provision of law, no fees shall be charged for reviews, inspections, or nonoperating permits issued by the Department of Public Safety, a District Environmental Commission, and the Agency of Natural Resources for:

(1) Any project undertaken by the Department of Buildings and General Services, the Agency of Natural Resources, or the Agency of Transportation which is authorized or funded in whole or in part by the capital construction act introduced pursuant to section 701a of this title except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(10), (j)(11), and (j)(26).

(2) Any project undertaken by a municipality, which is funded in whole or in part by a grant or loan from the Agency of Natural Resources or the Agency of Transportation financed by an appropriation of a capital construction act introduced pursuant to section 701a of this title except for those fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(7)(A) and (B), (j)(10), (j)(11), and (j)(26). However, all such fees shall be paid for reviews, inspections, or permits required by municipal solid waste facilities developed by a solid waste district which serves, or is expected to serve, in whole or in part, parties located outside its own district boundaries pursuant to 10 V.S.A. chapter 159.

#### Sec. 46. ASSESSMENT OF DEC FEES ON STATE AGENCIES AND MUNICIPALITIES

When applicable, the Agency of Natural Resources shall assess fees established under 3 V.S.A. § 2822(j)(2)(A)(iii), (j)(7)(A) and (B), (j)(10), (j)(11), and (j)(26) on municipalities at the end of the most recent applicable municipal fiscal year in order to avoid potential effects on approved municipal budgets.

\* \* \* Wastewater Treatment Plants; Financial Assistance for  
Phosphorus Reduction \* \* \*

Sec. 47. 10 V.S.A. § 1266a is amended to read:

#### § 1266a. DISCHARGES OF PHOSPHORUS

(a) No person directly discharging into the drainage basins of Lake Champlain or Lake Memphremagog shall discharge any waste that contains a phosphorus concentration in excess of 0.80 milligrams per liter on a monthly average basis. Discharges of less than 200,000 gallons per day, permitted on or before July 1, 1991, shall not be subject to the requirements of this subsection. Discharges from a municipally owned aerated lagoon type

secondary sewage treatment plant in the Lake Memphremagog drainage basin, permitted on or before July 1, 1991 shall not be subject to the requirements of this subsection unless the plant is modified to use a technology other than aerated lagoons.

(b) Notwithstanding any provision of subsection (a) of this section to the contrary, the Secretary shall establish effluent phosphorus wasteload allocations or concentration limits within any drainage basin in Vermont, as needed to achieve wasteload allocations in a total maximum daily load document approved by the U.S. Environmental Protection Agency, or as needed to attain compliance with water quality standards adopted by the Secretary pursuant to chapter 47 of this title.

~~(c) The Secretary of Natural Resources shall establish a schedule for municipalities that requires compliance with this section at a rate that corresponds to the rate at which funds are provided under subsection 1625(e) of this title. To the extent that funds are not provided to municipalities eligible under that subsection, municipal compliance with this section shall not be required. [Repealed.]~~

Sec. 48. 10 V.S.A. § 1625 is amended to read:

§ 1625. AWARDS FOR POLLUTION ABATEMENT PROJECTS TO  
ABATE DRY WEATHER SEWAGE FLOWS

(a) When the Department finds that a proposed water pollution abatement project is necessary to maintain water quality standards during dry weather sewage flows, and that the proposed type, kind, quality, size, and estimated cost, including operation cost and sewage disposal charges, of the project are suitable for abatement of pollution, and the project or the prescribed project phases are necessary to meet the intent of the water quality classifications established by the Secretary or by statute under chapter 47 of this title, the Department may award to municipalities a State assistance grant of up to 25 percent of the eligible project cost, provided that in no case shall the total of the State and federal grants exceed 90 percent of the eligible project costs:

(1) except that the 90 percent limitation shall not apply when the municipality provides, as their local share, federal funds allocated to them for the purpose of matching other federal grant programs having a matching requirement; and

(2) except that the total of ~~state~~ State and federal grants issued under P.L. 92-500 section 202(a)(2) may equal up to 95 percent of the eligible costs for innovative or alternative wastewater treatment processes and techniques.

(b) In carrying out the purposes of this subchapter, the Department shall define the purpose and scope of an eligible project, including a determination

of the area to be served, type of treatment, effluent limitations, eligible construction costs, cost accounting procedures and methods and other such project construction, operation and fiscal elements necessary to meet federal aid requirements. The Department shall, as a part of the administration of this grant program, encourage municipalities to undertake capital development planning and to establish water and sewer charges along public utility concepts.

(c) Any municipality having proceeded with construction of facilities with a State grant of 25 percent since July 1, 1984 shall be eligible for an increase in the State grant to a total of 35 percent of the eligible project costs.

(d) The Department may award a State assistance grant of up to 50 percent of the eligible costs of an approved pollution abatement project or a portion thereof not eligible for federal financial assistance in a municipality that is certified by the Secretary of Commerce and Community Development to be within the designated job development zone. To achieve the objectives of chapter 29, subchapter 2 of this title, the eligibility and priority provisions of this chapter do not apply to municipalities within a designated job development zone.

~~(e) If the Department finds that a proposed municipal water pollution control project is necessary to reduce effluent phosphorus concentration or mass loading to the level required in section 1266a of this title, the Department shall award to the municipality, subject to the availability of funds, a state assistance grant. Such grants shall be for 100 percent of the eligible project cost. This funding shall not be available for phosphorus removal projects where the effluent concentration must be reduced in order to maintain a previously permitted mass loading of phosphorus. [Repealed.]~~

\* \* \* Acceptable Management Practices for Maintaining Water Quality on  
Logging Jobs in Vermont \* \* \*

Sec. 49. 10 V.S.A. § 2622 is amended to read:

§ 2622. RULES; HARVESTING TIMBER; FORESTS; ACCEPTABLE  
MANAGEMENT PRACTICES FOR MAINTAINING WATER QUALITY

(a) Silvicultural practices. The commissioner shall adopt rules to establish methods by which the harvest and utilization of timber in private and public ~~forest land~~ forestland will be consistent with continuous forest growth, including reforestation, will prevent wasteful and dangerous forestry practices, will regulate heavy cutting, will encourage good forestry management, will enable and assist landowners to practice good forestry management, and will conserve the natural resources consistent with the purposes and policies of this chapter, giving due consideration to the need to assure continuous supplies of

forest products and to the rights of the owner or operator of the land. ~~Such~~ The rules adopted under this subsection shall be advisory, and not mandatory except that the rules adopted under section 2625 of this title for the regulation of heavy cutting shall be mandatory as shall other rules specifically authorized to be mandatory.

(b) Acceptable management practices. On or before July 1, 2016, the Commissioner shall revise by rule the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont. The revised acceptable management practices shall ensure that all logging operations, on both public and private forestland, are designed to: prevent or minimize discharges of sediment, petroleum products, and woody debris (logging slash) from entering streams and other bodies of water; improve soil health of forestland; protect aquatic habitat and aquatic wildlife; and prevent erosion and maintain natural water temperature. The purpose of the acceptable management practices is to provide measures for loggers, foresters, and landowners to utilize, before, during, and after logging operations to comply with the Vermont Water Quality Standards and minimize the potential for a discharge from logging operations in Vermont in accordance with section 1259 of this title. The rules adopted under this subsection shall be advisory and not mandatory.

Sec. 50. DEPARTMENT OF FORESTS, PARKS AND RECREATION  
REPORT; ACCEPTABLE MANAGEMENT PRACTICES; MAPLE SYRUP  
PRODUCTION UNDER USE VALUE APPRAISAL

On or before January 15, 2016, the Commissioner of Forests, Parks and Recreation shall submit to the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, and the House Committee on Natural Resources and Energy a recommendation and supporting basis as to how:

(1) to implement the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as mandatory practices for all logging operations on public and private forestland;

(2) the Department of Forests, Parks and Recreation will enforce Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont; and

(3) whether maple syrup production on forestland should be required to enroll in the use value appraisal program under 32 V.S.A. chapter 124 as managed forestland and not agricultural land.



Sec. 51. 10 V.S.A. § 1259(f) is amended to read:

(f) The provisions of subsections (c), (d), and (e) of this section shall not regulate ~~accepted~~ required agricultural ~~or silvicultural~~ practices, as ~~such are defined~~ adopted by rule by the secretary of agriculture, food and markets and the commissioner of forests, parks and recreation, respectively, after an opportunity for a public hearing Secretary of Agriculture, Food and Markets, or the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation; nor shall these provisions regulate discharges from concentrated animal feeding operations that require a permit under section 1263 of this title; nor shall those provisions prohibit stormwater runoff or the discharge of nonpolluting wastes, as defined by the ~~secretary~~ Secretary.

Sec. 52. 24 V.S.A. § 4413(d) is amended to read:

(d) A bylaw under this chapter shall not regulate ~~accepted~~ required agricultural ~~and silvicultural~~ practices, including the construction of farm structures, as those practices are defined by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets or the commissioner of forests, parks and recreation Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont as adopted by the Commissioner of Forests, Parks and Recreation, respectively, under 10 V.S.A. §§ 1021(f) and 1259(f) § 2622 and 6 V.S.A. § 4810.

\* \* \*

\* \* \* Eligibility for Ecosystem Restoration Program Assistance \* \* \*

Sec. 53. ECOSYSTEM RESTORATION PROGRAM; CLEAN WATER FUND; ELIGIBILITY FOR FINANCIAL ASSISTANCE

It is the policy of the State of Vermont that all municipal separate storm sewer system (MS4) communities in the State shall be eligible for grants and other financial assistance from the Agency of Natural Resources' Ecosystem Restoration Program, the Clean Water Fund, or any other State water quality financing program. A project or proposal that is the subject of an application for a grant or other assistance from the Agency of Natural Resources shall not be denied solely on the basis that the project or proposal may be construed as a regulatory requirement of the MS4 permit program.

Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Fund) and 38 (Clean Water Fund per parcel fee) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) Sec. 3 (small farm certification) shall take effect on July 1, 2017;

(2) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(3) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Lyons, for the Committee on Finance, to which the bill was referred, reported recommending that the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources & Energy with the following amendment thereto:

First: By striking out Secs. 37–43 in their entirety, and inserting in lieu thereof the following:

\* \* \* Water Quality Funding; Clean Water Legacy Fund;  
Statewide Water Quality Fee \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Legacy Fund

§ 1387. PURPOSE

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

(1) assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs, including implementation of total maximum daily load cleanup plans for Lake Champlain, the Connecticut River, Lake Memphremagog, and over 200 other water segments across the State;

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

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects; and

(4) provide transparency in the collection and administration of funding the improvement of water quality in the State.

§ 1388. CLEAN WATER LEGACY FUND

(a) There is created a special fund in the State treasury to be known as the “Clean Water Legacy Fund.” Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, the Fund shall be administered by the Clean Water Legacy Fund Board established under section 1389 of this title;

(b) The Clean Water Legacy Fund shall consist of:

(1) revenues dedicated for deposit into the Fund by the General Assembly, including the Statewide Water Quality fee under 32 V.S.A. chapter 245.

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

(c) Unexpended balances and any earnings shall remain in the Fund from year to year.

§ 1389. CLEAN WATER LEGACY FUND BOARD

(a) Creation. There is created a Clean Water Legacy Fund Board which shall be attached to the Agency of Administration for administrative purposes.

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

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

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

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

(5) the Secretary of Transportation or designee;

(6) a representative of the Lake Champlain Basin Program, to be appointed by the Governor;

(7) a representative of a regional or community-based watershed or water quality organization to be appointed by the Committee on Committees;

(8) a farmer or representative of an organization that represents farmers, to be appointed by the Speaker of the House;

(9) a person with expertise in financial lending or investment, to be appointed by the Committee on Committees; and

(10) a representative of a municipality or organization representing municipalities, to be appointed by the Speaker of the House.

(c) Officers; committees; rules. The Secretary of Administration or designee shall serve as Chair of the Clean Water Legacy Fund Board. The Clean Water Legacy Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(d) Member terms. The members of the Clean Water Legacy Fund Board appointed by the Governor, Committee on Committees, or Speaker of the House shall serve staggered terms. The member appointed by the Governor shall serve an initial term of three years. Members appointed by the Committee on Committees shall serve initial terms of two years. The members appointed by the Speaker of the House shall serve initial terms of one year. Thereafter, each of the appointed members shall serve a term of three years. A vacancy shall be filled by the appointing authority for the remainder of the unexpired term. An appointed member shall not serve more than three consecutive three-year terms.

(e) Compensation. Members of the Clean Water Legacy Fund Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be paid from the budget of the Agency of Administration.

(f) Powers and duties of the Clean Water Legacy Fund Board.

(1) The Clean Water Legacy Fund Board shall:

(A) Receive proposals from the Secretaries of Agriculture, Food and Markets, of Commerce and Community Development, of Natural Resources, and of Transportation regarding expenditures of the Fund.

(B) Make recommendations to the Secretary of Administration regarding the appropriate allocation of funds from the Clean Water Legacy Fund for the purposes of developing the State budget. The Board shall structure its recommendations to achieve the greatest water quality gain for the investment.

(C) Pursue and accept grants, gifts, donations, or other funding from any public or private source and administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(D) Beginning on July 15, 2016, and every five years thereafter, develop a five-year plan for the disbursement of monies from the Clean Water Legacy Fund, including the type of projects to be funded, the management strategies to prioritize, and the methods or measurements to ensure accountability of funded projects or programs. An initial priority for disbursements under the Fund shall be for management within the Lake Champlain watershed.

(E) Develop an annual revenue estimate and proposed budget for the Clean Water Legacy Fund.

(F) Issue the annual clean water investment report required under section 1389a of this title.

(G) Solicit public comment and consult with organizations interested in improving water quality in Vermont regarding recommendations under this subsection for the allocation of funds from the Clean Water Legacy Fund.

(H) Submit to the General Assembly recommended amendments or changes to requirements or administration of the Clean Water Legacy Fund, including the assessment and collection of the Statewide Water Quality fee under 32 V.S.A. chapter 245.

(I) After consultation with the State Treasurer, submit to the General Assembly on or before January 15, 2020, a recommendation as to whether revenue deposited into the Clean Water Legacy Fund could be used to support the issuance of bonded indebtedness for the purposes of financing water quality programs and projects in the State.

(2) The Clean Water Legacy Fund Board may pursue and accept grants or other funding from any public or private source in order to administer loans or grants under this section.

(g) Priorities.

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

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

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

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

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

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

(F) funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy.

(2) In making recommendations under subsection (f) of this section from the Clean Water Legacy Fund, the Clean Water Legacy Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection, prioritize award or assistance to municipalities for municipal compliance with water quality requirements.

(3) In making recommendations under subsection (f) of this section from the Clean Water Legacy Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection, attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and nonpoint sources of pollution in the State.

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

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Legacy Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Legacy Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include

expenditures from the Clean Water Legacy Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including: whether those funding sources were attained; if funding was not attained, why it was not attained; and how additional sources of money were allocated from the Fund. The report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(b) The Clean Water Legacy Fund Board shall develop and use a results-based accountability process in publishing the annual report required by subsection (a) of this section

#### § 1389b. CLEAN WATER LEGACY FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the Senate Committee on Finance, the House Committee on Ways and Means, the House and Senate Committees on Appropriations, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Legacy Fund. The report shall include:

(1) a summary of the expenditures from the Clean Water Legacy Fund, including the water quality projects and programs that received funding;

(2) an analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Legacy Fund or implemented by the State;

(3) an evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) an assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State; and

(5) a recommendation of whether the General Assembly should authorize the continuation of the Clean Water Legacy Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the

federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Legacy Fund, established under section 1388 of this title.

Sec. 38. 32 V.S.A. chapter 245 is added to read:

#### CHAPTER 245. WATER QUALITY

##### § 10502. STATEWIDE WATER QUALITY FEE

(a) Statewide Water Quality fee.

(1) An annual Statewide Water Quality fee shall be imposed on every parcel in the State.

(2)(A) The Statewide Water Quality fee shall be as follows:

(i) \$0.50 per acre of forestland enrolled in use value appraisal under chapter 124 of this title; and

(ii) \$1.00 per acre for all other land.

(B) The minimum fee assessed under this section shall be \$15.00.

(3) In calculating the Statewide Water Quality fee for properties of more than 15 acres, parcels shall be rounded down to the nearest whole acre.

(b) Assessment and collection of fee.

(1) Beginning on July 1, 2015, the Clean Water Legacy Fund fee shall be assessed and collected as part of the tax bill issued under subsection 5402(b) of this title, and may be prorated according to the number of tax bills assessed by a municipality. A municipality shall list the fee assessed under this section on a tax bill as the "Statewide Water Quality Fee." The Statewide Water Quality fee shall be listed separately from the tax collected under subsection 5402(b) of this title, provided that the payment for both the tax and fee shall be made in one form of payment.

(2) The treasurer of each municipality shall remit the collected Statewide Water Quality fee to the Department of Taxes:

(A) in one payment due on December 1 of each year; or

(B) as authorized by the Department procedure adopted under subsection (e) of this section.



(3) Municipalities may use all authority under chapter 133 of this title for the assessment and collection of the fee, including collection of fees and costs under section 5288 of this title.

(4) In case of insufficient payment of the Statewide Water Quality fee by a taxpayer to a municipality, the municipality shall not be required to remit to the State the amount of full liability for all parcels within the municipality.

(5) In the case of a taxpayer who pays only a portion of the full tax under subsection 5402(b) and the full amount of the Statewide Water Quality fee, a municipal treasurer shall credit all payment made by the taxpayer to the tax liability under subsection 5402(b) of this title before remitting fees to the Department of Taxes under subdivision (2) of this subsection.

(c) Exemption. A municipality shall not assess the Statewide Water Quality fee established under subsection (a) of this section to:

(1) a parcel exempt from taxation under State or federal law;

(2) a parcel composed entirely of a railroad track right-of-way, provided that the Commissioner shall assess the fee on parcels on which railroad stations, maintenance buildings, or other developed land used for railroad purposes is located; or

(3) a parcel of land for which the State lacks authority to impose the fee established by this section.

(d) Refund. A person who in any one year pays more than \$10,000.00 in fees under this section for a parcel or parcels they own shall, upon application to the Department of Taxes, be eligible for a refund of all fees paid in excess of \$10,000.00 a year.

(e) Disposition. The Commissioner of Taxes shall deposit all fees collected under this section in the Clean Water Legacy Fund, established under 10 V.S.A. § 1388, for the authorized uses of that Fund.

(f) Department procedure. The Department of Taxes shall, after consultation with municipal officials or representatives of municipal officials, issue a procedure regarding the process for collection of the Statewide Water Quality fee as part of the tax bill issued under subsection 5402(b) of this title. In the procedure, the Department shall address how parcels are assessed, remittance, and enforcement of the Statewide Water Quality fee, including how frequently a municipality may remit to the Department fees collected under this section. The Department also shall include in the procedure guidance for municipalities regarding whether a fee paid under this section is tax deductible.

(g) Abatement. A person may seek and a municipality may grant under 24 V.S.A. § 1535 abatement of a fee assessed under this section.

(h) Education and outreach. The Department shall hold educational meetings or prepare education materials for municipal officials regarding the requirements of this section.

Sec. 39. 32 V.S.A. § 5258 is amended to read:

**§ 5258. FEES AND COSTS ALLOWED AFTER WARRANT AND LEVY RECORDED**

The fees and costs allowed after the warrant and levy for delinquent taxes have been recorded shall be as follows: Levy and extending of warrant, \$10.00; recording levy and extending of warrant in town clerk's office, \$10.00, to be paid the town clerk; notices and publication of notice, actual costs incurred; and expenses actually and reasonably incurred by the tax collector for legal assistance in the preparation for or conduct of said sale when authorized by the selectboard, provided that such expenses shall not exceed 15 percent of the uncollected tax; travel, reimbursement at the rate established by the contract governing State employees; attending and holding sale, \$10.00; making return \$10.00 and recording same in town clerk's office, to be paid the town clerk \$10.00; \$10.00 for collection of a delinquent Statewide Water Quality fee assessed under section 10502 of this title; collector's deed, \$30.00; which fees and costs, together with the collector's fee of eight percent shall be in lieu of any or all other fees and costs permitted or allowed by law.

**Sec. 40. REPEAL OF STATEWIDE WATER QUALITY FEE**

32 V.S.A. § 10502 (Water Quality Legacy fee) shall be repealed on July 1, 2026.

\* \* \* Appropriations of Agency Staff \* \* \*

**Sec. 41. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD AND MARKETS STAFF**

Notwithstanding provisions of 10 V.S.A. § 1389 to the contrary, in addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803 to the Agency of Agriculture, Food and Markets \$786,000.00 in fiscal year 2016 for the purpose of hiring eight positions for implementation and administration of agricultural water quality programs in the State.

Sec. 42. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL CONSERVATION STAFF

In addition to any other funds appropriated to the Department of Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A. § 2805 to the Department of Environmental Conservation \$1,545,116.00 in fiscal year 2016 for the purpose of hiring 13 positions for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

\* \* \* Commissioner of Taxes; Statewide Water Quality Fee Report\*\*\*

Sec. 43. COMMISSIONER OF TAXES REPORT ON IMPLEMENTATION OF THE STATEWIDE WATER QUALITY FEE

On or before January 15, 2016, the Commissioner of Taxes shall submit to the Senate Committee on Finance and the House Committee on Ways and Means a report regarding implementation of the Statewide Water Quality fee established under 32 V.S.A. chapter 245. The report shall include:

(1) a summary of implementation, collection, and enforcement of the Statewide Water Quality fee by municipalities and the Department of Taxes;

(2) any identified issues in assessment, collection, and enforcement of the Statewide Water Quality fee, and proposed recommendations for addressing each issue.

(3) after consultation with the Secretary of Natural Resources:

(A) proposed alternatives for reducing the amount of the Statewide Water Quality fee to be paid by owners of parcels who: provide treatment that exceeds the minimum regulatory requirement; utilize innovative approaches to the management of stormwater; or pay a similar fee assessed at the municipal level; and

(B) a recommendation of whether the amount of the Statewide Water Quality fee established under 32 V.S.A. chapter 245 should be adjusted for individual parcels or parcel types due to presence of impervious surface on the parcel or due to the water quality impacts of the parcel;

(4) a recommendation as to whether and how the Statewide Water Quality fee should be collected from parcels that are exempt from taxation under 32 V.S.A. § 3802;

(5) proposed legislation necessary to implement any of the recommendations submitted by the Commissioner of Taxes in the report required by this section; and

(6) any other information that the Commissioner of Taxes determines is relevant to the implementation of the Statewide Water Quality fee.

Second: In Sec. 3, 6 V.S.A. § 4871, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

and by striking out subsection (h) in its entirety and inserting in lieu thereof the following:

(h) Fees. A person required to submit a certification under this section shall submit an annual operating fee of \$250.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. The Secretary may waive or reduce the fee required under this subsection based on farm type or the income or ability to pay of a person required to submit a certification under this section.

Third: By adding a new section to be Sec. 5a after the reader assistance \* \* \* Agricultural Water Quality; Permit Fees \* \* \* and before Sec. 6 to read:

Sec. 5a. 6 V.S.A. § 4803 is added to read:

§ 4803. AGRICULTURAL WATER QUALITY SPECIAL FUND

(a) There is created an Agricultural Water Quality Special Fund to be administered by the Secretary of Agriculture, Food and Markets. Fees collected under this chapter, including fees for permits or certifications issued under the chapter, shall be deposited in the Fund.

(b) The Secretary may use monies deposited in the Fund for the Secretary's implementation and administration of agricultural water quality programs or requirements established by this chapter, including to pay salaries of Agency staff necessary to implement the programs and requirements of this chapter.

(c) Notwithstanding the requirements of 32 V.S.A. § 588(3), interest earned by the Fund shall be retained in the Fund from year to year.

Fourth: In Sec. 6, 6 V.S.A. § 4851 (large farm fee), by striking out subsection (i) in its entirety and inserting in lieu thereof the following:

(i) A person required to obtain a permit under this section shall submit an annual operating fee of \$2,500.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title.

Fifth: In Sec. 7, 6 V.S.A. § 4858 (medium farm fee), by striking out subsection (e) in its entirety and inserting in lieu thereof the following:

(e) A person required to obtain a permit or coverage under this section shall submit an annual operating fee of \$1,500.00 to the Secretary. The fees collected under this section shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title.

Sixth: In Sec. 8, 6 V.S.A. § 324 (commercial feed fee), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) A person shall not distribute in this State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of \$85.00 \$100.00 per product. The Of the registration fees collected, \$85.00 of each collected fee, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. Of the registration fees collected, \$15.00 of each collected fee shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

Seventh: By striking out Sec. 10 (fertilizer fee) in its entirety and inserting in lieu thereof the following:

Sec. 10. 6 V.S.A. § 366 is amended to read:

§ 366. TONNAGE FEES

(a) There shall be paid annually to the ~~secretary~~ Secretary for all fertilizers distributed to a nonregistrant consumer in this ~~state~~ State an annual ~~inspection~~ fee at a rate of \$0.25 cents per ton.

(b) Persons distributing fertilizer shall report annually by January 15 for the previous year ending December 31 to the ~~secretary~~ Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was

distributed within this ~~state~~ State. Each report shall be accompanied with payment and written permission allowing the ~~secretary~~ Secretary to examine the person's books for the purpose of verifying tonnage reports.

(c) No information concerning tonnage sales furnished to the ~~secretary~~ Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(d) ~~A \$50.00 minimum tonnage fee shall be assessed on all distributors who distribute fertilizers in this state. [Repealed.]~~

(e) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required in this section.

(f) Lime and wood ash mixtures may be registered as agricultural liming materials and guaranteed for potassium or potash provided that the wood ash totals less than 50 percent of the mixture.

(g) All fees collected under subsection (a) of this section shall be deposited in the revolving fund created by section 364(e) of this title and used in accordance with its provisions.

(h) There shall be paid annually to the Secretary for all nonagricultural fertilizers distributed to a nonregistrant consumer in this State an annual fee at a rate of \$30.00 per ton of nonagricultural fertilizer for the purpose of supporting agricultural water quality programs in Vermont.

(1) Persons distributing any fertilizer in the State shall report annually on or before January 15 for the previous year ending December 31 to the Secretary revealing the amounts of each grade of fertilizer and the form in which the fertilizer was distributed within this State. Each report shall be accompanied with payment of the fees under this section and written permission allowing the Secretary to examine the person's books for the purpose of verifying tonnage reports.

(2) No information concerning tonnage sales furnished to the Secretary under this section shall be disclosed in such a way as to divulge the details of the business operation to any person unless it is necessary for the enforcement of the provisions of this chapter.

(3) A \$150.00 minimum tonnage fee shall be assessed on all distributors who distribute nonagricultural fertilizers in this State.

(4) Agricultural limes, including agricultural lime mixed with wood ash, are exempt from the tonnage fees required under this subsection.

(5) All fees collected under this subsection shall be deposited in the Agricultural Water Quality Special Fund created under section 4803 of this title.

Eighth: In Sec. 11, 6 V.S.A. § 918 (economic poisons fee), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The registrant shall pay an annual fee of ~~\$140.00~~ \$125.00 for each product registered, and ~~\$110.00~~ of that amount shall be deposited in the special fund created in section 929 of this title, of which \$5.00 from each product registration shall be used for an educational program related to the proper purchase, application, and disposal of household pesticides, and \$5.00 from each product registration shall be used to collect and dispose of obsolete and unwanted pesticides. Of the registration fees collected under this subsection, \$15.00 of the amount collected shall be deposited in the Agricultural Water Quality Special Fund under section 4803 of this title. The annual registration year shall be from December 1 to November 30 of the following year.

Ninth: By striking out Sec. 54 in its entirety and inserting in lieu thereof the following:

\* \* \* Effective Dates \* \* \*

#### Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Legacy Fund) and 38 (Statewide Water Quality fee) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(2) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

And that the bill ought to pass in concurrence with such proposals of amendment.

Senator Snelling, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House to amend the recommendation of the Committee on Finance with the following amendments thereto:

First: By striking out the *First* Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

First: By striking out Secs. 37-43 in their entirety, including any reader assistance preceding the sections, and inserting in lieu thereof the following:

\* \* \* Water Quality Funding; Clean Water Fund; Clean Water Board \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Fund

§ 1387. PURPOSE

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

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

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

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects.

§ 1388. CLEAN WATER FUND

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

(1) revenues dedicated for deposit into the Fund by the General Assembly, including the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a.

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

(b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and any earnings shall remain in the Fund from year to year.

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Board shall be attached to the Agency of Administration for administrative purposes.



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

- (1) the Secretary of Administration or designee;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Secretary of Commerce and Community Development or designee; and
- (5) the Secretary of Transportation or designee.

(c) Officers; committees; rules. The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

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

(1) The Clean Water Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

(2) The Clean Water Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(3) The Clean Water Fund Board shall:

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

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

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

(D) issue the annual clean water investment report required under section 1389a of this title; and

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

(e) Priorities.

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

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

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

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

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

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

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

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

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

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivisions (e)(1), attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State; and

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

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including whether those funding sources were attained, if it was not attained, why it was not attained, and where the money was allocated from the Fund. The report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(b) The Board shall develop and use a results based accountability process in publishing the annual report required by subsection (a) of this section.

#### § 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the

House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Fund. The report shall include:

(1) A summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) An analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) An evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) An assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State.

(5) A recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section § 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

\* \* \* Property Transfer Tax Surcharge; Water Quality Long Term  
Financing Report \* \* \*

Sec. 38. 32 V.S.A. § 9602a is added to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388.

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Sec. 39. REPEAL OF CLEAN WATER SURCHARGE

32 V.S.A. § 9602a (Clean Water Surcharge) shall be repealed on July 1, 2018.

Sec. 40. STATE TREASURER REPORT ON LONG TERM FINANCING  
OF STATEWIDE WATER QUALITY IMPROVEMENT

On or before January 15, 2017, the State Treasurer, after consultation with the Secretary of Administration and the Commissioner of Taxes, shall submit to the Senate and House Committees on Appropriations, the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, the Senate Committee on Agriculture, the House Committee on Ways and Means, and the Senate Committee on Finance a recommendation for financing water quality improvement programs in the State. The recommendation shall include:

(1) proposed revenue sources for water quality improvement programs that will replace the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a.

(2) an estimate of the amount of revenue to be generated from each proposed revenue source;

(3) a summary of how assessment of the proposed revenue source will be administered, collected, and enforced;

(4) a recommendation of whether the State should bond for the purposes of financing water quality improvement programs, including whether a proposed revenue source would be sufficient for issuance of water quality revenue bonds; and

(5) a legislative proposal to implement each of the revenue sources proposed under this section.

\* \* \* Agency Staff; Establishment; Appropriation \* \* \*

Sec. 41. WATER QUALITY STAFF POSITIONS

(a) The establishment of the following new permanent classified positions is authorized in fiscal year 2016 as follows:

(1) In the Agency of Agriculture, Food and Markets—one (1) Water Quality Specialist, one (1) Water Quality Permitting and Project Manager, two (2) Small Farm Water Quality Specialists, one (1) Agriculture Systems Specialist, one (1) Financial Administrator, one (1) GIS Project Supervisor and one (1) Senior Agricultural Development Coordinator;

(2) In the Department of Environmental Conservation – thirteen (13) water quality and TMDL (water quality/Total Maximum Daily Load) positions.

(b) The positions established in this section shall be transferred and converted from existing vacant positions in the Executive Branch, and shall not increase the total number of authorized State positions.

Sec. 42. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD AND MARKETS STAFF

In addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803 to the Agency of Agriculture, Food and Markets \$1,071,000.00 in fiscal year 2016 for the purpose of hiring eight positions for implementation and administration of agricultural water quality programs in the State.

Sec. 43. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL CONSERVATION STAFF

In addition to any other funds appropriated to the Department of Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A. § 2805 to the Department of Environmental Conservation \$1,545,116.00 in fiscal year 2016 for the purpose of hiring 13 positions for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

Sec. 43a. FUND TO FUND TRANSFER

In Fiscal Year 2016, \$450,000 is transferred from the Clean Water Fund established by 10 V.S.A. § 1388 to the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803.

Second: By striking out the Second Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

Second: In Sec. 3, 6 V.S.A. § 4871, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided

that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

Third: By striking out the Sixth Proposal of Amendment of the Committee on Finance in its entirety

Fourth: By striking out the Ninth Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

Ninth: By striking out Sec. 54 in its entirety and inserting in lieu thereof the following:

\* \* \* Effective Dates \* \* \*

Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Fund) and 38 (Property Transfer Tax surcharge) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) 6 V.S.A. § 4988(b) of Sec. 16 (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(2) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the report of the Committee on Finance be amended as recommended by the Committee on Appropriations?, Senator Snelling moved to substitute the report of the Committee on Appropriations as follows:

First: By striking out the First Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

First: By striking out Secs. 37–43 in their entirety, including any reader assistance preceding the sections, and inserting in lieu thereof the following:

\* \* \* Water Quality Funding; Clean Water Fund; Clean Water Board \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Fund

§ 1387. PURPOSE

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

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

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

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects.

§ 1388. CLEAN WATER FUND

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

(1) revenues dedicated for deposit into the Fund by the General Assembly, including the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a.

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

(b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and any earnings shall remain in the Fund from year to year.

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Board shall be attached to the Agency of Administration for administrative purposes.



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

- (1) the Secretary of Administration or designee;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Secretary of Commerce and Community Development or designee; and
- (5) the Secretary of Transportation or designee.

(c) Officers; committees; rules. The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

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

(1) The Clean Water Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

(2) The Clean Water Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(3) The Clean Water Fund Board shall:

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

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

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

(D) issue the annual clean water investment report required under section 1389a of this title; and

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

(e) Priorities.

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

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

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

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

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

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

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

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

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

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State.

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

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including whether those funding sources were attained; if it was not attained, why it was not attained; and where the money was allocated from the Fund. The report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

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

#### § 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the

House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Fund. The report shall include:

(1) a summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) an analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) an evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) an assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State; and

(5) a recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

\* \* \* Property Transfer Tax Surcharge; Water Quality Long-Term  
Financing Report \* \* \*

Sec. 38. 32 V.S.A. § 9602a is added to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388.

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Sec. 39. REPEAL OF CLEAN WATER SURCHARGE

32 V.S.A. § 9602a (Clean Water Surcharge) shall be repealed on July 1, 2018.

Sec. 40. STATE TREASURER REPORT ON LONG-TERM FINANCING OF STATEWIDE WATER QUALITY IMPROVEMENT

On or before January 15, 2017, the State Treasurer, after consultation with the Secretary of Administration and the Commissioner of Taxes, shall submit to the Senate and House Committees on Appropriations, the House Committee on Fish, Wildlife and Water Resources, the Senate Committee on Natural Resources and Energy, the House Committee on Agriculture and Forest Products, the Senate Committee on Agriculture, the House Committee on Ways and Means, and the Senate Committee on Finance a recommendation for financing water quality improvement programs in the State. The recommendation shall include:

(1) proposed revenue sources for water quality improvement programs that will replace the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a.

(2) an estimate of the amount of revenue to be generated from each proposed revenue source;

(3) a summary of how assessment of the proposed revenue source will be administered, collected, and enforced;

(4) a recommendation of whether the State should bond for the purposes of financing water quality improvement programs, including whether a proposed revenue source would be sufficient for issuance of water quality revenue bonds; and

(5) a legislative proposal to implement each of the revenue sources proposed under this section.

\* \* \* Agency Staff; Establishment; Appropriation \* \* \*

Sec. 41. WATER QUALITY STAFF POSITIONS

(a) The establishment of the following new permanent classified positions is authorized in fiscal year 2016 as follows:

(1) In the Agency of Agriculture, Food and Markets—one (1) Water Quality Specialist, one (1) Water Quality Permitting and Project Manager, two (2) Small Farm Water Quality Specialist, one (1) Agriculture Systems Specialist, one (1) Financial Administrator, one (1) GIS Project Supervisor and one (1) Senior Agricultural Development Coordinator;

(2) In the Department of Environmental Conservation – thirteen (13) water quality and TMDL (water quality/Total Maximum Daily Load) positions.

(b) The positions established in this section shall be transferred and converted from existing vacant positions in the Executive Branch, and shall not increase the total number of authorized State positions.

Sec. 42. APPROPRIATIONS FOR AGENCY OF AGRICULTURE, FOOD AND MARKETS STAFF

In addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2016, there is appropriated from the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803 to the Agency of Agriculture, Food and Markets \$2,114,000.00 in fiscal year 2016 for the purpose of hiring eight employees for implementation and administration of agricultural water quality programs in the State.

Sec. 43. APPROPRIATIONS FOR DEPARTMENT OF ENVIRONMENTAL CONSERVATION STAFF

In addition to any other funds appropriated to the Department of Environmental Conservation in fiscal year 2016, there is appropriated from the Environmental Permit Fund created under 3 V.S.A. § 2805 to the Department of Environmental Conservation \$1,545,116.00 in fiscal year 2016 for the purpose of hiring 13 employees for implementation and administration of water quality programs in the State and for contracting with regional planning commissions as authorized by 10 V.S.A. § 1253.

Sec. 43a. FUND TO FUND TRANSFER

In Fiscal Year 2016, \$450,000.00 is transferred from the Clean Water Fund established by 10 V.S.A. § 1388 to the Agricultural Water Quality Special Fund created under 6 V.S.A. § 4803.

Second: By striking out the Second Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

Second: In Sec. 3, 6 V.S.A. § 4871, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Required small farm certification. Beginning on July 1, 2017, a person who owns or operates a small farm shall, on a form provided by the Secretary, certify compliance with the required agricultural practices. The Secretary of Agriculture, Food and Markets shall establish the requirements and manner of certification of compliance with the required agricultural practices, provided that the Secretary shall require an owner or operator of a farm to submit an annual certification of compliance with the required agricultural practices.

and by striking out subsection 4871(h) (small farm fee) in its entirety

Third: By striking out the Sixth Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

Sixth: By striking out Sec. 8 (commercial feed fee) in its entirety and inserting in lieu thereof the following:

Sec. 8. [Deleted.]

Fourth: By striking out the Ninth Proposal of Amendment of the Committee on Finance in its entirety and inserting in lieu thereof the following:

Ninth: By striking out Sec. 54 in its entirety and inserting in lieu thereof the following:

\* \* \* Effective Dates \* \* \*

#### Sec. 54. EFFECTIVE DATES

(a) This section and Secs. 37 (Clean Water Fund) and 38 (Property Transfer Tax surcharge) shall take effect on passage.

(b) The remainder of the bill shall take effect on July 1, 2015, except that:

(1) In Sec. 16, 6 V.S.A. § 4988(b) (custom applicator certification) shall take effect 45 days after the effective date of rules adopted under 6 V.S.A. § 4988(a).

(2) In Sec. 31, the permit requirements under 10 V.S.A. § 1264(h)(2) for discharges of regulated stormwater to Lake Champlain or to a water that contributes to the impairment of Lake Champlain shall take effect on October 1, 2015.

And that the bill ought to pass in concurrence with such proposals of amendment.

Which was agreed to.

Thereupon, pending the question, Shall the report of the Committee on Finance be amended as recommended by the Committee on Appropriations as substituted?, Senator Zuckerman raised a *point of order* under Senate Rule 31 on the grounds that Secs. 37, 38 and 39 in the *first* proposal of amendment were beyond proposals of amendment affecting only the appropriation or expenditure in the bill.

Thereupon, the President *sustained* the point of order and declared that Secs. 37, 38 and 39 of the *first* proposal of amendment of the Committee on Appropriations could *not* be considered by the Senate and the sections were ordered stricken.

**Recess**

On motion of Senator Kitchel the Senate recessed until two o'clock and thirty minutes.

**Called to Order**

The Senate was called to order by the President.

**Consideration Resumed; Proposal of Amendment; Third Reading Ordered****H. 35.**

Consideration was resumed on House bill entitled:

An act relating to improving the quality of State waters.

Thereupon, pending the question, Shall the report of the Committee on Finance be amended as recommended by the Committee on Appropriation as substituted?, Senators Snelling, Campbell, Kitchel, McCormack, Nitka, Sears, Starr and Bray moved to amend the proposal of amendment of the Committee on Appropriation's *first* proposal of amendment as substituted by adding Secs. 37, 38, and 39 to read as follows:

\* \* \* Water Quality Funding; Clean Water Fund; Clean Water Board \* \* \*

Sec. 37. 10 V.S.A. chapter 47, subchapter 7 is added to read:

Subchapter 7. Vermont Clean Water Fund

§ 1387. PURPOSE

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

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

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

(3) provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects.



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§ 1388. CLEAN WATER FUND

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

(1) revenues dedicated for deposit into the Fund by the General Assembly, including the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a.

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

(b) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7, subchapter 5, unexpended balances and any earnings shall remain in the Fund from year to year.

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Board shall be attached to the Agency of Administration for administrative purposes.

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

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

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

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

(5) the Secretary of Transportation or designee.

(c) Officers; committees; rules. The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

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

(1) The Clean Water Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations from the

Board should be intended to achieve the greatest water quality gain for the investment.

(2) The Clean Water Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(3) The Clean Water Fund Board shall:

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

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

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

(D) issue the annual clean water investment report required under section 1389a of this title; and

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

(e) Priorities.

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

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

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

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

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

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

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

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

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

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point sources of pollution in the State.

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

#### § 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Clean Water Fund Board shall publish a clean water investment report. The report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Fund Board and other State agencies for clean water restoration over the past calendar year. The report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and

any other State expenditures for clean water restoration, regardless of funding source. The report shall document progress or shortcomings in meeting established indicators for clean water restoration. The report shall include a summary of additional funding sources pursued by the Board, including whether those funding sources were attained; if it was not attained, why it was not attained; and where the money was allocated from the Fund. The report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

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

#### § 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Agriculture, the House Committee on Agriculture and Forest Products, the Senate Committee on Natural Resources and Energy, and the House Committee on Fish, Wildlife and Water Resources a program audit of the Clean Water Fund. The report shall include:

(1) a summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) an analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) an evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) an assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State; and

(5) a recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section 1389 of this title to the contrary,

the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

\* \* \* Property Transfer Tax Surcharge; Water Quality Long-Term  
Financing Report \* \* \*

Sec. 38. 32 V.S.A. § 9602a is added to read:

§ 9602a. CLEAN WATER SURCHARGE

There shall be a surcharge of 0.2 percent on the value of property subject to the property transfer tax under section 9602 of this title, except that there shall be no surcharge on the first \$100,000.00 in value of property to be used for the principal residence of the transferee. The surcharge shall be in addition to any tax assessed under section 9602 of this title. The surcharge assessed under this section shall be paid, collected, and enforced under this chapter in the same manner as the tax assessed under section 9602 of this title. The Commissioner shall deposit the surcharge collected under this section in the Clean Water Fund under 10 V.S.A. § 1388.

Sec. 39. REPEAL OF CLEAN WATER SURCHARGE

32 V.S.A. § 9602a (Clean Water Surcharge) shall be repealed on July 1, 2018.

Thereupon, the pending question, Shall the proposal of amendment of the Committee on Appropriation as substituted be amended as recommended by Senators Snelling, Campbell, Kitchel, McCormack, Nitka, Sears, Starr and Bray was agreed to on a roll call, Yeas 19, Nays 9.

Senator Kitchel having demanded the yeas and nays, they were taken and are as follows:

**Roll Call**

**Those Senators who voted in the affirmative were:** Balint, Benning, Bray, Campbell, Campion, Collamore, Degree, Flory, Kitchel, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Snelling, Starr, Westman.

**Those Senators who voted in the negative were:** Ashe, Ayer, Baruth, Cummings, Lyons, MacDonald, Sirotkin, White, Zuckerman.

**Those Senators absent and not voting were:** Doyle, McAllister.

Thereupon, the question, Shall the report of the Committee on Finance be amended as recommended by the Committee on Appropriation as substituted, as amended?, was agreed to.

Thereupon, the question, Shall the Committee on Natural Resources and

Energy be amended as recommended by the Committee on Finance, as amended?, was agreed to.

Thereupon, the pending question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy, as amended?, was agreed to.

Thereupon, third reading of the bill was ordered.

**House Proposal of Amendment Concurred In**

**S. 44.**

House proposal of amendment to Senate bill entitled:

An act relating to creating flexibility in early college enrollment numbers.

Was taken up.

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

By striking out Sec. 2 (effective date) in its entirety and inserting in lieu thereof four new sections to be Secs. 2–5 to read:

Sec. 2. 16 V.S.A. chapter 87, subchapter 8 is added to read:

Subchapter 8. Vermont Universal Children's Higher Education  
Savings Account Program

§ 2880. DEFINITIONS

As used in this subchapter:

(1) "Approved postsecondary education institution" means any institution of postsecondary education that is:

(A) certified by the State Board of Education as provided in section 176 or 176a of this title;

(B) accredited by an accrediting agency approved by the U.S. Secretary of Education pursuant to the Higher Education Act;

(C) a non-U.S. institution approved by the U.S. Secretary of Education as eligible for use of education loans made under Title IV of the Higher Education Act; or

(D) a non-U.S. institution designated by the Corporation as eligible for use of its grant awards.

(2) "Committee" means the Vermont Universal Children's Higher Education Savings Account Program Fund Advisory Committee.

(3) "Corporation" means Vermont Student Assistance Corporation.

(4) “Eligible child” means a minor who is a Vermont resident at the time the Corporation deposits or allocates funds pursuant to this subchapter for his or her benefit.

(5) “Postsecondary education costs” means the qualified costs of tuition, fees, and other expenses for attendance at an institution of postsecondary education, as defined in the Internal Revenue Code of 1986, as amended, together with the regulations promulgated thereunder.

(6) “Program” means the Vermont Universal Children’s Higher Education Savings Account Program.

(7) “Program beneficiary” means an individual who is or who was at one time an eligible child for whom the Corporation deposited or allocated funds pursuant to this subchapter and who has not yet attained 29 years of age or, for national service program participants, the extended maturity date.

(8) “Program Fund” means the Vermont Universal Children’s Higher Education Savings Account Program Fund.

(9) “Vermont Higher Education Investment Plan” or “Investment Plan” means the plan created pursuant to subchapter 7 of this chapter.

(10) “Vermont resident” means an individual who is domiciled in Vermont as evidenced by the individual’s intent to maintain a principal dwelling place in Vermont indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent. A minor is a Vermont resident if his or her parent or legal guardian is a Vermont resident, unless a parent or legal guardian with sole legal and physical parental rights and responsibilities lives outside the State of Vermont.

§ 2880a. VERMONT UNIVERSAL CHILDREN’S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM ESTABLISHED; POWERS AND DUTIES OF THE VERMONT STUDENT ASSISTANCE CORPORATION

(a) It is the policy of the State to expand educational opportunity for all children. Consistent with this policy, the Vermont Student Assistance Corporation shall partner with one or more foundations or other philanthropies to establish and fund the Vermont Universal Children’s Higher Education Savings Account Program to expand educational opportunity and financial capability for Vermont children and their families.

(b) Pursuant to this subchapter, the Corporation shall establish and administer the Program, which shall include the Vermont Universal Children’s Higher Education Savings Account Program Fund and financial education for Program beneficiaries and their families and legal guardians. The Corporation, in addition to its other powers and authority, shall have the power and

authority to adopt rules, policies, and procedures, including those pertaining to residency in the State, to implement this subchapter in conformance with federal and State law.

(c) The Vermont Departments of Health and of Taxes and the Vermont Agencies of Education and of Human Services shall enter into agreements with the Corporation to enable the exchange of such information as may be necessary for the efficient administration of the Program.

(d) The Corporation's obligations under this subchapter are limited to funds deposited in the Program Fund specifically for the purpose of the Program.

(e) The Corporation shall annually on or before January 15 release a written report with a detailed description of the status and operation of the Program and management of accounts.

§ 2880b. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM FUND

(a) The Vermont Universal Children's Higher Education Savings Account Program Fund is established as a fund to be held, directed, and administered by the Corporation. The Corporation shall invest and reinvest, or cause to be invested and reinvested, funds in the Program Fund for the benefit of the Program.

(b) The following sources of funds shall be deposited into the Program Fund:

(1) any grants, gifts, and other funds intended for deposit into the Program Fund from any individual or private or public entity, provided that contributions may be limited in application to specified age cohorts of beneficiaries; and

(2) all interest, dividends, and other pecuniary gains from investment of funds in the Program Fund.

(c) Funds in the Program Fund shall be used solely to carry out the purposes and provisions of this subchapter, including payment by the Corporation of the administrative costs of the Program and the Program Fund and of the costs associated with providing financial education to benefit Program beneficiaries and their parents and legal guardians. Funds in the Program Fund may not be transferred or used by the Corporation or the State for any purposes other than the purposes of the Program.

§ 2880c. INITIAL DEPOSITS TO THE PROGRAM FUND

(a) Each year, the Corporation shall deposit \$250.00 into the Program Fund for each eligible child born that year, beginning on or after January 1, 2016.



(b) In addition, if the eligible child has a family income of less than 250 percent of the federal poverty level at the time the deposit under subsection (a) of this section is made, the Corporation shall make an additional deposit into the Program Fund for the child that is equal to the deposit made under subsection (a).

(c) Notwithstanding subsections (a) and (b) of this section, if the available funds in a given calendar year are insufficient to provide for the maximum deposits under this section, the Corporation shall prorate the deposits accordingly.

§ 2880d. VERMONT HIGHER EDUCATION INVESTMENT PLAN ACCOUNTS; MATCHING ALLOCATIONS FOR FAMILIES WITH LIMITED INCOME

(a) The Corporation shall invite the parents or legal guardians of each Program beneficiary to open a Vermont Higher Education Investment Plan account on the beneficiary's behalf.

(b) The beneficiary, his or her parents or legal guardians, other individuals, and private and public entities may make additional deposits into a beneficiary's Investment Plan account.

(c) Annually, the Corporation shall deposit into the Program Fund a matching allocation of up to \$250.00 per eligible child on a dollar-to-dollar basis for contributions made that year to a single Investment Plan account established for the child under this section, provided that at the time of deposit, the eligible child has a family income of less than 250 percent of the federal poverty level.

(d) Notwithstanding subsection (c) of this section, if the available funds in a given calendar year are insufficient to provide for the maximum allocation amounts under this subsection, the Corporation shall prorate the allocations accordingly.

§ 2880e. WITHDRAWAL OF PROGRAM FUNDS

(a) Subject to the provisions of this section, the Investment Plan requirements under subchapter 7 of this chapter, and the rules, policies, and procedures adopted by the Corporation, a Program beneficiary shall be entitled to Program funds deposited or allocated by the Corporation for his or her benefit if:

(1) the beneficiary has attained 18 years of age or has enrolled full-time in an approved postsecondary education institution;

(2) the Corporation has sufficient proof that the beneficiary was an eligible child at the time the deposit or allocation was made;

(3) the funds are used for postsecondary education costs and made payable to an approved postsecondary education institution on behalf of the beneficiary; and

(4) the withdrawal is made prior to the beneficiary's attaining 29 years of age, provided that for a beneficiary who serves in a national service program, including in the U.S. Armed Forces, AmeriCorps, or the Peace Corps, each month of service shall increase the maturity date by one month.

(b) If a Program beneficiary does not use all of the funds deposited or allocated by the Corporation for his or her use prior to the maturity date, the beneficiary shall no longer be permitted to use these funds and the Corporation shall unallocate the unused funds from the beneficiary within the Program Fund.

(c) This section shall not apply to withdrawal of funds that are contributed to an Investment Plan account opened for the benefit of the account's beneficiary under subsections 2880d(a) and (b) of this title and that are not Program funds deposited or allocated by the Corporation.

#### § 2880f. RIGHTS OF BENEFICIARIES AND THEIR FAMILIES

(a) A parent or legal guardian shall be allowed to opt out of the Program on behalf of his or her child.

(b) An individual otherwise eligible for any benefit program for elders, persons who are disabled, families, or children shall not be subject to any State resource limit based on funds deposited, allocated, or contributed on behalf of an eligible child or Program beneficiary to the Program Fund or an Investment Plan.

#### § 2880g. FINANCIAL LITERACY PROGRAMS

State agencies and offices, including the Agencies of Education and of Human Services and the Office of the State Treasurer, in collaboration with existing statewide community partners and nonprofit partners that specialize in financial education delivery and have developed an available infrastructure to support financial education across multiple sectors, shall develop and support programs to encourage the financial literacy of Program beneficiaries and their families and legal guardians throughout the duration of the Program via mail, mass media, and in-person delivery methods.

#### § 2880h. PROGRAM FUND ADVISORY COMMITTEE

(a) There is created a Vermont Universal Children's Higher Education Savings Account Program Fund Advisory Committee to identify and solicit public and private funds for the Program and to advise the Corporation on disbursement of funds.

(b) The Committee shall be composed of the following 11 members:

- (1) the Governor or designee, ex officio;
- (2) the President of the Corporation or designee, ex officio;
- (3) two representatives of the Vermont philanthropy community, appointed by the Governor;
- (4) two representatives of the Vermont business community, appointed by the Governor;
- (5) two members from Vermont advocacy organizations representing individuals and families with limited income, appointed by the Governor; and
- (6) three members selected by the Committee.

(c) Non-ex-officio members shall serve four-year terms, appointed and selected in such a manner that no more than three terms shall expire annually.

Sec. 3. VERMONT UNIVERSAL CHILDREN'S HIGHER EDUCATION SAVINGS ACCOUNT PROGRAM; INITIAL MEETING

The President of the Corporation or designee shall call the first meeting of the Committee to occur on or before August 1, 2015. The Committee shall select three members pursuant to 16 V.S.A. § 2880h(b)(6), and a chair from among the Committee members, at the first meeting or as soon as possible thereafter.

Sec. 4. VERMONT STUDENT ASSISTANCE CORPORATION; ELIGIBILITY, RESIDENCY, AND RECIPROCITY REPORT

(a) On or before January 15, 2016, the Vermont Student Assistance Corporation shall report to the House and Senate Committees on Education with its findings on the following:

- (1) whether the Program established in 16 V.S.A. chapter 87, subchapter 8 provides for Program eligibility in a manner that adequately and equitably serves the Program's purposes;
- (2) whether the Corporation has encountered, or expects to encounter, any difficulties in administering the Program on account of State residency issues;
- (3) whether the Program could partner with children's savings account programs in other New England states to develop a system or systems of program reciprocity; and
- (4) any other recommendations for legislative action.

(b) The reporting requirement of this section may be satisfied by providing testimony to the Committees.

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 shall take effect on passage and shall apply retroactively to enrollments beginning in the 2014–2015 academic year.

(b) Secs. 2–4 shall take effect on July 1, 2015.

(c) This section shall take effect on passage.

And that after passage, the title of the bill is to be amended to read:

An act relating to creating flexibility in early college enrollment numbers and to creating the Vermont Universal Children’s Higher Education Saving Account Program.

Thereupon, the question, Shall the Senate concur in the House proposal of amendment?, was decided in the affirmative.

**Proposals of Amendment; Third Reading Ordered**

**H. 11.**

Senator Pollina, for the Committee on Health & Welfare, to which was referred House bill entitled:

An act relating to the membership of the Commission on Alzheimer’s Disease and Related Disorders.

Reported recommending that the Senate propose to the House to amend the bill in Sec. 1, 3 V.S.A. § 3085b, by striking out subsection (c) in its entirety and inserting in lieu thereof the following:

(c) Eight of the members appointed by the Governor shall serve terms of two years and eight of the members shall serve terms of three years. Members shall serve until their successors are appointed. Members first appointed to the Commission prior to January 1, 2015, may apply to serve no more than one additional term of either two or three years following the expiration of their current term. Members first appointed to the Commission after January 1, 2015, shall serve a maximum of two terms. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed only for the unexpired portion of the term, and if the unexpired portion of the term is less than or equal to one year, the member appointed to fill the vacancy occurring other than by expiration of a term may thereafter apply to serve a maximum of two additional terms.

And that the bill ought to pass in concurrence with such proposal of amendment.

Senator Snelling, for the Committee on Appropriations, to which the bill was referred, reported recommending that the Senate propose to the House that the bill be amended as recommended by the Committee on Health & Welfare with the following amendments thereto:

First: In Sec. 1, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) The Commission shall be composed of ~~47~~ 18 members: the ~~Commissioner~~ Commissioners of Disabilities, Aging, and Independent Living and of Health or a ~~designee~~ designees, ~~one Senator chosen by the Committee on Committees of the Senate, one Representative chosen by the Speaker of the House,~~ and ~~44~~ 16 members appointed by the Governor. The members appointed by the Governor shall represent the following groups and organizations: physicians, social workers, nursing home managers, including the administrators of the Vermont Veterans' Home, the clergy, adult day center providers, the business community, registered nurses, residential care home operators, family care providers, the home health agency, the legal profession, mental health service providers, the area agencies on aging, University of Vermont's Center on Aging, the Support and Services at Home (SASH) program, and the Alzheimer's Association. The members appointed by the Governor shall represent, to the degree possible, the five regions of the State.

Second: In Sec. 1, by striking out subsection (d) in its entirety and inserting in lieu thereof the following:

(d) ~~Legislative members shall be entitled to compensation and expenses as provided in 2 V.S.A. § 406 for no more than six meetings per year; the remaining members~~ Members of the Commission who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to compensation and expenses as provided in 32 V.S.A. § 1010 for no more than ~~six~~ four meetings per year. ~~Payment to legislative members shall be from the appropriation to the Legislature.~~ Payment to the ~~remaining~~ members shall be from the appropriation to the Department of Disabilities, Aging, and Independent Living.

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of proposal of amendment of the Committee on Health & Welfare was amended as recommended by the Committee on Appropriations.

Thereupon, the proposals of amendment recommended by the Committee on Health & Welfare, as amended, were agreed to and third reading of the bill was ordered.

**Rules Suspended; Bill Committed**

**H. 40.**

Pending entry on the Calendar for notice, on motion of Senator Kitchel, the rules were suspended and House bill entitled:

An act relating to establishing a renewable energy standard and energy transformation program.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources & Energy, Senator Kitchel moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Natural Resources & Energy and the Committee on Finance *intact*,

Which was agreed to.

**Committee of Conference Appointed**

**S. 93.**

An act relating to lobbying disclosures.

Was taken up. Pursuant to the request of the Senate, the President announced the appointment of

Senator White  
Senator Collamore  
Senator Pollina

as members of the Committee of Conference on the part of the Senate to consider the disagreeing votes of the two Houses.

**Committee of Conference Appointed**

**H. 361.**

An act relating to making amendments to education funding, education spending, and education governance.

Was taken up. Pursuant to the request of the House, the President announced the appointment of

Senator Cummings  
Senator Baruth  
Senator Degree